



The City of New York
BUSINESS INTEGRITY COMMISSION
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING
THE LICENSE APPLICATION OF GREASE OIL INC. (#483110)
TO OPERATE AS A TRADE WASTE BUSINESS**

I. INTRODUCTION & BACKGROUND

A. Introduction

On April 7, 2014, Grease Oil Inc. (the “Applicant”) (#483110) applied to the New York City Business Integrity Commission (the “Commission”)¹ for a license to operate as a trade waste business (the “Application”).² Local Law 42 of 1996 (“Local Law 42”) authorizes the Commission to review and make determinations on such license applications. See Title 16-A, New York City Administrative Code (“Administrative Code” or “Admin. Code”) § 16-505(a). The Commission’s review of a license application focuses on a determination of whether the applicant possesses business integrity. See Title 17, Rules of the City of New York § 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 to applicants lacking “good character, honesty and integrity”). If the Commission grants the application, the applicant will be issued a license. See id.

On May 14, 2015, the Commission’s staff issued and served the Applicant with an 11 page Notice to the Applicant of the Grounds to Deny the License Application of Grease Oil Inc. to Operate as a Trade Waste Business (the “Recommendation”). The Applicant was granted 10 business days, until June 2, 2015, to respond to the Recommendation. See Title 17, Rules of the City of New York §2-08(a). The Applicant has not responded. The Commission has carefully considered the Commission staff’s Recommendation and the Applicant’s failure to respond.

¹ The Commission was formerly known as the New York City Trade Waste Commission.

² “Trade waste” or “waste” is defined at Admin. Code § 16-501(f)(1) and includes “construction and demolition debris.”

Based on the record as to the Applicant, the Commission now denies the Application for the following independently sufficient reasons:

- 1. The Applicant failed to provide truthful and non-misleading information in connection with the Application.**
- 2. The Applicant's Principal has violated Local Law 42 by illegally accepting a transferred license from Oil Gorillas, Inc., a denied company.**
- 3. The Applicant knowingly failed to provide information and documentation required by the Commission.**

B. 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. 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.

Pursuant to Local Law 42, a company "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation," also known as construction and demolition debris, must apply to the Commission for an exemption from the licensing requirement. Id. If, upon review of an application, the Commission grants an exemption from the licensing requirement, it issues the applicant a Class 2 registration. Id. at § 16-505(a)-(b). Before issuing such registration, the Commission must evaluate the "good character, honesty and integrity of the applicant." Id. at § 16-508(b); see also id. at § 16-504(a). 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.

Id. at § 16-509(a)(i)-(x). 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, __ N.Y.S.2d __, 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).

II. DISCUSSION

A. Statement of Facts

The Application

On April 7, 2014, the Applicant applied to the Commission for a trade waste removal license. See Application. The Applicant is in the business of removing and transporting used

cooking oil. In its Application, the Applicant disclosed Jian Lin (“Lin”) and Bi Qiang Liu (“Liu”) as its two principals, each with a 50% ownership interest in the Applicant. See Application at p.20. Lin and Liu both certified that the answers in the Application were true. See Application at p.33. As part of the Application, each principal submitted a Disclosure Form for Principal of a Trade Waste Business (the “Principal Disclosure Statement”). Again, both Lin and Liu certified that the answers in their respective Principal Disclosure Statements were true. See Lin/Liu Principal Disclosure Statements at p.19. Neither principal listed previous employment in the trade waste industry on their respective Principal Disclosure Statements. See Lin/Liu Principal Disclosure Statements at p.4. Both principals indicated that they were employed as sushi chefs at restaurants in Brooklyn, New York. See id. However, Liu’s Principal Disclosure Statement indicated that he is also the 50% owner of another trade waste business called Mr. Panda Recycle Inc. (“Mr. Panda”). See Liu Principal Disclosure Statement at p.5.

In or about late June 2014, the Commission’s staff had several telephone conversations with the principals of the Applicant regarding the Application.³ On or about June 26, 2014, Liu stated that Mr. Panda was a cooking oil collection company that operates in Long Island, New York. Liu said that Mr. Panda was started by his friend and that Liu does not do any day-to-day work for this company. According to the New York State Department of State, Mr. Panda was incorporated on January 4, 2013. See “Entity Information,” for Mr. Panda Recycle Inc., NYS Department of State website, http://www.dos.ny.gov/corps/bus_entity_search.html (“NYS Entity Information”). According to the NYS Entity Information, the mailing address for serving process on Mr. Panda is as follows: “Bi Qiang Liu & Qi Don Zheng, 563 53rd Street, 2Fl, Brooklyn, New York, 11220.” See id. The same address was disclosed as Liu’s home address on his Principal Disclosure Statement. See Liu Principal Disclosure Statement at p.1.

