



The City of New York
BUSINESS INTEGRITY COMMISSION
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**DECISION OF THE BUSINESS INTEGRITY COMMISSION
DENYING THE CLASS 2 REGISTRATION APPLICATION
OF ZUMBAS BUILDERS INC.
TO OPERATE AS A TRADE WASTE BUSINESS**

Introduction

On or about February 19, 2018, Zumbas Builders Inc. (the “Applicant” or “Zumbas Builders”) (BIC #495339) 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 December 6, 2021, the Commission’s staff issued and served the Applicant with the Commission staff’s Notice to the Applicant of the Grounds to Deny the Class 2 Registration Application of Zumbas Builders to Operate as a Trade Waste Business (the “Notice”). *See* Notice. Zumbas Builders had 10 business days to respond to the Notice, until December 20, 2021. *See* Title 17, Rules of the City of New York (“RCNY”) § 2-08(a). The Applicant did not submit a response, leaving all of the grounds for denial uncontested.

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* 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); 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 the Zumbas Builders application, having considered both the Notice and the Applicant’s lack of response. Based on the record herein, the Commission denies Zumbas Builders’ registration application because the Applicant lacks good character, honesty and integrity based on the following five independently sufficient grounds:

1. **Maria Zumba, a principal of the Applicant, failed to provide sworn testimony to the Commission when directed to do so;**
2. **Andres Gonzalez is an undisclosed principal of the Applicant;**
3. **The Applicant's predecessor company and Andres Gonzalez were recently convicted of crimes related to larceny;**
4. **The Applicant has repeatedly engaged in unregistered trade waste removal activity; and**
5. **The Applicant failed to pay civil penalties for which judgments have been entered.**

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. v. City of New York*, 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

Zumbas Builders Registration Application

As noted above, on or about February 19, 2018, 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 Zumbas Builders Inc. (the “Registration Application”). Schedule A of the Application filed by the Applicant disclosed one principal – Maria Zumba (“Zumba”). See Registration Application at 13. Zumba certified that all of the information contained in the Registration Application was “full, complete and truthful.” *Id.* at 20. The Commission’s rules require the Applicant to notify the Commission within 10 business days of any material change to the information submitted on an application. See 17 Rules of the City of New York (“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”).

The Applicant disclosed its business and cellular telephone number as [REDACTED].¹ See Registration Application at 1. Additionally, the Applicant disclosed four employees on its application. *Id.* at 18. Among them, Andres Andrade Gonzalez (“Gonzalez”) was disclosed as an employee and a vehicle operator. *Id.* Gonzalez was not disclosed as a principal. *Id.* at 13. Importantly, the Applicant is required to notify the Commission within ten business days regarding the “arrest or criminal conviction of any principal of a Class 2 registrant of which such applicant or registrant had knowledge or should have known.” See 17 RCNY § 2-05(b)(1)(ii). The Applicant also disclosed five vehicles it intended to use to haul trade waste, including a 1997 Mack, a 1998 WE/ST (“Western Star”), a 1999 Western Star, a 2001 Peterbilt, and a 2007 Mack. *Id.* at 19.

On July 14, 2021, the Commission’s staff notified the Applicant that principal Maria Zumba would be required to provide sworn testimony to the Commission. See July 14, 2021 Commission Letter to Applicant. The notice was also sent to the email address disclosed to the Commission by the Applicant. *Id.* Due to the COVID-19 pandemic, the sworn interview was to take place through video conference. The date and time was set for Tuesday, July 27, 2021, at 10:00 a.m. *Id.* The notice advised as follows:

[F]ailure to appear for the virtual sworn interview and provide the information and/or documentation required by the Commission is a violation of the Administrative Code and the Commission’s rules. See Admin. Code § 509(b); Title 17 of the Rules of the City of New York (“RCNY”) § 1-09. Failure to provide truthful information or the making of a false or misleading statement to the Commission is also a violation of the Administrative Code and the Commission’s rules. See Admin. Code § 509(a)(i); 17 RCNY § 1-09. Either one of such actions is an adequate ground on which to deny the Registration Application. See Admin. Code §§ 509(a) and (b).

The Applicant did not respond to the notice, and Zumba did not appear for testimony.

¹ T-Mobile records indicate that telephone number [REDACTED] is in the name of Zumbas Home Improvement Inc., with a billing address of [REDACTED]. See T-Mobile Account Holder Record.

