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

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATION OF PATRIOT WASTE ALSO KNOWN AS PATRIOT WASTE INC. FOR A REGISTRATION TO OPERATE AS A TRADE WASTE BROKER

Patriot Waste also known as Patriot Waste Inc. ("Patriot" 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.

Patriot 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); see also 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 the Applicant, the Commission, for the following independently sufficient reasons, denies Patriot’s registration application:

1. The Applicant’s principals engaged in a scheme to defraud their former employer for their own financial gain.
2. The Applicant’s principals operated as unregistered trade waste brokers in New York City.
3. The Applicant’s principals provided false and misleading information under oath to the Commission.

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 staff has conducted an investigation of the Applicant and its principals. On February 1, 2006, the staff issued a 12-page recommendation that the application be denied. The Applicant's principal was personally served with the recommendation on February 1, 2006, and was granted ten business days to respond (February 15, 2006). See 17 RCNY §2-08(a). Once the recommendation was served on the Applicant, three separate attorneys, each with experience in Local Law 42 and the Commission's rules and procedures, contacted the Commission on behalf of Patriot. For instance, on February 7, 2006, Anthony Lombardino, Esq. ("Lombardino") contacted the staff to ask questions about the staff's recommendation.¹ Thereafter, between February 8, 2006 and February 15, 2006, Lombardino again contacted the staff several more times to make further inquiries about the staff's recommendation. On February 21, 2006, another

¹ Lombardino was actually the second attorney to represent the Applicant during the investigation process.

attorney for the Applicant, Leonard Isaacson, Esq., contacted the staff and inquired about the status of the application.² On February 22, 2006, a third attorney, Peter Sullivan, Esq. (“Sullivan”), in an unrelated conversation about another matter, mentioned to the staff that he might represent the Applicant. On February 24, 2006, Sullivan left a voicemail message for the staff, saying that he did, indeed, represent the Applicant. When the staff called Sullivan back on February 24, 2006, Sullivan was reminded that the time for the Applicant to submit a response had expired. Sullivan said that he would send the Commission a letter seeking an extension of time to submit a reply. The staff informed Sullivan that the Commission would meet on March 14, 2006, and that time was of the essence for the Applicant to submit a response. As of the date of this Decision, the Applicant has not submitted a response. Further, each of the Applicant’s three attorneys has contacted the staff since the recommendation was served, but despite their knowledge of the Commission’s rules and procedures, none has formally asked for an extension of time to submit a response.³ The Commission has carefully considered the staff’s recommendation and for the independently sufficient reasons set forth below, the Commission finds that Patriot lacks good character, honesty, and integrity, and denies its registration application.

The original application filed by the Applicant on September 23, 2003 disclosed only two principals, Scott Spellman (“Spellman”) and Anthony Lagos (“Lagos”). See application at 7. The original application states that Spellman and Lagos are each an “owner/partner” and that each own “50%” of the Applicant. See id. In fact, Ann Marie Catello is also a principal and owner of the Applicant.⁴ The application only discloses one cellular telephone number for the Applicant business and one principal office and mailing address of “145-43 20th Avenue, Whitestone, NY 11357.” See application at 1. However, the Applicant does not use the principal office and mailing address that it disclosed on the Application. In fact, the Applicant utilizes several other offices (including 87-18 Liberty Avenue, 2nd Floor, Ozone Park, NY, and 192 Prescott Avenue, Staten Island, NY) and utilizes several telephone numbers, (including (718) 835-2222, (917) 723-3747, (917) 337-6595, (877) 768-7274, (718) 463-0042, and (718) 305-8962).⁵ Although all of the above information is material, either the Applicant sought to conceal

² Isaacson was the Applicant’s initial attorney.

³ It appears that the numerous changes in attorneys may have been an attempt to delay further proceedings.

⁴ According to Lagos, Ann Marie Catello became a principal and owner in December 2003 or January 2004. See November 16, 2005 Deposition Transcript of Anthony Lagos (“Lagos Tr.”) at 16-17. “An applicant for a registration ... shall notify the Commission within ten business days of: (i) the addition of a principal to the business of a registrant subsequent to the submission of the application for registration... (iii) any other material change in the information submitted ...” 17 RCNY §2-05(b). The “principal” of a corporation is defined as “every officer and director and every stockholder holding ten percent or more of the outstanding shares of the corporation ... [and] all other persons participating directly or indirectly in the control of such business entity.” Admin. Code §16-501(d). “Notification shall be sworn and notarized and shall be signed by all persons participating directly or indirectly in the control of the applicant business...” 17 RCNY §2-05(c).