Principal Liu’s Employment with Oil Gorillas

During the time that the Application was pending, the Commission was also investigating the activities of another cooking oil collection company called Oil Gorillas Inc. (“Oil Gorillas”). This investigation eventually led the Commission to deny the license renewal application of Oil Gorillas on March 6, 2015 (the “Oil Gorillas Denial Decision”). One of the independently sufficient grounds to deny Oil Gorillas’ renewal application was for illegally transferring its license to numerous individuals and unlicensed companies in violation of §16-505(c) of the Administrative Code.⁴ See Oil Gorillas Denial Decision at 1-2.

The Commission’s background investigation of the Applicant had revealed that several months prior to filing the Application, Liu was disclosed as a vehicle operator for Oil Gorillas in its Renewal Application for a License as a Trade Waste Business (the “Oil Gorillas Renewal

³ These conversations took place on June 20, June 23 and June 26, 2014.

⁴ The other independently sufficient grounds for the denial of Oil Gorilla’s license renewal application were: 1) Adam Borisuk was an undisclosed principal of Oil Gorillas; 2) Oil Gorillas failed to maintain and provide information and/or documentation required by the Commission; and 3) Oil Gorillas provided the Commission with false and misleading information.

Application”), filed on February 25, 2014. See Oil Gorillas Renewal Application at p.11. This employment was not disclosed on Liu’s Principal Disclosure Statement.

Question 15 of Liu’s Principal Disclosure Statement, asks:

EMPLOYMENT. Beginning with your current employment, list your complete work history.

Liu listed four separate jobs as a chef or sushi chef dating back to 2008, but disclosed no employment with Oil Gorillas. See Liu Principal Disclosure Statement at p.4.

On or about June 26, 2014, the Commission’s staff asked Liu over the telephone whether he had ever been an employee of Oil Gorillas. According to Liu, he knew the principal of Oil Gorillas, Yevgeny Komissarov (“Komissarov”), as Komissarov recycled the cooking oil at the restaurant where Liu worked. Liu stated that several months earlier he talked with Komissarov about possibly becoming employed by Oil Gorillas, during which time Komissarov asked for a copy of Liu’s driver’s license. Liu stated that ultimately he was never offered a job with Oil Gorillas and likewise was very surprised to find he was disclosed as a vehicle operator on the Oil Gorillas Renewal Application.

On December 19, 2014, the disclosed principal of Oil Gorillas, Komissarov, appeared at the Commission’s offices for a sworn interview. See Transcript of the Sworn Interview of Yevgeny Komissarov (“Komissarov Tr.”). Komissarov’s testimony completely contradicted Liu’s sworn Principal Disclosure Statement and Liu’s statements to Commission staff. When Komissarov was asked about the vehicle operators disclosed on the Oil Gorillas Renewal Application, he stated the following:

Q: The next name is, I’ll just spell it. First name is B-I-Q-I-A-N-G, last name L-I-U. Does that person still work for Oil Gorillas, Inc.?

A: Yes.

Q: When did that person start to work for Oil Gorillas, Inc.?

A: Also in the beginning of 2013.

Komissarov Tr. at 132:21-133:4.

Thus, Liu’s answer as to Question 15 on his Principal Disclosure Statement, which he certified to be true, is in direct conflict with the sworn testimony of Komissarov. Based on Komissarov’s testimony, Liu had been employed by Oil Gorillas for at least a year at the time the Application was filed.

Principal Liu's Unlicensed Activity

As the Commission's investigation continued, it became apparent that Liu's affiliation with Oil Gorillas exceeded that of an undisclosed driver. Liu operated Mr. Panda, his own unlicensed cooking oil collection company, under the auspices of Oil Gorillas.⁵ According to Komissarov's testimony, an undisclosed principal of Oil Gorillas named Adam Borisuk ("Borisuk") had structured their company so that individuals whom Borisuk knew could operate unlicensed cooking oil collection companies under the Oil Gorillas license. As stated by Komissarov:

Q: Did Mr. Liu come to you with his own truck?

A: At the time, no. He then purchased a truck.

Q: He purchased – Mr. Liu purchased his own truck?

A: Correct.

Q: When does he drive that truck?

A: Daily.

Q: He drives that truck for Oil Gorillas, Inc.?

A: Yes.

Q: Does that truck have Oil Gorillas, Inc. markings on it?

A: Yes.

Q: Does Mr. Liu presently own that truck?

A: Yes.

Q: Is there a Business Integrity Commission license plate on that truck?

A: Yes.

* * *

Q: Whose arrangement was this that Mr. Liu would use his own truck?

A. Adam [Borisuk].

⁵ It is telling that Mr. Panda was incorporated on January 4, 2013, the approximate time that Komissarov stated that Liu began working for Oil Gorillas.

