



THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
100 CHURCH STREET, 20TH FLOOR
NEW YORK, NEW YORK 10007

DECISION OF THE BUSINESS INTEGRITY COMMISSION TO DENY THE APPLICATION OF AMERICAN ENVIRONMENTAL GROUP LLC FOR A REGISTRATION TO OPERATE AS A TRADE WASTE BROKER

American Environmental Group LLC (“American Environmental” or the “Applicant”) applied to the New York City Business Integrity Commission (the “Commission”) for a registration to operate as a trade waste broker pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code (“Admin. Code”), § 16-505(b). Local Law 42, which created the Commission to regulate the trade waste removal industry in New York City, was enacted to address pervasive organized crime and other corruption in the commercial carting industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

American Environmental applied to the Commission for a registration enabling it to operate as a trade waste broker, “who, for a fee, brokers agreements between commercial establishments and providers of trade waste removal, collection or disposal services or conducts evaluations or analyses of waste generated by such commercial establishments in order to recommend cost efficient means of waste disposal or other changes in related business practices.” See Admin. Code § 16-505(b); § 16-501(g). Local Law 42 authorizes the Commission to review and determine such applications for registration. See Id.

In determining whether to grant a registration as a trade waste broker, the Commission considers the same types of factors that are pertinent to the Commission’s determination whether to issue a license to a business seeking to remove trade waste. See, e.g., Admin Code § 16-504(a) (empowering Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations); compare Title 17, Rules of the City of New York (“RCNY”) §§ 1-06 & 2-02 (specifying information required to be submitted by license applicant) with Id. §§ 1-06 & 2-03(b) (specifying information required to be submitted by registration applicant); see also Admin. Code §16-513(a)(i) (authorizing suspension or revocation of license or registration for violation of Local Law 42 or any rule promulgated pursuant thereto). Central to the Commission’s investigation and determination of a registration application is whether the applicant has business integrity. See 17 RCNY § 1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law,

knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices); compare Admin. Code § 16-509(a) (authorizing Commission to refuse to issue licenses to applicants lacking “good character, honesty and integrity”).

Based upon the record as to American Environmental, the Commission finds that this Applicant lacks good character, honesty, and integrity and denies its registration application for the following independent reasons:

1. The Applicant’s only disclosed principal, Abraham Taub, was convicted for obstructing a federal audit.
2. The Applicant’s only disclosed principal has failed to pay his taxes and numerous judgments and liens have been filed against him.
3. Abraham Taub has a history of failing to comply with governmental directives in a timely manner.

I. BACKGROUND

A. The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. For the past four decades, and until only a few years ago, the private carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as “a ‘black hole’ in New York City’s economic life.” Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) (“SRI”).

Extensive testimonial and documentary evidence adduced during lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anti-competitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council made numerous factual findings concerning organized crime’s longstanding and corrupting influence over the City’s carting industry and its effects, including the anticompetitive cartel, exorbitant carting rates, and rampant customer overcharging. More generally, the Council found “that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct.” Local Law 42, § 1.

The City Council's findings of extensive corruption in the commercial carting industry have been validated by the successful prosecution of many of the leading figures and companies in the industry. In 1995 and 1996, the Manhattan District Attorney obtained racketeering indictments against more than sixty individuals and firms connected to the City's waste removal industry, including powerful mob figures such as Genovese organized crime family capo Alphonse Malangone and Gambino soldier Joseph Francolino. Simply put, the industry's entire modus operandi, the cartel, was indicted as a criminal enterprise. Since then, all of the defendants have either pleaded or been found guilty of felonies; many have been sentenced to lengthy prison terms, and many millions of dollars in fines and forfeitures have been imposed.

In sum, the need to root organized crime and other forms of corruption out of the City's waste removal industry applies with equal force to the trade waste hauling and the trade waste brokering sectors of the industry. Local Law 42 recognizes this fact in requiring trade waste brokers to obtain registrations from the Commission in order to operate in the City.

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs (the "DCA") for the licensing and registration of businesses that remove, collect, or dispose of trade waste and trade waste brokers. See Admin. Code § 16-503. The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997). The United States Court of Appeals has definitively ruled that an applicant for a trade waste removal license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997).