⁵ Although some of these material changes were eventually disclosed to the Commission, not all were. The material changes disclosed to the Commission, were only revealed after the Commission learned of the changes and prompted the Applicant to update its application. In any event, none of the material changes were disclosed within ten days of the changes. Some of the material changes were only provided to the Commission (in a sworn and notarized writing signed by all of the principals) on or about December 22, 2005, in the form of an updated application, at the Commission’s direction.

the truth from the Commission or did not notify the Commission within ten business days of any changes in material information. See 17 RCNY §2-05(b).

Either way, the Commission only learned through its investigation, rather than by the Applicant's required disclosure, that Patriot added a principal and owner, changed its principal office address, mailing address and telephone numbers, and changed its corporate status, without advising the Commission pursuant to 17 RCNY §2-05(b). On or about March 8, 2005, members of the staff attempted to conduct an audit of the Applicant's business records at the Applicant's disclosed office and mailing address, and Lagos' disclosed home address, 145-43 20th Avenue, Whitestone, NY. At this time, Lagos' father told the staff that the Applicant did not conduct business at that address. Eventually, after contacting Spellman by telephone, the staff was directed to the address 87-18 Liberty Avenue, 2nd Floor, Ozone Park, NY. Upon arriving at the Liberty Avenue address, the staff found that the office was either closed or vacant. Again, the staff contacted Spellman by telephone, and Spellman directed them to 192 Prescott Avenue, Staten Island, NY, the home of Ann Marie Catello, the third, and at the time, undisclosed principal of the Applicant.⁶ Only after being advised by the staff of the requirement to update all material information did the Applicant partially update its new office and mailing addresses.⁷

On November 16, 2005, the Commission's staff deposed Spellman and Lagos. At this time, with their attorney present, they were again advised of their duty to update all material changes to their application.⁸ Only after being advised again by the Commission in writing on or about December 7, 2005, did the Applicant update all of the material information in its application by submitting a revised application to the Commission.⁹ See letter from David Mandell, Special Counsel, to Applicant.

Before submitting Patriot's registration application to the Commission, both Spellman and Lagos were sales representatives employed by another licensed trade waste business, BFI Waste Services of New York, Inc. ("BFI"). A review of business records and interviews conducted by Commission detectives establish that Spellman and Lagos undertook a scheme to defraud BFI. In doing so, Spellman and Lagos engaged in unregistered trade waste broker activity, the falsification of business records, and even

⁶ Spellman admitted that Patriot never disclosed Patriot's use of 192 Prescott Avenue, Staten Island as an office instead of 145-43 20th Avenue, and Ann Marie Catello's status as a principal, in violation of 17 RCNY §2-05(b) until members of the Commission's staff asked about them. See November 16, 2005 Deposition Transcript of Scott Spellman ("Spellman Tr.") at 7-8, 15.

⁷ By letter dated March 14, 2005, Patriot notified the Commission that its office address was "87-18 Liberty Avenue, 2nd Floor, Ozone Park, NY 11417" and that its mailing address was "P.O. Box 570656, Whitestone, NY 11357-0656." However, this letter was not notarized and was not signed by all of the principals of the Applicant, as required by 17 RCNY §2-05(c). Furthermore, the Applicant still did not disclose the existence of Ann Marie Catello as a principal, did not disclose the use of the 192 Prescott Avenue address as an office, and did not disclose the use of several telephone numbers. See supra at 4.

⁸ At this time, Spellman testified that he did not know that Patriot was required to disclose all principals to the Commission. See Spellman Tr. at 7-8. Among other things, Spellman also admitted that Patriot never advised the Commission that Patriot became a corporation subsequent to the submission of its application. See Spellman Tr. at 10.

⁹ However, as of the date of this recommendation, the Applicant has never disclosed the facsimile telephone number (718) 305-8962 that appears on Patriot Waste's facsimile cover page. See Patriot Waste facsimile cover page. Such a change is material. See 17 RCNY §1-01; Application at 1.

customer intimidation. Finally, at their depositions under oath before the Commission on November 16, 2005, Spellman and Lagos knowingly provided false and misleading testimony about, among other things, this illegal scheme.