Q. Adam?

A: Yes, that was the whole structure.

Id. at 134:20-136:1.

Under this unlawful scheme, certain unlicensed companies would provide the titles of their trucks to Oil Gorillas. See id. at 133. Oil Gorillas then registered the trucks with the Department of Motor Vehicles, insured the trucks, and disclosed the trucks to the Commission as its own. See id. at 138-141. In referring to Liu and others operating their own trucks under the guise of Oil Gorillas, Komissarov testified to the following:

Q: Who pays for maintenance of these trucks?

A: They do.

Q: Do you reimburse them for maintenance?

A: No.

Q: Who pays them for the fueling for these trucks?

A: They do.

Q: Do you reimburse them?

A: No.

Q. Do you reimburse them at all for the money besides for the money you pay them for the oil?

A: That's it. Just the money they receive for their oil.

* * *

Q: Who insures Mr. Zheng and Mr. Liu?

A: Oil Gorillas, Inc. does.

Q: Why does Oil Gorillas, Inc. insure these trucks?

A: Because they are registered under Oil Gorillas, Inc.

Id. at 137:13-138:20.

Under the Oil Gorillas business structure, Liu and similarly situated individuals, removed and transported some waste from Oil Gorillas' customers, and removed and transported other

waste from his own customers. See id. at 92-93.⁶ Komissarov further admitted that he did not know the identity of all of the customers involved and that he had little or no control over how these individuals conducted their operations. See id. at 93.

Mr. Panda⁷ was one of the companies that Komissarov admitted to having written checks to in order to compensate its employees for collecting oil.⁸ See id. at 146-147. Clearly, by unlawfully transferring his vehicle's registration to Oil Gorillas for registration under the name Oil Gorillas, Liu became an integral part of Oil Gorillas' scheme in essence, to encourage and franchise unlicensed cooking oil collection companies in New York City.

The Applicant's Failure to Provide Requested Information

By letter dated November 21, 2014, the Commission staff requested information and documentation from the Applicant relating to Mr. Panda. See letter from Commission staff to the Applicant, dated November 21, 2014. Specifically, the Commission staff requested a list of Mr. Panda's owners and principals, copies of all truck registrations, all payroll information, and a list of all employees. See id. The Commission's staff set a deadline of December 8, 2014 for the Applicant to provide the requested documentation. The Applicant was notified that its failure to provide the requested documentation could result in the abandonment or denial of the Application. See id.

On or about December 15, 2014, one week after the December 8, 2014 deadline, Liu contacted the Commission's staff and requested an extension of time to produce the information and documentation required by the Commission. The Commission's staff granted the Applicant's request and extended the deadline for the production of the requested information and documentation to December 22, 2014. The Applicant again failed to respond by the deadline.

By letter dated December 31, 2014, the Commission's staff mailed another letter to the Applicant titled "Final Notice." See letter from Commission staff to the Applicant, dated December 31, 2014. In that letter, the Commission's staff again sought to have the Applicant produce the outstanding information and documentation requested in its letter dated November 21, 2014. See id. The Commission set a final deadline of January 12, 2015, and informed the Applicant that its failure to provide those materials could result in the abandonment or denial of

⁶ Komissarov elaborated that Oil Gorillas' employees, such as Liu, were using Oil Gorillas' trucks to collect oil on their own when Oil Gorillas was not operating. See id. at 37. Although Komissarov had no idea where the oil was being collected from, or of any other details, he did give these employees permission to use Oil Gorillas' trucks. See id. at 38.

⁷ Komissarov stated he did not know the owner of Mr. Panda, but said he dealt with one of the Zhengs he employs. See id. at 147. The Oil Gorillas Renewal Application listed a 1) Yong Zheng; 2) Yan Fei Zheng; and 3) Hon Hua Zheng as vehicle operators. See Oil Gorillas Renewal Application at p.11. According to the NYS Entity Information, a person named Qi Don Zheng was also named by Mr. Panda as a person who would accept service of process.

⁸ Komissarov's testimony is further bolstered by the fact that a review of subpoenaed bank records and an analysis of Oil Gorillas' 2013 General Ledger indicated that Oil Gorillas had purchased somewhere between \$131,187.25 and \$158,769.00 worth of used cooking oil from Mr. Panda between June 2013 and October 2013.

the Application. See id. The Applicant did not produce the requested information and documentation. Nor did the Applicant request additional time to respond. As of the date of this Notice, the Commission has received no further materials or communications from the Applicant.