Zumbas Builders Business Signature Card

The evidence that the Commission compiled establishes that Gonzalez plays a significant role in directing the operations of the Applicant – although the Applicant failed to disclose this fact to the Commission. Gonzalez’s name appears on the bank signature card of the Applicant’s bank account. *See* Zumbas Builders Inc., JP Morgan Chase Bank Signature Card, dated September 14, 2018. Gonzalez is identified as the “Secretary,” while Zumba (the only disclosed principal) is listed as the “President.” Gonzalez provided a telephone number identical to the business and cellular telephone number disclosed by the Applicant. Gonzalez signed the bank signature card for the Applicant’s bank account on the same day that Zumba signed her name when the account was opened.

Statements Made by Gonzalez to Commission Staff

In connection with the Registration Application, on March 21 and March 22, 2018, a Commission staff member called the disclosed business/cellular telephone number for the Applicant. An individual who identified himself as “Andres Gonzalez” answered both times. The Commission staff member spoke with Gonzalez, and after he was asked a question about the application or a contact number for Zumba, Gonzalez hung up. The staff member sent a follow-up email to the Applicant, to which the Applicant never responded.

Zumbas Home Improvement Inc.

New York Department of State records indicate Zumbas Home Improvement Inc. (“Zumbas Home Improvement”) was incorporated on August 8, 2013, and is still an active business. *See* Department of State - Division of Corporations record. Andres Andrade Gonzalez, [REDACTED], is listed as the contact person for service of process. *Id.* The five vehicles disclosed by the Applicant were previously registered in the name of Zumbas Home Improvement. *See* New York State Department of Motor Vehicles (“NYS DMV”) records, Registration Application at 19.² The 1997 Mack dump truck was previously registered to Andres Andrade Gonzalez.³ The business and cellular telephone number disclosed on the Applicant’s Registration Application is registered in the name of Zumbas Home Improvement Inc. *See* T-Mobile Account Holder Records.

Unregistered Activity by the Applicant and Related Company

Over the course of several years, Commission investigators found both Zumbas Home Improvement and the Applicant conducting unregistered trade waste removal activity. First, on March 26, 2014, in Queens, New York, a Commission investigator observed a 1997 Mack dump truck with Zumbas Home Improvement markings transporting trade waste without a Commission issued license or registration. *See* Notice of Violation - 209616. The vehicle operator told the

² *See* NYS DMV registration history for VIN 1M1AA18Y6VW078630, 1M2AT04C27M002363, 2WLNCC2F4XK957706, 1NPAXUEX41N563837, and 2WLNCCFXWK948855.

³ NYS DMV records indicate that a 1997 Mack dump truck bearing VIN 1M1AA18Y6VW078630 was previously registered in the name of Andes Andrade Gonzalez. *Id.*

Commission investigator that the trade waste was removed from an excavation site in Brooklyn, and he was transporting it to a transfer station in Queens. *Id.*

Second, on August 26, 2016, in Queens, New York, a Commission investigator observed a 1999 Western Star truck with Zumbas Home Improvement markings transporting trade waste. *See* Notice of Violation - 214034. The 1999 Western Star dump truck was registered to Zumbas Home Improvement. The vehicle operator told the Commission investigator that he was on his way to dump the trade waste he picked up in Brooklyn at a transfer station in Staten Island, New York. *Id.* The Commission issued the Applicant an administrative violation for unregistered activity in violation of Admin. Code § 16-505(a). *Id.* The Applicant did not appear for the hearing. A default judgment was recommended and a civil penalty of \$5,000 was imposed. *See* Default Judgment Letter dated December 9, 2016.

Third, on July 7, 2017, in Brooklyn, New York, a Commission investigator observed a 1998 Western Star dump truck with Zumbas Builders markings. This vehicle was registered to the Applicant. The vehicle was loaded with trade waste. *See* Notice of Violation – 214957. The driver stated that the trade waste was picked up from a warehouse clean-out job located in Brooklyn. *Id.* The Commission issued an administrative violation for unregistered or unlicensed activity in violation of Admin. Code § 16-505(a). *Id.* The Applicant did not appear for the hearing. A default judgment was recommended and a civil penalty of \$5,000 was imposed. *See* Default Judgment Letter dated October 13, 2017.

Fourth, on February 14, 2018, in Brooklyn, New York, a Commission investigator observed a vehicle with Zumbas Builders markings. This vehicle was registered to the Applicant. The vehicle was loaded with trade waste. *See* Notice of Violation - 215720. The Commission issued an administrative violation for unregistered activity in violation of Admin. Code § 16-505(a). *Id.* The Applicant did not appear for the hearing. A default judgment was recommended and a civil penalty of \$5,000 was imposed. *See* Default Judgment Letter dated August 2, 2018.

As of the date of this decision, the fines relating to all four referenced violations remain open and unpaid.