II. DISCUSSION

The Applicant filed an application for a registration as a trade waste broker (the "application"). The disclosed principal of the Applicant is Abraham Taub ("Taub"). See Application at 10. The Commission's staff has conducted an investigation of the Applicant, including a deposition of its principal, Abraham Taub. On September 24, 2004, the staff issued a 6-page recommendation that American Environmental's registration application be denied. On September 28, 2004, the staff's recommendation and notice of the Applicant's 10 day period to respond to said recommendation was attempted to be delivered by hand to the Applicant's office

and Abraham Taub's residence at 141-50 73rd Terrace, Flushing, New York 11367.¹ On September 29, 2004, the staff's recommendation and notice of the Applicant's 10 day period to respond to said recommendation was served by hand on Taub's attorney, Charles L. Weintraub. See Affidavit of Service of Detective John Stebe of the New York City Police Department dated October 4, 2004; see also Registration Application at 6. On October 15, 2004, Taub contacted a member of the Commission's staff and requested an extension of time to submit a response. At this time, the staff member extended the Applicant's time to respond to November 1, 2004. On November 3, 2004, the Applicant's attorney, Charles Weintraub, contacted a member of the Commission's staff and requested an additional extension of time to submit a response. Again, the Commission's staff member granted an additional extension of time to respond to November 15, 2004. On November 12, 2004, the Applicant's attorney, Charles Weintraub requested an additional extension of time to reply to the staff's recommendation. Again, a member of the Commission's staff extended the time to reply to November 17, 2004. On November 17, 2004, American Environmental submitted a 12-page response to the staff's recommendation, ("response") a 5-page affidavit signed by Abraham Taub, and attached 3 exhibits. The Commission has carefully considered both the staff's recommendation and the Applicant's response, affidavit and exhibits. For the independently sufficient reasons set forth below, the Commission finds that American Environmental lacks good character, honesty, and integrity, and denies its registration application.

A. The Applicant's Only Disclosed Principal, Abraham Taub, Was Convicted For Obstructing a Federal Audit.

The Commission may refuse to issue a registration to an applicant that lacks "good character, honesty and integrity." See Admin. Code §§16-507(c)(i), 16-509(a) (applying the same fitness standard to license applicants). A conviction for a crime can be evidence that a registration applicant fails to meet the fitness standard. See Admin. Code § 16-509(a)(iii). A principal of the Applicant, Abraham Taub has been convicted of a crime that directly relates to his honesty, integrity and character.

On February 6, 1998, Abraham Taub was indicted in connection with a false invoice scheme that bilked the federal Department of Housing and Urban Development ("HUD") out of \$2 million dollars intended to provide rent subsidies for low-income housing. Taub was indicted on charges that included conspiracy, theft from programs receiving federal funds and obstruction of federal audits. The indictment alleged that the three owners of Blackstone Realty Management Company ("Blackstone") (Abraham Taub, Abraham Woldiger and Peter Hoffman²) illegally diverted thousands of dollars each month between 1990 and 1997 intended for the operation and maintenance of eight company-owned low-income apartment

¹ The Applicant designated Abraham Taub at 141-50 73rd Terrace, Flushing, New York 11367 as its agent for service of process. See Registration Application at 1.

² Peter Hoffman is Abraham Taub's father-in-law. The response states that Taub presently borrows funds from his wife's parents. See Response at 2.

developments in five states.³ The scheme involved having Blackstone's contractors (also owned in part by Taub) over-bill Blackstone for repair work done on the apartments.⁴ Blackstone and its affiliates received more than \$52 million dollars from HUD from 1990-1997. The indictment and subsequent convictions were the culmination of the Justice Department's "Get Tough" partnership to crack down on landlords who abused HUD programs to enrich themselves while failing to provide safe and decent housing for the poor.⁵

On September 19, 1999, Taub pleaded guilty to one count of obstructing a federal audit and was required to pay \$1.5 million in restitution. See United States District Court Criminal Docket. Additionally, Taub was sentenced to 10 months incarceration and was placed on supervised release for three years. A civil complaint was also filed by the United States Attorney's Office asserting that Taub and his accomplices submitted false claims to HUD in violation of the False Claims Act and HUD contracts. The civil complaint sought three times the losses HUD suffered due to Blackstone's activities, plus civil penalties of \$5,000 to \$10,000 for each false claim made to HUD. The civil complaint also sought to have seven of the apartment developments owned by Blackstone turned over to the federal government. A default judgment of over \$3 million was entered against Woldiger and Taub in this related civil case. The Commission is disturbed by the fact that Taub disregarded this civil case and did not even answer the complaint.