III. GROUNDS FOR DENIAL

A. The Applicant's principals engaged in a scheme to defraud their former employer for their own financial gain.

The Commission's investigation revealed that beginning in at least March 2003, before forming Patriot, and while employed by BFI, Lagos and Spellman formed and operated a number of fraudulent and fictitious unregistered trade waste broker companies. The names of these companies include:

- JAFCO Inc.
- Food Server Inc.
- Pearl Lang
- Hudson Mgmt.
- Brothers Inc.
- NBD Realty Corp.
- La Caridad Mgmt.
- Restaurant Café Inc.

Each of these fraudulent companies operated out of a location connected to Spellman, Lagos, or one of their family members. Spellman and Lagos also falsified records to represent that certain customer accounts had been brought or "brokered" to BFI by these fraudulent unregistered trade waste brokerage companies. Spellman and Lagos then collected money from these unsuspecting customers (who thought that they were dealing with Spellman and Lagos in their capacities as representatives of BFI) and purchased money orders in the names of the fraudulent trade waste brokers in amounts that were less than what the customers paid them. Spellman and Lagos then remitted these money orders to BFI disguised as payments to BFI from the fictional brokers who brought or "brokered" the accounts. However, because the brokers were fictional, Spellman and Lagos kept for themselves the difference between the money that the customers paid and the money that was ultimately remitted to BFI. Spellman and Lagos also received compensation from BFI in the form of commissions for their role as sales representatives who brought business to BFI via the fraudulent brokers. Spellman and Lagos continued to maintain relationships with BFI customers, even after their employment by BFI was terminated, and continued to use the fraudulent unregistered brokers to service BFI customers by other licensed carters until they formed Patriot and filed the instant application.

Many of the money orders submitted to BFI were purchased by one "Paul Mercer." See copies of money order receipts. As described below, credible evidence establishes that Lagos used the name "Paul Mercer" when conducting illegal trade waste brokerage services with customers and carters.

Correspondence, contracts,¹⁰ cash receipts and money order receipts¹¹ obtained by the Commission establish that all of the unregistered trade waste broker companies were directly linked to Spellman and Lagos. For instance, contracts, correspondence, cash receipts and money order receipts show that the fraudulent and unregistered trade waste broker companies JAFCO Inc. and NBD Realty Corp. were located at 23-16 144th Street, Whitestone, New York. This is the address of Spellman's mother-in-law and father-in-law, and Spellman himself may have once resided there. See property deed for 23-16 144th Street, Whitestone, NY; Commission questionnaire at 3; Beneficiary designation form signed by Spellman.

Correspondence, contracts, cash receipts and money order receipts also indicate that Pearl Lang, Hudson Mgmt., Brother's Inc. and Restaurant Café were located at 145-43 20th Avenue, Whitestone, New York. This is the address of Lagos' parents, and is also the address that Patriot itself once maintained. See application at 1; November 16, 2005 Deposition Transcript of Anthony Lagos ("Lagos Tr.") at 8-9; Commission questionnaire at 5.

Correspondence, contracts, cash receipts and money order receipts also indicate that La Caridad Mgmt. was located at 99-60 63rd Road, Apt. 11S Rego Park, New York. This is the apartment in which Spellman now lives.¹² Additionally, Food Server Inc. was located at 220-65 67th Avenue. This address is owned by Lagos' brother, Markos (also known as Mark) Lagos.¹³ See Lagos Questionnaire at 6; see also New York City Department of Finance Office of the City Register Recording and Endorsement Cover Page; see also Property Transfer Record. Thus, each of the fraudulent unregistered trade waste broker companies used an address that was connected to Spellman, Lagos, or a family member of Spellman or Lagos. Customers sent money and/or correspondence for trade waste brokerage services to these addresses. In turn, Lagos and Spellman used these addresses to conduct business with BFI and other carters.

All of the documentary evidence obtained by the Commission's staff has been corroborated by interviews conducted by Detectives assigned to the New York City Police Department. For instance, in August 2003, Spellman and Lagos approached a BFI customer in their capacity as BFI sales representatives, and stated that BFI would service

¹⁰ The Commission has obtained numerous contracts between BFI and customers (signed by Spellman and Lagos on behalf of BFI) that contained addresses connected to Spellman and/or Lagos; several even contained the names of the fraudulent unregistered broker companies.