B. Basis of Denial

1. The Applicant failed to provide truthful and non-misleading information in connection with the Application.

Under Admin. Code §16-509(a)(1), the Commission may consider an applicant's failure to provide truthful information to the Commission in connection with the application in determining whether the applicant lacks good character, honesty and integrity. Additionally, under Administrative Code § 16-509(b), all applicants must provide truthful and non-misleading information required by the Commission. A knowing failure to do so is a ground for denial of the application. See Admin. Code § 16-509(b). As set forth above, the Applicant provided false information in response to whether he was employed by Oil Gorillas. Both before and after the submission of the Application, Liu was an undisclosed employee of Oil Gorillas.

Therefore, the Commission finds that the Applicant knowingly failed to provide the Commission with truthful and non-misleading information required by the Commission in the Application. Accordingly, the Commission denies the Application on this independently sufficient ground. See Admin. Code §§16-509(a)(1); 16-509(b).

2. The Applicant's Principal has violated Local Law 42 by illegally accepting a transferred license from Oil Gorillas, Inc., a denied company.

"A license or registration issued pursuant to this chapter . . . shall not be transferred or assigned to any person or used by any person other than the licensee or registrant to whom it was issued." See Admin. Code §16-505(c). Oil Gorillas allowed its Commission-issued license to be transferred to Liu, in violation of this provision of Local Law 42. Liu, one of the Applicant's principals, purposefully engaged in a scheme whereby he transferred his vehicle title to Oil Gorillas. Oil Gorillas then registered and insured his vehicle as belonging to Oil Gorillas. Next, Oil Gorillas disclosed Liu's vehicle to the Commission as its own in order to receive a Commission-issued trade waste license plate. Although Liu held himself and his vehicle out to the public and to the Commission as part of Oil Gorillas, in reality, Liu was working for himself, under his company, Mr. Panda. As set forth above, Oil Gorillas had little or no control over him. For this independently sufficient ground, the Application is denied. See Admin. Code §16-505(c).

3. The Applicant knowingly failed to provide information and documentation required by the Commission.

As set forth above, "the Commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the information and/or documentation required by the Commission pursuant to this chapter or any rules promulgated pursuant hereto." See Admin. Code §16-509(b). Despite repeated

attempts by the Commission's staff to obtain requested information and documentation regarding Mr. Panda, the Applicant failed to provide the requested material. Therefore, the Applicant has "knowingly failed to provide the information" required by the Commission by failing to respond to the Commission's repeated requests for information and/or documentation. For this independently sufficient reason, the Application is denied. See Admin. Code §16-509(b).

III. CONCLUSION

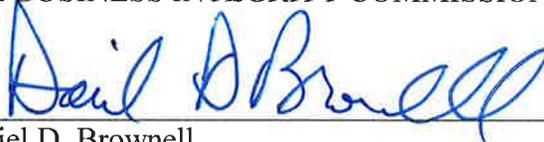
The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant that it determines is lacking in good character, honesty and integrity. The record as detailed above demonstrates that the Applicant falls short of that standard. Accordingly, based on the independently sufficient reasons set forth above, the Commission denies the Applicant's license application.

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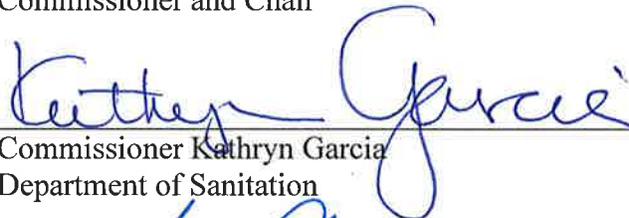
This denial is effective immediately. Grease Oil Inc. may not operate as a trade waste business in the City of New York.

Dated: June 22, 2015

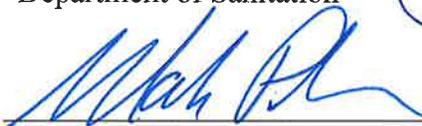
THE BUSINESS INTEGRITY COMMISSION



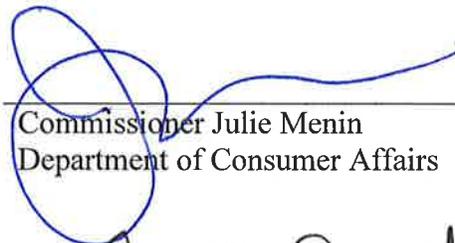
Daniel D. Brownell
Commissioner and Chair



Commissioner Kathryn Garcia
Department of Sanitation



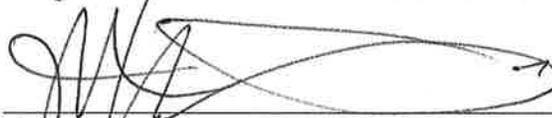
Commissioner Mark G. Peters
Department of Investigation



Commissioner Julie Menin
Department of Consumer Affairs



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



Inspector John Denesopolis
(Designee)
New York City Police Department