



The City of New York
BUSINESS INTEGRITY COMMISSION
100 Church Street · 20th Floor
New York · New York 10007
Tel. (212) 437-0500

**DECISION OF THE BUSINESS INTEGRITY COMMISSION
DENYING THE APPLICATION OF D.J.C.I. ENTERPRISES LLC
TO OPERATE AS A TRADE WASTE BUSINESS**

Introduction

On or about October 30, 2014, D.J.C.I. Enterprises LLC (the “Applicant” or “D.J.C.I.”) (BIC #485303) applied to the New York City Business Integrity Commission (the “Commission”) for an exemption from the Commission’s trade waste licensing requirement to operate as a trade waste business “solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation.” Local Law 42 of 1996 (“Local Law 42”) authorizes the Commission to review and make determinations on such exemption applications. *See* Title 16-A, New York City Administrative Code (“Administrative Code” or “Admin. Code”) § 16-505(a).

On October 7, 2020, the Commission’s staff issued and served the Applicant with the Commission staff’s Notice to the Applicant of the Grounds to Deny the Application of D.J.C.I. for a Registration to Operate as a Trade Waste Business (the “Notice”). *See* October 7, 2020 Affidavit of Service. On October 9, 2020, the Applicant’s attorney was also served with the Commission staff’s Notice. *See* Email to Nancy Bartling, Esq. D.J.C.I. had 10 business days to respond to the Notice, until October 22, 2020. *See* Title 17, Rules of the City of New York (“RCNY”) § 2-08(a). The Commission did not receive a response from D.J.C.I.

The Commission’s review of an initial exemption application or an application to renew such an exemption focuses on determining whether the applicant possesses business integrity, *i.e.*, good character, honesty and integrity. *See* 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); Admin. Code § 16-504(a) (empowering the Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations); Admin. Code § 16-509(a) (authorizing the Commission to refuse to issue licenses or registrations to applicants lacking “good character, honesty and integrity”).

The Commission has completed its review of D.J.C.I.’s application, having considered both the Notice and the Applicant’s failure to respond. Based on the record herein, the Commission denies D.J.C.I.’s registration application because the Applicant lacks good character, honesty, and integrity based on the following three independently sufficient grounds:

- 1. The Applicant and its sole principal were recently convicted of crimes related to illegal dumping of trade waste;**
- 2. The Applicant failed to notify the Commission of its sole principal's arrest and criminal conviction; and**
- 3. The Applicant has engaged in unregistered trade waste removal activity.**

Background and Statutory Framework

Every commercial business establishment in New York City must contract with a private carting company to remove and dispose of the waste it generates, known as trade waste. Historically, the private carting industry in the City was operated as a cartel controlled by organized crime. As evidenced by numerous criminal prosecutions, the industry was plagued by pervasive racketeering, anticompetitive practices and other corruption. *See, e.g., United States v. Int'l Brotherhood of Teamsters (Adelstein)*, 998 F.2d 120 (2d Cir. 1993); *People v. Ass'n of Trade Waste Removers of Greater New York Inc.*, Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.); *United States v. Mario Gigante*, No. 96 Cr. 466 (S.D.N.Y.); *People v. Ass'n of Trade Waste Removers of Greater New York*, 701 N.Y.S.2d 12 (1st Dep't 1999). The construction and demolition debris removal sector of the City's carting industry specifically has also been the subject of significant successful racketeering prosecutions. *See United States v. Paccione*, 949 F.2d 1183, 1186-88 (2d Cir. 1991), *cert. denied*, 505 U.S. 1220 (1992); *United States v. Cafra*, No. 94 Cr. 380 (S.D.N.Y.); *United States v. Barbieri*, No. 94 Cr. 518 (S.D.N.Y.).

The Commission is charged with, among other things, combating the influence of organized crime and preventing its return to the City's private carting industry, including the construction and demolition debris removal industry. Instrumental to this core mission is the licensing scheme set forth in Local Law 42, which created the Commission and granted it the power and duty to license and regulate the trade waste removal industry in New York City. *See* Admin. Code § 16-505(a). This regulatory framework continues to be the primary means of ensuring that an industry once overrun by corruption remains free from organized crime and other criminality, and that commercial businesses that use private carters can be ensured of a fair, competitive market.