¹¹ The Commission has obtained numerous money orders that were purchased and signed by "Paul Mercer," and were remitted to BFI. In exchange, BFI provided receipts to fraudulent brokers "Pearl Lang" and "JAFCO." The Commission also has obtained numerous money order receipts issued to Lagos and Spellman. See Money Order Receipts.

¹² At his deposition, Spellman tried to explain that La Caridad Management used his home address because BFI wanted the bills to be sent directly to Spellman's house. According to Spellman, he would then collect cash from La Caridad restaurants and purchase money orders to submit to BFI. See Spellman Tr. at 44-45. Lagos testified that he never filled out money orders and never submitted money orders to BFI. See Lagos Tr. at 31. He also testified that he never even heard of BFI requesting that salesmen purchase money orders on behalf of customers to submit to BFI. See id. The evidence establishes that Spellman's story about directing customers to send money to his residence is not credible. Finally, neither Lagos nor Spellman could even attempt to explain why so many other customers were directed to send money to addresses linked to Lagos and Spellman.

¹³ According to Lagos, Mark Lagos is a salesman for Patriot. See Lagos Tr. at 36.

the customer for six hundred dollars per month. After the customer agreed to these terms, Spellman and Lagos produced a BFI contract that the customer agreed to. On or about August 20, 2003, BFI was sent a cancellation notice that contained the forged signature of this customer.¹⁴ See 8/20/03 letter from "Ilias Sellas." Approximately week later, a BFI Operations Manager contacted this customer to find out why the customer was canceling BFI's service. The customer stated that it never did cancel service with BFI. In fact, the customer later reviewed the cancellation notice sent to BFI and confirmed that the customer's signature on this document was a forgery.¹⁵ See February 11, 2004 DD5 by Detective Glenn Russo; see 8/20/03 letter from "Ilias Sellas."

Shortly thereafter, Spellman visited this customer with copies of contracts between the customer and a second licensed carter, American Compaction Systems, Inc. ("American Compaction"). See February 11, 2004 DD5 by Detective Glenn Russo; contracts between American Compaction and customer. The customer informed Spellman, and later informed Commission detectives, that she had never heard of American Compaction. See February 11, 2004 DD5 by Detective Glenn Russo. The customer also informed Spellman that she never agreed to have American Compaction service her account and that she wanted to continue to have BFI service her account.¹⁶ See February 11, 2004 DD5 by Detective Glenn Russo.

A review of the contracts between the customer and American Compaction revealed the signature of one Felix Vasquez ("Vasquez"), a salesman for American Compaction at the time. See February 11, 2004 DD5 by Detective Glenn Russo; contracts between American Compaction and customer. Commission detectives subsequently interviewed Felix Vasquez. Vasquez stated that he used to work with Spellman at Republic Waste and then at BFI. According to Vasquez, in approximately August 2003, Spellman contacted him by telephone and informed Vasquez, who was then working for American Compaction, that he (Spellman) had left BFI's employ. Spellman and Vasquez then agreed to meet at the Bay Chester Diner in the Bronx. At this meeting, Spellman introduced Vasquez to Lagos. Spellman also informed Vasquez that he had some customer accounts for him (Vasquez) and American Compaction. Later that month, Spellman contacted Vasquez by telephone, met with Vasquez again, and requested that Vasquez provide him with some blank American Compaction contracts for new customers. Vasquez provided Spellman with the blank contracts. Some of these contracts had Vasquez's name stamped on them. See February 27, 2004 DD5 by Detective Glenn Russo.

¹⁴ In March 2004, the Commission received a complaint from another licensed carter about Patriot. This licensed carter subsequently provided the Commission with a copy of a "Notification of Termination of Services" letter that was sent from Patriot to the licensed carter. See "Notification of Termination of Services," see also facsimile cover page from Scott Spellman and Patriot Waste. The unique wording (including a carbon copy notation to the Department of Consumer Affairs at a defunct address) of this Patriot "Notification of Termination of Services" is identical to the termination notices that Spellman and Lagos sent to BFI on behalf of both customers (and with customers' forged signatures) and the fraudulent unregistered trade waste broker companies. This is another example of an independent connection between this Applicant and the fraudulent trade waste broker companies.

¹⁵ Spellman or Lagos even misspelled the signature of the customer in this forged cancellation notice.