The response simply downplays the seriousness of Taub's arrest and conviction by stating that Taub "pleaded guilty to count four of a four count indictment." See Response at 3. The response argues that "a case that started out as a fraud prosecution ended as a simple obstruction of a federal audit."⁶ See Response at 6. The Commission finds the Applicant's response unpersuasive on this point as Taub's arrest and conviction did involve large scale and sophisticated corruption, and occurred when Taub was thirty-five years old- an age when Taub should have known right from wrong. Furthermore, an element of the crime Taub pleaded guilty to is "the intent to deceive or defraud the United States..." See Title 18, U.S.C.A. §1516.

The crimes committed by Taub are antithetical to the purpose of Local Law 42, which is to root out organized crime and other corruption from the trade waste industry. Taub's guilty plea to obstructing a federal audit compels the conclusion that this Applicant lacks good character, honesty, and integrity. Quite simply, conduct of this nature renders this Applicant

³ The New York Daily News reported that much of the money that was skimmed was spent on cars, homes, vacations and Jewish charitable organizations and schools. See Helen Paterson, *Nabbed in Federal Housing Fund Scam*, DAILY NEWS, November 6, 1997, at 38.

⁴ Examples of the allegations include payments of \$3,948 for 13 toilet repairs in one apartment over a two-month period; labor charges of \$35 per hour when a worker had actually been paid only \$11 per hour, and a false invoice of \$128 to repair a towel rack in an apartment when in fact part of a broom handle had been installed to hold towels. See Nick Ravo, *Five Indicted in Scheme Involving Federal Rent Subsidies*, NEW YORK TIMES, February 7, 1998, at B3.

⁵ This case was significant enough to be cited in the Department of Labor, Office of Inspector General's Semiannual Report to Congress, October 1, 1999 – March 31, 2000, Volume 43.

⁶ The response also notes that one of Taub's coconspirators had his sentence amended to eliminate restitution. However, unlike his coconspirator, Taub's sentence was never amended, and the order of \$1.5 million in restitution against Taub stands as of the date of this decision.

unworthy of obtaining a registration to operate as a trade waste broker in New York City. For this independently sufficient reason, this application is denied.

B. The Applicant's Only Disclosed Principal Has Failed to Pay His Taxes and Numerous Judgments and Liens Have Been Filed Against Him.

"[T]he failure to pay any tax, fine, penalty or fee related to the applicant's business for which ... judgment has been entered by a court or administrative tribunal of competent jurisdiction" reflects adversely on an applicant's integrity. See NYC Admin. Code §16-509(a)(x).

The United States of America has docketed numerous judgments against Taub. According to a judgment and lien search conducted by the Commission, Taub currently owes the following unsatisfied judgments:

United States of America:

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|------------------|------------------|---------------------|----------------------|
| • \$3,042,182.20 | Federal Lien | Filing Date 9/15/00 | Filing No. 00QL30691 |
| • \$1,500,100 | Federal Tax Lien | Filing Date 2/28/01 | Docket No. 01F30131 |
| • \$14,063.40 | Federal Tax Lien | Filing Date 8/27/01 | Filing No. 01QL01629 |

The Commission's staff informed Taub that he owed numerous unsatisfied judgments to federal tax authorities. Taub testified that he currently pays \$152 dollars per month to the federal government for the \$1,500,100 Federal tax lien. See September 7, 2004 Deposition Transcript of Abraham Taub ("Taub Tr.") at 26. The response notes that this \$1,500,100 lien "appears to be a lien resulting from the restitution of 1.5 million plus the special assessment at sentencing of \$100.00 rather than a tax lien." See Response at 7. However, the response does not dispute the fact that the federal government presently has a lien in the amount of \$1,500,100 against Taub.