Local Law 42 provides that “[i]t shall be unlawful for any person to operate a business for the purpose of the collection of trade waste ... without having first obtained a license therefor from the [C]ommission.” Admin. Code §16-505(a). Before issuing such a license, the Commission must evaluate the “good character, honesty and integrity of the applicant.” *Id.* at §16-508(b). An “applicant” for a license or registration means both the business entity and each principal thereof. *Id.* at § 16-501(a).

The Administrative Code provides an illustrative list of relevant factors for the Commission to consider in making a decision on an application for a license or registration:

1. failure by such applicant to provide truthful information in connection with the application;

2. a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has been reached by the court or administrative tribunal before which such action is pending;
3. conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;
4. a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;
5. commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 *et seq.*) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;
6. association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;
7. having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;
8. current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;

9. the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;

10. failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction; and

11. failure to comply with any city, state or federal law, rule or regulation relating to traffic safety or the collection, removal, transportation or disposal of trade waste in a safe manner.

Id. at § 16-509(a)(i)-(xi). *See also id.* at § 16-504(a).

The Commission also may refuse to issue a license or registration to any applicant who has “knowingly failed to provide information or documentation required by the Commission . . . or who has otherwise failed to demonstrate eligibility for a license.” *Id.* at § 16-509(b). *See also Elite Demolition Contracting Corp. v. The City of New York*, 125 A.D.3d 576 (1st Dep’t 2015); *Breeze Carting Corp. v. The City of New York*, 52 A.D.3d 424 (1st Dep’t 2008); *Attonito v. Maldonado*, 3 A.D.3d 415 (1st Dep’t) (Commission may deny an application for an exemption “where the applicant fails to provide the necessary information, or knowingly provides false information”), *leave denied* 2 N.Y.3d 705 (N.Y. 2004). *See also* Admin. Code § 16-509(a)(i) (failure to provide truthful information in connection with application as a consideration for denial). In addition, the Commission may refuse to issue a license or registration to an applicant that “has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license.” *Id.* at § 16-509(c). *See also id.* at § 16-504(a). Finally, the Commission may refuse to issue a license or registration to any applicant where the applicant or its principals have previously had their license or registration revoked. *Id.* at § 16-509(d); *see also id.* at § 16-504(a).

An applicant for a private carting license (including a registration for hauling construction and demolition debris) has no entitlement to and no property interest in a license or registration, and the Commission is vested with broad discretion to grant or deny a license or registration application. *Sanitation & Recycling Indus., Inc.*, 107 F.3d 985, 995 (2d Cir. 1997); *see also Daxor Corp. v. New York Dep’t of Health*, 90 N.Y.2d 89, 98-100 (N.Y. 1997).

Statement of Facts

Registration Application

On or about October 30, 2014, the Applicant applied to the Commission for a registration to operate a trade waste business that removes construction and demolition debris. *See* Registration Application for D.J.C.I. Enterprises LLC (the “Registration Application”). On the Registration Application, the Applicant disclosed Carlos Melgar (“Melgar”) as its sole principal, among other disclosures. *See* Registration Application at 13, 18. Melgar certified that all of the information contained in the Registration Application was “full, complete and truthful.” *Id.* at 20.

Registration applicants are required to notify the Commission within 10 business days of any material change to the information submitted on their application. *See* 17 RCNY § 2-05(b)(1)(vii); *see also* Registration Application at 1 (“Any change in material information must be reported to the Business Integrity Commission, in a notarized writing, within ten (10) business days of the change.”).

Unregistered Activity by the Applicant

On three occasions while the Commission was reviewing the Registration Application, Commission investigators found the Applicant conducting unlicensed trade waste removal activity. First, on September 11, 2014, in Elmhurst, New York, a Commission investigator observed a vehicle with D.J.C.I. Enterprises markings transporting trade waste, such as excavated dirt and broken concrete. *See* Notice of Violation - 210731. The driver told the Commission investigator that his employer D.J.C.I. Enterprises had been contracted to haul the trade waste to Kings Park, New York. *Id.* The Commission issued the Applicant a violation for unlicensed activity in violation of Admin. Code § 16-505(a). *Id.* The Applicant admitted to the violation and paid a \$5,000 fine. *See* Stipulation of Settlement dated October 29, 2014.