¹⁶ Spellman became enraged by the customer's decision and, in a veiled threat, told her "you will see what will happen tonight." See February 11, 2004 DD5 by Detective Glenn Russo.

As time passed, Vasquez, noticed more and more contracts with new customers coming into American Compaction with his name stamped on them. Eventually, Vasquez noticed that a person named "Paul Mercer" on behalf of a broker named "JAFCO" was brokering many of these American Compaction contracts with customers. In an attempt to ascertain who Paul Mercer was, Vasquez attempted to call JAFCO by telephone and spoke to a person who identified himself as Paul Mercer. During this conversation with "Paul Mercer," Vasquez identified Lagos' voice. See February 27, 2004 DD5 by Detective Glenn Russo (interview of Felix Vasquez). In early November 2003, Vasquez met with Spellman and Lagos in a pizzeria and observed Lagos sign the name "Paul Mercer" on one of the contracts.¹⁷ Later in November 2003, when Vasquez observed an even larger number of contracts with his name coming into American Compaction, he told Spellman that he was becoming uncomfortable. In December 2003, Spellman contacted Vasquez by telephone and informed Vasquez that he (Spellman) was going to become a [registered] broker with the Commission and did not need to use Vasquez's contracts any longer. Spellman then asked Vasquez to transfer all of the accounts that were brokered by the entity named JAFCO to Spellman's newly formed company, Patriot. See February 27, 2004 DD5 by Detective Glenn Russo (interview of Felix Vasquez).

Upon learning about this scheme, BFI terminated the employment of both Lagos and Spellman. See September 10, 2003 letter from BFI to Spellman. Indeed, Patriot filed its registration application with the Commission shortly thereafter, on or about September 23, 2003. Based upon the facts the Commission concludes that the principals of Patriot engaged in a dishonest scheme to defraud their former employer for their own financial gain. Such illegal activity plainly supports the conclusion that the Applicant lacks good character, honesty, and integrity. For this independently sufficient ground, this application is denied.

B. The Applicant's principals operated as unregistered trade waste brokers in New York City.

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). Long term unregistered trade waste brokerage activity can be evidence that a registration applicant fails to meet the fitness standard. As set forth above, the principals of the Applicant, Spellman and Lagos, have been engaged in unregistered trade waste brokerage activity under the auspices of several phony trade waste brokerage company names.

The scheme to operate several unregistered trade waste brokerage businesses concocted and operated by Spellman and Lagos are antithetical to the purpose of Local Law 42, which is to root out organized crime and other corruption from the trade waste industry. The overwhelming evidence compels the conclusion that this Applicant lacks good character, honesty, and integrity. Quite simply, conduct of this nature renders this

¹⁷ Indeed, the Commission has obtained numerous contracts and money order receipts with the name "Paul Mercer," the names of the fraudulent unregistered trade waste broker companies, and addresses connected to Spellman and/or Lagos. See Contracts and money order receipts.

Applicant unworthy of obtaining a registration to operate as a trade waste broker in New York City. Based on this independently sufficient ground, this application is denied.

C. The Applicant's principals provided false and misleading information under oath to the Commission.

An applicant's failure to provide truthful information to the Commission in connection with the application is an independent ground for denial of the application. Admin. Code §§16-509(a)(i), 16-509(b). Spellman and Lagos testified under oath before the Commission's staff ("Deposition") on November 16, 2005. Lagos and Spellman were not truthful in their depositions about several topics, including their use of fraudulent and unregistered trade waste broker companies, their relationship with Felix Vasquez, the use of the alias "Paul Mercer," and the use of different home and business addresses.

Fraudulent, Fictitious, and Unregistered Trade Waste Broker Companies

Spellman and Lagos denied any knowledge of, or connection to most of the fraudulent trade waste broker companies they created and operated. In addition, Spellman's and Lagos' testimony denying knowledge of those fraudulent trade waste brokerage companies was not credible.¹⁸ Spellman and Lagos each testified that Patriot has never been known by any other name, and that they never established any other brokerage companies other than Patriot. See Lagos Tr. at 22, 35; Spellman Tr. at 30, 46. Lagos testified that he never heard of Brother Inc., Pearl Lang Inc., NBD Realty Corp., Food Server Inc., and JAFCO Inc. See Lagos Tr. at 28-29. Lagos also testified that he had "no idea" why Brother Inc., Pearl Lang Inc. and NBD Realty Inc. would use the 145-43 20th Avenue address (his parent's address and his and Patriot's address at one time). See Lagos Tr. at 32. Spellman testified that he never heard of Brother Inc., Pearl Lang