At his deposition, Taub testified that he was not familiar with the \$3,042,182.20 Federal lien and that he was not even aware of the \$14,063.40 Federal tax lien, and that he is not making any attempt to pay and satisfy those liens. See Taub Tr. at 26-28. The response does not dispute the existence of the \$3,042,182.20 lien. Instead, the response only expresses Taub's false belief that this lien was combined with the above-mentioned \$1,500,100 lien.⁷ See Response at 7-8.

⁷ The response notes that Taub's testimony about these liens may not have been complete, as Taub "was not represented by counsel at the time of the deposition. Hence, Mr. Taub appeared by himself, without having been prepared and with no opportunity to review and discuss issues as they arose." See Response at 7. However, the staff afforded Taub every opportunity to have counsel present at his deposition:

Q: If you want to stop the deposition at any time we can do that, you can come back with an attorney.

A: Fine.

Q: If you want to stop the deposition at any time to call an attorney, that is fine, too.

The response does not dispute the existence of the \$14,063.40 lien. Instead, the response explains that this lien “was a product of the Blackstone demise,” and that Taub permits “the government to apply his overpayments of withheld income taxes toward that lien.” See Response at 7-8. Yet, the response does not provide any documentary proof that Taub’s debts to the government are being addressed in any way.

Again, the failure to satisfy numerous debts that have been reduced to liens is a sufficient independent ground for the denial of this Applicant’s broker’s registration application. For this independently sufficient reason, this application is denied.

C. Abraham Taub Has a History of Failing to Comply with Governmental Directives in a Timely Manner.

By decision dated August 6, 2004, United States District Court Judge Denis R. Hurley found Taub and his business partners to be liable under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”) for costs incurred by the Environmental Protection Agency (“EPA”) in response to the release or threat of release of hazardous substances. Judge Hurley also found Taub and his business partners liable for civil penalties for their noncompliance with several different EPA orders. Specifically, Taub failed to comply with an Administrative Order issued by the EPA pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a); an Access Order issued by the EPA pursuant to Sections 104(e)(3) and (e)(5) of CERCLA, 42 U.S.C. §9604(e)(3) and (e)(5); and multiple Requests for Information issued by the EPA pursuant to Section 104(e)(2) of CERCLA, 42 U.S.C. §9604(e)(2). The Court noted that the facts established that Taub and his business partners “actually did fail to comply with all relevant orders and requests in a timely manner.” See United States v. 175 Inwood Associates LLP, et. al., No. 96-CV-1471, 2004 U.S. Dist. LEXIS 16032, at 66 (E.D. NY August 6, 2004). The matter was referred to a United States Magistrate for a report and recommendation in regard to the amount of damages, interest, fees and costs, and is pending as of the date of this decision.

Although the response asserts that “it appears that Mr. Taub... may have had no responsibility for the clean-up,” the response also states that “while the clean up may not have proceeded as quickly and efficiently as all involved would have liked, it is undisputed that Mr. Taub and his partners did not abandon their responsibilities...” See Response at 10. However, the response does not address the fact that Taub failed to comply with several government

A: Not a problem.

Q: Just tell me, okay?

A: Sure, thank you.

See Taub Tr. at 3-4. Thus, Taub decided to attend his deposition without an attorney, and chose to continue his deposition without an attorney.

directives in a timely manner, and provides no proof to enforce the claim that Taub did not abandon his "responsibilities."

This episode is a vivid demonstration of Taub's unwillingness to comply with government directives. As such, the Commission finds that he lacks the requisite honesty, integrity and character to be a trade waste broker. Accordingly, this application is denied based on this independent ground.

III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license to any applicant that it determines lacks good character, honesty and integrity. The evidence recounted above demonstrates convincingly that American Environmental falls far short of that standard. For the independently sufficient reasons discussed above, the Commission hereby denies American Environmental's registration application.

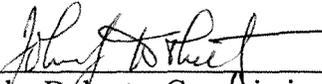
This registration denial decision is effective fourteen days from the date hereof. The Applicant shall not provide trade waste brokerage service any customers, or otherwise operate a trade waste removal business in the City of New York, after the expiration of the fourteen-day period.

Dated: February 10, 2005

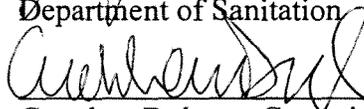
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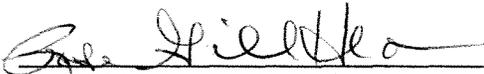
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