Second, on September 16, 2015, in Queens, New York, a Commission investigator observed a vehicle with D.J.C.I. Enterprises markings registered to the Applicant. The vehicle was loaded with excavated dirt. *See* Notice of Violation – 212433. The driver, Carlos Melgar (the Applicant’s sole principal), stated that he was the owner of the company and the trade waste would be transported to a transfer station located in Farmingdale, New York. *Id.* The Commission issued a violation for unlicensed activity in violation of Admin. Code § 16-505(a). *Id.*

The following day, at the same excavation site, Commission investigators found that another vehicle with D.J.C.I. Enterprises markings registered to the Applicant left the site with excavated dirt. *See* Notice of Violation - 212437. The driver of that vehicle admitted that he was transporting the trade waste to Farmingdale, New York. *Id.* The Commission issued a violation for unlicensed activity in violation of Admin. Code § 16-505(a). *See id.* D.J.C.I. Enterprises admitted to that violation and the one from the day before and paid a \$2,250 fine. *See* Stipulations of Settlement for violation numbers 212433, 212437. The Applicant did not dispute any of these facts.

Criminal Charges Against the Applicant and Melgar

In 2018, the Suffolk County District Attorney’s Office announced charges in connection with a large illegal dumping case called Operation Pay Dirt. *See* “New Charges Filed in Illegal Dumping Case that is Largest in State History,” *Newsday*, November 28, 2018. The case focused on 24 illegal dumping sites, including residential backyards, public land, parks and properties next to bodies of water. *Id.* Prior to the arrests in the larger case, on July 17, 2018, Melgar was arrested and charged with one count of criminal mischief in the second degree in violation of New York Penal Law (“PL”) § 145.10 (a class D felony), one count of knowing release of acute hazardous substances in violation of Environmental Conservation Law (“ECL”) § 2713(2) (a class D felony), and one count of operating a solid waste management facility without a permit in violation of ECL § 2703(2)(b) (a class B misdemeanor). Then, on November 9, 2018, the Applicant and Melgar were charged in a 130-count indictment in New York State Supreme Court, Suffolk County, along

with 29 other individual defendants and eight additional businesses for their role in illegally dumping construction and demolition debris on residential property. *See* Indictment, *People of the State of New York v. Carlos Melgar, D.J.C.I. Enterprises LLC., et al.* (the “Indictment”).

In the Indictment, the Applicant and Melgar were charged with an array of criminal conduct: one count of conspiracy in the fifth degree, in violation of PL § 105.05(1) (a class A misdemeanor); four counts of criminal mischief in the second degree, in violation of PL § 145.10 (a class D felony); one count of endangering public health in the third degree in violation of ECL § 71-2712(1) (a class E felony); four counts of endangering public health in the fourth degree in violation of ECL § 71-2711(3) (a class A misdemeanor); two counts of operating a solid waste management facility without a permit in violation of ECL § 2703(2)(c)(i) (a class A misdemeanor); and five counts of operating a solid waste management facility without a permit in violation of ECL § 2703(2)(b)(i) (a class B misdemeanor). *See* Indictment. Melgar was also charged with one count of criminal facilitation in violation of PL § 115.00(1) (a class A misdemeanor) and two counts of falsifying business records in the first degree, in violation of PL § 175.10 (a class E felony). *See id.* The Applicant did not dispute any of these facts.

Illegal Dumping-related Activity

The Indictment set forth in detail numerous acts that the Applicant and Melgar took in furtherance of the crimes with which they were charged. With respect to illegal dumping, those acts included the following:

- On or about April 29, 2018, a codefendant received a call from Melgar and informed him that he “had a load of material from Hunter’s Point which he needed to get rid of.” *Id.* at 19. The codefendant instructed Melgar to pick up loads from another codefendant company to bring out to Ridge, New York, to which Melgar agreed. *Id.* On April 30, 2018, Melgar sent a D.J.C.I. Enterprises truck containing solid waste that smelled like diesel, which was dumped at a residential property in Ridge, New York. *Id.* On the same day, Melgar provided equipment to a codefendant to assist in burying the fill material in the yard of that residence. *Id.*
- On May 14, 2018, Melgar arranged for a load of fill containing solid waste to be brought from another codefendant company located in Queens County, New York to a residential property located in Bellport, New York. *Id.* at 22. On May 15, 2018, Melgar agreed to take five loads of fill material from the same company to a residential property located in Greenport, New York. *Id.* at 23. On May 16, 2018, Melgar arranged for two loads of solid waste, originating from Queens, to be dumped at the Greenport property. *Id.* The next day, Melgar arranged for three loads of material containing solid waste to be hauled from Queens and dumped at the Greenport property.
- On May 16, 2018, Melgar received a text message from a codefendant instructing him to bring 1,000 yards of material to a residential address in Southampton, New York. *Id.* at 24. On May 28, 2018, a D.J.C.I. truck dumped loads of material containing solid waste on a residential property located in Southampton. *Id.* at 26.