¹⁸ Throughout their depositions, Spellman and Lagos exhibited a pattern of offering false, misleading, and evasive testimony about a number of topics, including the location from which they operated the Applicant. For instance, Lagos testified that Patriot initially disclosed the 145-43 20th Avenue, Whitestone address to the Commission because it "was the only stable address that I had." See Lagos Tr. at 32. When asked about Spellman's address, he stated that Spellman "was in the same problem... He was a renter. He was always renting, if his lease ran out—We needed an address that was stable for the time being..." See Lagos Tr. at 32. However, Lagos later admitted that Spellman has lived at his current address "probably" for more than ten years. See Lagos Tr. at 33. Indeed, Spellman testified that he has lived at his present address for the last fifteen years. See Spellman Tr. at 23. Lagos even appeared to be dishonest at his deposition regarding his home address. Although he stated in the questionnaire he filled out before his deposition that he lived at 75-08 Bell Boulevard for the last four years, the registration application submitted to the Commission on September 23, 2003 states that Lagos' home address is "145-43 20th Avenue, Whitestone." See application at 7. When asked about this inconsistency, Lagos stated, "probably it was during the time I was getting married, so I was in transition." See Lagos Tr. at 29. When the staff pointed out that Lagos was married in 2001, two years before the registration application was submitted, Lagos incredibly stated that his "wife had her own apartment in the same complex." See Lagos Tr. at 30. Lagos stated that he moved out of 145-43 20th Avenue "sometime after we purchased the apartment together at 75-08 Bell Boulevard." See Lagos Tr. at 31. Lagos claimed that he could not even remember if he purchased this apartment before September 2003. See Lagos Tr. at 31-32. Finally, although Lagos' brother lived at 220-65 67th Avenue in Queens and although Lagos and Spellman used the 220-65 67th Avenue address in this scheme, Lagos testified that he was not familiar with the address 220-65 67th Avenue in Queens. See Lagos Tr. at 32. This testimony is obviously false.

Inc., NBD Realty Corp., Hudson Management and Food Server Inc. See Spellman Tr. at 39-40.

Lagos testified that he heard of "La Caridad restaurants" from "driving by," but failed to acknowledge that he heard of "La Caridad Management," the fraudulent unregistered trade waste broker he and Spellman created to provide trade waste broker services to La Caridad restaurants. See Lagos Tr. at 29. He later clarified that La Caridad restaurants "were customers of BFI a long time ago." See id. Lagos' testimony regarding this fraudulent trade waste broker company is false, as La Caridad Mgmt. is inextricably linked to him and the Applicant.

Spellman was only willing to admit that "we possibly have done business with them [JAFCO Inc.] at BFI." See Spellman Tr. at 38. Spellman testified that he believed JAFCO to be a "management company." Spellman also stated that his interaction with JAFCO was "just bringing in the sales to BFI." See Spellman Tr. at 38. Yet Spellman testified that he did not know where JAFCO Inc. was located. See Spellman Tr. at 39. Spellman also testified that he did business with La Caridad Management, which he claimed was a restaurant, and that La Caridad Management sent cash to Spellman's apartment at BFI's direction. See Spellman Tr. at 39-40; see supra at footnote 9. Again, Spellman's testimony regarding these fraudulent trade waste broker companies is false, as JAFCO Inc. and La Caridad Mgmt are inextricably linked to him and the Applicant.

These answers are false as Patriot's predecessors were the fraudulent and unregistered trade waste brokers called JAFCO Inc., Food Server Inc., Pearl Lang, Hudson Mgmt., Brothers Inc., NBD Realty Corp., La Caridad Mgmt., and Restaurant Café Inc. Patriot was only established after Lagos and Spellman were terminated as employees by BFI, and after Lagos and Spellman decided to abandon their unregistered trade waste broker activity and attempt to operate as a legitimate and registered trade waste broker.