Criminal Charges Against Zumbas Home Improvement and Gonzalez

On or about September 7, 2017, the Queens District Attorney’s Office charged Zumbas Home Improvement Inc. and Gonzalez, aka Andres Andrade, with an array of criminal conduct: one count of grand larceny in the second degree in violation of New York Penal Law (“PL”) § 155.40(1) (a class C felony), one count of insurance fraud in the second degree in violation of PL § 176.25 (a class C Felony), falsifying business records in the first degree in violation of PL § 175.10 (a class E felony), offering a false instrument for filing in the first degree in violation of PL § 175.35 (a class E felony), and fraudulent practices in violation of New York Workers’ Compensation Law (“WCL”) § 96-1 (a class E felony). *See People of the State of New York v. Andres Gonzalez AKA Andres Andrade*, CR-036307-17QN (the “Felony Complaint”). The charges stemmed from a scheme to defraud the New York State Insurance Fund (“NYSIF”) in which both the defendant company and Gonzalez failed to properly report their sales to NYSIF in the amount of \$288,600.03. *Id.* at 7.

On January 21, 2020, Zumbas Home Improvement pled guilty in Queens County Supreme Court to one count of grand larceny in the fourth degree in violation of PL § 155.30(1), a class E felony. *See* Zumbas Home Improvement Certificate of Disposition. That day, Zumbas Home Improvement was sentenced to a three-year conditional discharge. As of the date of this notice, the Applicant has not disclosed this conviction to the Commission. *Id.*

On the same day, Gonzalez pled guilty to one count of petit larceny in violation of PL § 155.25, a class A misdemeanor, and was sentenced to a one-year conditional discharge. *See* Gonzalez Certificate of Disposition. As of the date of this Notice, the Applicant has not disclosed Gonzalez's arrest or conviction to the Commission.⁴

The Applicant's Connections to Zumbas Home Improvement

There are significant connections that bind the Applicant and Zumbas Home Improvement to each other. If Zumbas Home Improvement was a BIC registrant, Gonzalez would be considered a principal of that company, and he is now an undisclosed principal of the Applicant. Gonzalez was listed as the contact person for service of process for Zumbas Home Improvement's registration with the New York State Division of Corporations.

After Zumbas Home Improvement was issued unregistered activity violations that resulted in default judgments, the Applicant was formed.⁵ New York Department of State records indicate that the Applicant was incorporated on March 3, 2017, and is still active. *See* Department of State - Division of Corporations records. Six months later, Zumbas Home Improvement Inc. and Gonzalez were criminally charged in the above-described scheme to defraud NYSIF.

On February 18, 2019, while the criminal case was pending, the Applicant submitted the Registration Application – failing to disclose this criminal case. All five vehicles the Applicant disclosed were previously registered to Zumbas Home Improvement and/or Gonzalez. *See* NYS DMV Records; Registration Application at 19. Also, the Applicant's disclosed business and cellular telephone number was registered in the name of Zumbas Home Improvement Inc. *See* T-Mobile Account Holder Records. These facts demonstrate that the Applicant is the successor corporation to Zumbas Home Improvement – created to hide the adverse consequences of unregistered activity, criminal conduct and the resulting criminal prosecution and convictions.

⁴ 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).

⁵ On March 26, 2014, Notice of Violation number 209616 was issued against Zumbas Home Improvement. On August 26, 2016, Notice of Violation number 214034 was issued against Zumbas Home Improvement.

Basis for Denial

1. Maria Zumba, a principal of the Applicant, failed to provide sworn testimony to the Commission when directed to do so.

The Commission has the power “[t]o investigate any matter within the jurisdiction conferred by [Local Law 42] and [has] full power to compel the attendance, examine and take testimony under oath of such persons as it may deem necessary in relation to such investigation, and to require the production of books, accounts, papers and other evidence relevant to such investigation.” Admin. Code § 16-504(c). On July 14, 2021, the Commission directed the Applicant to have its sole disclosed principal (Zumba) appear for a virtual sworn interview on July 27, 2021. *See* July 14, 2021 Commission Letter to Applicant. The notice was also sent to the email address disclosed to the Commission by the Applicant. *Id.* It advised that (1) Zumba’s “[f]ailure to appear for the virtual sworn interview and provide the information and/or documentation required by the Commission is a violation of the Administrative Code and the Commission’s rules”; and that “[f]ailure to provide truthful information or the making of a false or misleading statement to the Commission is also a violation of the Administrative Code and the Commission’s rules.” Either one of such actions is an adequate ground on which to deny the Registration Application. *See* Admin. Code §§ 509(a) and (b). As noted above, the Applicant did not respond to the notice, and Zumba failed to appear for testimony.