On or about June 7, 2018, a tractor trailer registered to the Applicant, loaded with material obtained from Hunter's Point Recycling, Bronx, New York, dumped a load containing solid waste at a residential property located in Bellport, New York. *Id.* at 30.

Activity that Endangered Public Health, Safety, or the Environment

The Indictment also charged the Applicant and Melgar with endangering public health, safety or the environment, including the following conduct:

- Between April 28, 2018 and May 1, 2018, in Suffolk County, New York, Melgar, D.J.C.I. Enterprises and others “did recklessly engage in conduct which caused the release of a substance acutely hazardous to public health, safety or the environment, to wit: Dieldrim.”¹ *Id.* at 40. During the same period Melgar and the Applicant recklessly engaged in conduct which caused the release of a substance hazardous to public health, safety or the environment in Ridge, New York. *Id.* at 41. On May 14 thru May 17, 2018, Melgar and the Applicant engaged in conduct which caused the release of a substance hazardous to public health, safety or the environment, in Bellport and Greenport, New York. *Id.* at 47, 49.
- The Indictment alleged that Melgar, D.J.C.I. Enterprises, and others commenced operation of new solid waste management facilities without permits from the New York State Department of Environmental Conservation (“NYSDEC”). *See* Indictment. Melgar and D.J.C.I. Enterprises “caused or attempted to cause the release of more than seventy (70) cubic yards of solid waste into the environment” at two locations in Westbury and Ridge, New York. *Id.* at 41, 46.
- Melgar, D.J.C.I. Enterprises, and others also commenced operation of solid waste management facilities without obtaining permits from NYSDEC in Calverton, Greenport, Southampton, and Bellport, New York. *Id.* at 49-51, 64-65. These five locations “caused or attempted to cause the release of more than ten (10) cubic yards of solid waste into the environment.” *Id.*

Melgar and D.J.C.I. Enterprises LLC Convictions

On May 8, 2019, the Applicant pled guilty to one count of conspiracy in the fifth degree in violation of PL § 105.05(1) and one count of endangering public health in the fourth degree in violation of ECL § 71-2711(3), both class A misdemeanors. *See* D.J.C.I. Enterprises LLC Certificate of Disposition. *Id.* As of the date of this Denial Decision, the Applicant has not disclosed this conviction to the Commission.

Also on May 8, 2019, Melgar pled guilty to one count of conspiracy in the fifth degree in violation of PL § 105.00(05) and one count of operating a solid waste management facility without a permit in violation of ECL § 2703(2)(c)(i), both class A misdemeanors. *See id.* On September

¹ The Merriam-Webster dictionary defines Dieldrim as a white crystalline persistent toxic chlorinated compound used especially formerly as an insecticide.

12, 2019, Melgar was sentenced to three years' probation. As of the date of this Denial Decision, the Applicant has not disclosed Melgar's arrest or conviction to the Commission.² The Applicant did not contest any of these facts.

Basis for Denial

1. The Applicant and its sole principal were recently convicted of charges related to illegal dumping of trade waste.

In making a determination regarding an applicant's good character, honesty and integrity to operate a trade waste business, Administrative Code § 16-509(a)(iii) expressly permits the Commission to consider the conviction of an applicant for a crime which, considering the factors set forth in Correction Law § 753, would provide a basis for the refusal of such license or registration. Those factors are as follows:

- (a) The public policy of this state, as expressed in [the Correction Law], to encourage the licensure . . . of persons previously convicted of one or more criminal offenses.
- (b) The specific duties and responsibilities necessarily related to the license . . . sought.
- (c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties and responsibilities.
- (d) The time which has elapsed since the occurrence of the criminal offense or offenses.
- (e) The age of the person at the time of occurrence of the criminal offense or offenses.
- (f) The seriousness of the offense or offenses.
- (g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
- (h) The legitimate interest of the public agency . . . in protecting property, and the safety and welfare of specific individuals or the general public.