Relationship With Felix Vasquez

Both Spellman and Lagos attempted to downplay or deny their relationships with Felix Vasquez. At his deposition, Lagos falsely stated that he did not know who Felix Vasquez was. See Lagos Tr. at 27. Spellman testified that Vasquez was a salesman who worked for various trade waste companies, including BFI and American Compaction. See Spellman Tr. at 40-41. Spellman admitted that he had done business with Vasquez, wherein Vasquez had "written up some of the contracts..." when Vasquez was employed by American Compaction. See Spellman Tr. at 41. Yet, when asked when was the last time he saw or spoke to Vasquez, Spellman initially testified, "I don't recall." See id. Then, when asked if he saw or spoke to Vasquez within the last month, Spellman falsely testified, "No. It's been years." See id.

Lagos' and Spellman's respective testimonies regarding Felix Vasquez were false and misleading. As described above, Spellman introduced Lagos to Vasquez. Together, the three brought many of BFI's customers to another licensed carter. Furthermore, Lagos and Spellman had meetings with Vasquez as late as December 2003.

Paul Mercer - Alias

Again, Spellman's and Lagos' testimony was inconsistent and false regarding the name "Paul Mercer." "Paul Mercer" was the fictional name used by Spellman and Lagos to operate the fraudulent trade waste broker companies. Vasquez witnessed Lagos sign the name "Paul Mercer," and when he made a telephone call to JAFCO Inc., he identified Lagos' voice in a telephone conversation with "Paul Mercer." Nevertheless, Lagos testified that he did not know the name "Paul Mercer." See Lagos Tr. at 28. Furthermore, Lagos denied that he ever told anyone that he was Paul Mercer or that he ever signed the name "Paul Mercer." See id. Spellman was willing to admit that he had done business with someone at JAFCO Inc., who he thought was named "Paul Mercer." See Spellman Tr. at 38. According to Spellman, Paul Mercer just "called up the company [BFI] and I handled his correspondence." See id.

Spellman's and Lagos' testimony on the subject of Paul Mercer is self-serving, inconsistent, and false. Furthermore, their testimony about Paul Mercer is contrary to a witness' account that is corroborated by documentary evidence. As explained above, the documentary evidence and the witness' account establish that Lagos used the name "Paul Mercer" as an alias in operating the fraudulent trade waste broker companies.

Lagos' and Spellman's testimony about all of the above topics was demonstrably false and self-serving and is an independent ground upon which the Commission denies this registration application.

IV. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a registration to any applicant that it determines lacks good character, honesty, and integrity. The evidence recounted above demonstrates that Patriot falls far short of that standard.

Despite being notified of the staff's recommendation, the Applicant chose not to submit a response, thereby leaving the evidence against it unrebutted. Based upon the above independently sufficient reasons, the Commission denies Patriot's trade waste broker's registration. This registration denial is effective immediately. Patriot may not operate as a trade waste business in the City of New York.

Dated: March 14, 2006

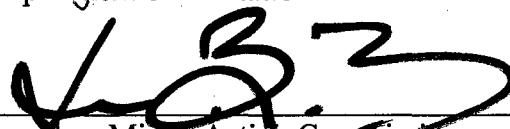
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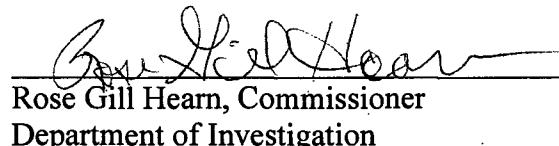
Thomas McCormack
Chair



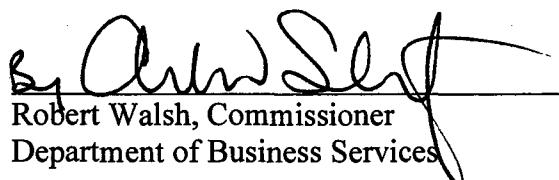
John Doherty, Commissioner
Department of Sanitation



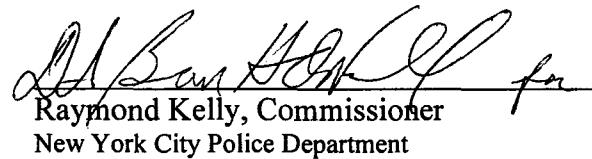
Jonathan Mintz, Acting Commissioner
Department of Consumer Affairs



Rose Gill Hearn, Commissioner
Department of Investigation



Robert Walsh, Commissioner
Department of Business Services



Raymond Kelly, Commissioner
New York City Police Department