Thus, the Commission notified the Applicant that its sole disclosed principal was to appear for a virtual sworn interview scheduled for July 27, 2021, and Zumba failed to reply or contact the Commission in any fashion with respect to the scheduled testimony. The Commission may refuse to grant a registration if an applicant “has knowingly failed to provide the information and/or documentation required by the commission” *See* Admin. Code. § 16-509(b). The Applicant did not dispute this ground. Accordingly, the Commission denies the Registration Application on this independently sufficient ground.

2. Andres Gonzalez is an undisclosed principal of the Applicant.

All Applicants must provide truthful and non-misleading information to the Commission. A knowing failure to do so is a ground for denial of the Registration Application. *See* Admin. Code §16-509(b); *Attonito v. Maldonado*, 3 A.D.3d 415 (1st Dept. 2004), *leave denied*, 2 N.Y.3d 705 (2004); *Breeze Carting Corp. v. The City of New York*, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008). All applicants must provide “a list of names and addresses of all principals of the applicant business, including any manager or other person who has policy or financial decision-making authority on the business.” *See* Admin. Code § 16-508(a)(i). Gonzalez was not, but should have been, disclosed to the Commission as a principal of the Applicant.

Question 12 of the Registration Application directed the Applicant to, “[o]n Schedule A, identify all individuals who are principals of Applicant business and provide the information requested.” *See* Registration Application at 3. The Applicant disclosed only Zumba on Schedule A. *Id.* at 13. Gonzalez was disclosed merely as an employee on Schedule D, as a vehicle operator. *Id.* at 18. As noted above, the Applicant is required to disclose the arrest or criminal conviction of all principals. *See* 17 RCNY § 2-05(b)(1)(ii). In addition, if the Commission has reasonable cause to believe that any principal does not possess good character, honesty and integrity, the

Commission may require that individual to be fingerprinted for the purpose of obtaining criminal history records. *See* 17 RCNY § 2-05(d)(i). By not disclosing Gonzalez as a principal, the Applicant provided false and misleading information to the Commission.

The definition of “principal” includes “corporate officers and directors, all stockholders 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.*” *See* Admin. Code § 16-501(d) (emphasis added). The Applicant’s financial records clearly indicate that Gonzalez has access to the Applicant’s bank account as secretary and a signatory on the account. *See* Zumbas Builders Inc., JP Morgan Chase Bank Signature Card dated September 14, 2008.

When a member of the Commission’s staff called the Applicant’s business and cellular telephone number, an individual who identified himself as “Andres Gonzalez” answered the telephone. Clearly, Gonzalez participates directly in the control of the Applicant business. Moreover, the Applicant’s business and cellular telephone number is registered to “Zumbas Home Improvement Inc.,” which – as demonstrated above – is the predecessor company to the Applicant and was convicted of larceny and fraud in addition to Gonzalez. This is further evidence that Gonzalez is not merely a driver. Instead, he is a principal of the business and required to be disclosed as such on the Registration Application, which he was not.

An applicant for a registration has a duty to notify the Commission within 10 business days of an arrest or criminal conviction of a principal subsequent to the submission of the Registration Application. *See* 17 RCNY § 2-05(b)(1)(vii). The Applicant submitted the Registration Application to the Commission on February 9, 2018. As described above, Gonzalez was arrested and charged with multiple offenses before that date – on September 7, 2017. *See* Felony Complaint. On January 21, 2020, Gonzalez and Applicant’s predecessor company, Zumbas Home Improvement, were convicted of petit larceny and grand larceny in the fourth degree respectively. These convictions occurred while the Registration Application was pending with the Commission. Yet, neither Gonzalez nor the Applicant notified the Commission of those arrests or convictions. The failure of the Applicant to provide truthful and non-misleading information to the Commission about the identity of the principals of the company and the criminal convictions of Gonzalez and the Applicant’s predecessor company demonstrates that the Applicant lacks 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’s predecessor company and Andres Gonzalez were recently convicted of crimes related to larceny.

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).

The Applicant's predecessor company was convicted of grand larceny in the fourth degree in violation of PL § 155.30(1), a class E felony, and Gonzalez was convicted of petit larceny in violation of PL 155.25. *See* Zumbas Home Improvement Certificate of Disposition; Gonzalez Certificate of Conviction. The larceny-related convictions were the result of a fraud committed against NYSIF, a governmental agency. In committing these crimes, both the Applicant's predecessor company and Gonzalez (the Applicant's undisclosed principal) failed to properly disclose sales for the company, resulting in a theft totaling \$288,600.03. *See* Felony Complaint.

