



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 RMR CARTING CO. INC. FOR A LICENSE TO OPERATE AS A TRADE WASTE BUSINESS

RMR Carting Co. Inc. ("RMR" or the "Applicant") has applied to the New York City Business Integrity Commission, formerly the Trade Waste Commission (the "Commission") for a license to operate as a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), §§ 16-505(a), 16-508. Local Law 42, which created the Commission to license and regulate the commercial carting industry in New York City, was enacted to address pervasive organized crime and other corruption in the industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

Local Law 42 authorizes the Commission to refuse to issue a license to any applicant that it determines, in the exercise of its discretion, lacks good character, honesty and integrity. See Admin. Code § 16-509(a). In considering a prior license application submitted by the Applicant, the former Trade Waste Commission found the Applicant lacking in good character, honesty and integrity and denied the application. Finding no grounds for a different determination now, the Commission adheres to and reiterates the prior finding that RMR lacks good character, honesty and integrity, and denies the Applicant's license application.

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. Beginning in the late 1950's, and until *only recently*, the commercial 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 evidence presented at lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anticompetitive 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. The industry's entire modus operandi, the cartel, was indicted as a criminal enterprise. All of those defendants were convicted of felonies; many were sentenced to lengthy prison terms, and many millions of dollars in fines and forfeitures were imposed.

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 of businesses that remove, collect or dispose of trade waste. See Admin. Code §16-503. The carting industry immediately 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, 940 F. Supp. 656 (S.D.N.Y. 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).

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). After providing a license applicant with notice and an opportunity to be heard, the Commission may "refuse to issue a license to an applicant who lacks good character, honesty and integrity." Id. §16-509(a). As the United States Court of Appeals has definitively ruled, 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

RMR filed an application with the Commission on March 2, 2001. The Commission's staff conducted an investigation of the Applicant and, on February 24, 2004, the staff issued a four-page recommendation that the application be denied. The Applicant has not responded to the recommendation. The Commission has carefully considered the staff's recommendation. For the reasons set forth below, the Commission finds that RMR lacks good character, honesty and integrity and denies its application.

This is the second time RMR has sought a trade waste removal license from the Commission or its predecessor agency, a prior application having been submitted on October 7, 1997. The Commission denied the earlier application, together with that of a related company, Acwell Private Sanitation Service, Inc. ("Acwell"),¹ on August 27, 1999 (the "August 1999 Decision"), upon a finding that RMR lacked good character, honesty and integrity.² The August 1999 Decision cited a number of grounds for denial, but most relevant for present purposes were those that focused on the conduct of Richie Ribellino.³ The Commission found Richie Ribellino to have acted abusively toward customers (see August 1999 Decision at 24-25, 27) and to have given false and deceptive testimony before the Commission (id. at 21-24, 26-27).

The Applicant whose application is now before the Commission is the same RMR Carting Co. Inc. whose prior license application was denied in August 1999. It is the same corporate entity with the same principal, Richie Ribellino. There is nothing in the record which provides a basis for reaching a conclusion different from that reached in 1999. For the reasons set forth in the pertinent portions of the August 1999 Decision denying the Applicant's previous license application, the Commission adheres to and reiterates the finding that the Applicant lacks good character, honesty and integrity and denies the Applicant's license application.

III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license to any applicant who it determines lacks good character, honesty and integrity. As set forth in the Commission's

¹Acwell was owned and operated by Richard Ribellino, Sr., Richie Ribellino's father. The Commission found the management and operation of the two companies to be significantly overlapping if not indistinguishable (see August 1999 Decision at 27).

²A copy of the August 1999 Decision accompanies this recommendation.

³Even if there were no grounds specifically implicating the conduct of Richie Ribellino, the Commission would be well within its discretion if it were to rely solely on the recent denial of RMR's prior license application in denying this application as well. See 16 NYC Admin. Code 509(a)(vii) (denial justified when principal of applicant was principal of predecessor trade waste business that could have been (or was) denied a license).

August 1999 Decision concerning the Applicant's first license application, the Applicant was previously found to lack good character, honesty and integrity and its application was denied. There is no basis for a different decision with respect to this application. Accordingly, the Commission denies the Applicant's license application.

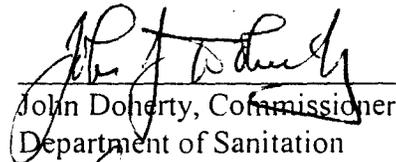
This license denial decision is effective immediately.

Dated: March 23, 2004

THE BUSINESS INTEGRITY COMMISSION



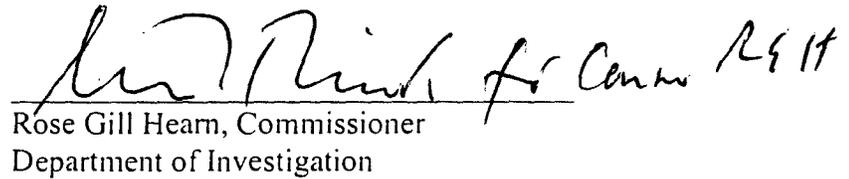
Robert Schulman
Acting Chairman



John Doherty, Commissioner
Department of Sanitation



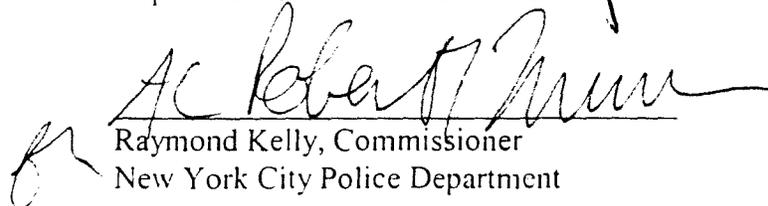
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