See N.Y. Correction Law §753(1).

² An applicant for a license or registration is required to notify the Commission within 10 business days of an arrest or criminal conviction of a principal or any employee or agent subsequent to the submission of the application. *See* 17 RCNY § 2-05(a)(1).

The Applicant has been convicted of conspiracy in the fifth degree in violation of PL § 105.05(1) and endangering public health in the fourth degree in violation of ECL § 71-2711(3), both class A misdemeanors. *See* D.J.C.I. Enterprises Certificate of Disposition. The conspiracy-related convictions concerned the illegal dumping of solid waste and contaminants into the environment, which resulted in damage and endangered public health. In committing these crimes, the Applicant and Melgar (the Applicant’s principal) “recklessly engaged in conduct which caused the release of a substance hazardous to public health, safety or the environment.” *See* Indictment.

Melgar also was convicted of the class A misdemeanors of conspiracy in the fifth degree in violation of PL § 105.00(05) and operating a solid waste management facility without a permit in violation of ECL § 2703(2)(c)(i). *See* Melgar Certificate of Disposition. In committing these crimes, Melgar “caused or attempted to cause the release of more than seventy (70) cubic yards of solid waste into the environment.” *See* Indictment.

Despite the State’s public policy to encourage the licensure and employment of persons previously convicted of one or more criminal offenses, *see id.* at § 753(1)(a), as demonstrated below, the Correction Law factors weigh heavily in favor of denying the Registration Application based on these convictions. As class A misdemeanors, all of the crimes are punishable by up to one year in jail. *See* PL §§ 70.00, 105.05(1). The conduct at issue endangered the health of the members of the community and the environment. Thus, they are serious crimes. *See* Correction Law § 753(1)(f). In committing the offenses, Melgar provided equipment and utilized vehicles registered to the Applicant in furtherance of the illegal dumping scheme – a clear misuse of the means with which the Applicant would perform its duties and responsibilities as a registrant with the Commission. Thus, these crimes directly relate to the duties and responsibilities of the Applicant with respect to the registration sought. *See id.* at § 753(1)(b). They demonstrate that the Applicant and Melgar cannot be trusted to abide by the laws that regulate the hauling of trade waste in New York City – and that they are, therefore, unfit to perform the duties and responsibilities of a registrant in the trade waste industry. *See id.* at § 753(1)(c).

The conspiracy occurred between at least January 1, 2018 and July 26, 2018 – ending approximately two years and three months ago. Thus, these crimes occurred in the recent past. *See id.* at § 753(1)(d). Melgar was in his 40s during his participation in the criminal schemes – plainly old enough to know what the law required, how to obey it, and to recognize that the schemes in which he and his codefendants were involved were illegal. *See id.* at § 753(1)(e).

D.J.C.I. did not respond to the Notice nor did Melgar produce any information regarding his rehabilitation or good conduct nor has any been produced on his behalf. *See id.* at § 753(1)(g). The Commission’s interest in protecting property, and the safety and welfare of the general public, is clear. *See id.* at § 753(1)(h). Public confidence in the integrity of the trade waste industry would be undermined if those proven to have ignored the law received a registration from the Commission, particularly given the difficult history the industry has had with respect to corruption.³ Therefore, both Melgar’s and the Applicant’s convictions for crimes that directly involve the trade waste industry compel the conclusion that the Applicant lacks good character,

³ To date, Commission staff has not received information in regard to any rehabilitation or good conduct with respect to Melgar. *See* Correction Law § 753(1)(g).

honesty, and integrity. The Applicant did not dispute this point. Accordingly, the Commission denies the Registration Application on this independently sufficient ground.