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. A class A misdemeanor is punishable by up to one year in jail. *See* PL §§ 70.00, 155.25. A class E felony is punishable by up to four years in prison. *See* PL §§ 70.00, 155.30(1). The conduct at issue related to a scheme to defraud the government by underreporting the predecessor company's income. These are serious crimes. *See* Correction Law § 753(1)(f). In committing the offenses, the Applicant's predecessor company and undisclosed principal perpetrated a fraud to generate income that was not accurately reported to the government. Thus, these crimes and convictions 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 Gonzalez 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 fraud occurred between at least November 28, 2013 and January 3, 2016 – ending approximately four years and eleven months ago. Thus, these crimes occurred in the recent past. *See id.* at § 753(1)(d). Gonzalez was in his mid-40s during his participation in the criminal scheme – plainly old enough to know what the law required, how to obey it, and to recognize that the scheme he perpetrated was illegal. *See id.* at § 753(1)(e).

With respect to rehabilitation or good conduct, *see id.* at § 753(1)(g), Zumbas Builders did not respond to the Notice and did not produce to the Commission any information regarding the Applicant’s rehabilitation or good conduct.⁶

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. Therefore, both Gonzalez’s and the Applicant’s predecessor company’s convictions for crimes related to theft from a government agency compels the conclusion that the Applicant lacks good character, honesty and integrity. The Applicant did not dispute this point. Accordingly, the Commission denies the Registration Application on this independently sufficient ground.

4. The Applicant has repeatedly 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 observed the Applicant’s predecessor company Zumbas Home Improvement and the Applicant engaging in unregistered activity on four occasions between March 2014 and February 2018. Specifically, on March 26, 2014, the Applicant transported trade waste such as excavated dirt and rocks. *See* Notice of Violation – 209616. Approximately two years later, the Applicant engaged in unregistered activity when a vehicle with Zumbas Home Improvement markings was observed transporting trade waste, such as excavated dirt and stone. *See* Notice of Violation – 214034. In 2017, a Commission investigator found a vehicle registered to the Applicant carrying excavated dirt and concrete. *See* Notice of Violation – 214957. In 2018, the Applicant was once again found to be transporting trade waste, namely excavated dirt and concrete, in a vehicle with Zumbas Builders markings registered to the Applicant. *See* Notice of Violation – 215720.

On all four occasions, the Commission issued the Applicant a violation for unregistered or unlicensed trade waste removal activity in violation of Admin. Code § 16-505(a). As of the date of this Notice, all four judgments remain outstanding.

⁶ To date, Commission staff has not received information regarding any rehabilitation or good conduct with respect to Gonzalez. *See* Correction Law § 753(1)(g).

Repeatedly engaging in and failing to address violations for unlicensed or unregistered activity is further evidence that the Applicant and its principals (disclosed and undisclosed alike) lack good character, honesty and integrity and is a basis to deny the Registration Application. *See* Admin. Code § 16-509(a)(iv). The Applicant did not dispute this point. Accordingly, the Commission denies the Registration Application on this independently sufficient ground.

5. The Applicant failed to pay civil penalties for which judgments have been entered.

In determining whether an Applicant lacks good character, honesty and integrity, the Commission may consider an applicant's "failure to pay any tax, fine, penalty or fee related to the applicant's business . . . for which judgment has been entered by a court or administrative tribunal of competent jurisdiction" *See* Admin. Code § 16-509(a)(x). *See also id.* at §§ 16- 513(a)(iv), 16-509(b). The Applicant owes \$17,500 in civil penalties for unregistered activity from 2014 through 2018.

These outstanding judgments are an independently sufficient basis for denial of 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 denies Zumbas Builders' Registration Application.

This registration denial is effective immediately. Zumbas Builders may not operate as a trade waste business in the City of New York.

Dated: May 17, 2022

THE NEW YORK CITY
BUSINESS INTEGRITY COMMISSION

Approved at May 17, 2022
Webex/Telephonic Commission Meeting

Elizabeth Crotty
Commissioner and Chair

Approved at May 17, 2022
Webex/Telephonic Commission Meeting

Gregory Anderson, Deputy Commissioner
(Designee)
Department of Sanitation

Approved at May 17, 2022
Webex/Telephonic Commission Meeting

Jocelyn E. Strauber, Commissioner
Department of Investigation

Approved at May 17, 2022
Webex/Telephonic Commission Meeting

Vilda Vera Mayuga, Commissioner
Department of Consumer and Worker Protection

Approved at May 17, 2022
Webex/Telephonic Commission Meeting

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

Approved at May 17, 2022
Webex/Telephonic Commission Meeting

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