2. The Applicant failed to notify the Commission of its sole principal's arrest and conviction.

An applicant for a registration must notify the Commission within 10 business days of an arrest or criminal conviction of a principal subsequent to the submission of the application. *See* 17 RCNY § 2-05(a)(1). The Applicant submitted the Registration Application to the Commission on October 30, 2014. As described above, Melgar was arrested and charged with multiple offenses on July 17, 2018 and November 9, 2018, while the Commission was considering the Registration Application. *See* Indictment. On May 8, 2019, Melgar pled guilty to two crimes, namely, conspiracy in the fifth degree and operating a solid waste management facility without a permit. *See* Melgar Certificate of Disposition. On September 12, 2019, Melgar was sentenced to three years' probation for his role in an illegal dumping scheme. *Id.* Again, this occurred while the Registration Application was pending with the Commission.

On November 9, 2018, the Applicant was indicted on multiple offenses with its sole principal, Melgar. *See* Indictment. On May 8, 2019, the Applicant pled guilty to conspiracy in the fifth degree and endangering public health in the fourth degree, both class A misdemeanors. *See* D.J.C.I. Enterprises Certificate of Disposition. On the same day as pleading guilty, the Applicant was sentenced for those crimes to a one-year conditional discharge.

Neither Melgar nor the Applicant notified the Commission of their arrests or convictions. The failure of the Applicant and its principal to do so demonstrates that they lack good character, honesty, and integrity. The Applicant did not dispute this point. Accordingly, the Commission denies the Registration Application on this independently sufficient ground.

3. The Applicant has engaged in unregistered trade waste removal activity.

The Commission is authorized to deny the registration application of a company that has engaged in unregistered trade waste removal activity in New York City. *See* Admin. Code §§ 16-505(a), 16-509(c)(ii), 16-513(a)(i). Commission investigators caught the Applicant engaging in unregistered activity on three occasions between September 2014 and September 2015. Specifically, on September 11, 2014, the Applicant transported trade waste such as excavated dirt and broken concrete. *See* Notice of Violation - 210731. The Applicant was issued a violation for Unlicensed Activity in violation of Admin. Code § 16-505(a). *Id.* D.J.C.I. Enterprises admitted to the violation and paid a \$5,000 fine. *See* Stipulation of Settlement dated October 29, 2014.

Approximately one year later, the Applicant engaged in unregistered activity when Melgar was caught operating a vehicle registered to the Applicant that was loaded with excavated dirt, which is considered trade waste. The following day, at the same excavation site, Commission investigators found another vehicle registered to the Applicant carrying excavated dirt. *See* Notice of Violation - 212437. On both occasions, the Commission issued the Applicant a violation for Unlicensed Activity in violation of Admin. Code § 16-505(a). *See* Notices of Violation – 212433, 212437. D.J.C.I. Enterprises admitted to both violations and paid monetary fines totaling \$4,500. *See* Stipulations of Settlement for violation numbers 212433, 212437.

The Indictment details more recent unregistered activity by the Applicant while the Registration Application was pending. On June 7, 2018, a tractor trailer registered to the Applicant, loaded with material obtained from Hunter's Point Recycling, Bronx, New York, dumped a load containing solid waste at a property located in Bellport, New York. *See* Indictment at 30.

Repeatedly engaging in unlicensed or unregistered activity is further evidence that the Applicant and its principal lack good character, honesty, and integrity and is a basis on which to deny the Registration Application. The Applicant did not dispute this point. Accordingly, the Commission denies the Registration Application on this independently sufficient ground.

Conclusion

The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant who it determines lacks good character, honesty and integrity. The record herein demonstrates that the Applicant and its principals lack those essential qualities. Accordingly, the Commission's staff recommends that the Commission deny the Registration Application.

Dated: October 30, 2020

THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION

**Approved at October 30, 2020
Telephonic Commission Meeting**

Noah D. Genel
Commissioner and Chair

**Approved at October 30, 2020
Telephonic Commission Meeting**

Edward Grayson, Acting Commissioner
Department of Sanitation

**Approved at October 30, 2020
Telephonic Commission Meeting**

Margaret Garnett, Commissioner
Department of Investigation

**Approved at October 30, 2020
Telephonic Commission Meeting**

Kenny Minaya, Chief of Staff
(Designee)
Department of Consumer and Worker Protection

**Approved at October 30, 2020
Telephonic Commission Meeting**

Andrew Schwartz, Deputy Commissioner
(Designee)
Department of Small Business Services

**Approved at October 30, 2020
Telephonic Commission Meeting**

Matthew Hyland, Inspector
(Designee)
New York City Police Department