

**CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS**

**DEPARTMENT OF CONSUMER AFFAIRS,**

**Complainant,**

**-against-**

**C & C WRECKERS, INC.,**

**Respondent.**

**DECISION & ORDER**

**Record No.: 8520-2014-ADJC**

**Violation No.: 05312917**

**License No.: 1381332-DCA**

**Respondent's Address:  
113 Hamilton Ave.  
Brooklyn, NY 11231**

A hearing on the above-captioned matter was held on July 29, 2014.<sup>1</sup>

Appearances: For the Department: Mary H. Park, Esq. Although duly notified of the time and place of the hearing, respondent failed to appear for the scheduled hearing date.

The respondent is charged with violating the following:

1. New York City Administrative Code ("Code") Section 19-169.1(a) for towing vehicles on private property that were parked in a manner consistent with the posted instructions (8 counts);
2. Code Section 19-169.1(a) for removing vehicles on private property, although no contract existed with the owner of the private property for the removal of improperly parked vehicles (19 counts);
3. Code Section 19-169.1(c) for removing vehicles on private property without having express written authorization from the owner of the private property or its agents as designated in the contract with the owner of the private property (7 counts);
4. Code Section 19-169.1(g) for charging consumers in excess of sixty-two dollars and fifty cents to abort the towing of a vehicle which had been connected to the tow apparatus for removal but had not yet been towed from the private property (7 counts);

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<sup>1</sup> An Interim Order was issued on July 31, 2014, to allow the Department to submit additional consumer affidavits. The Department thereafter submitted Affidavits for consumers David Thomas, Fernando Nunez and Gilbert Robin. Pursuant to the Interim Order, the respondent was afforded the opportunity to object to admitting into evidence the aforementioned affidavits, yet failed to do so. Accordingly, the affidavits are entered into the record as Department's Exhibit 14. The record closed on August 28, 2014.

5. Code Section 19-169.1(g) for charging consumers in excess of one hundred twenty-five dollars to tow a vehicle that had not yet been towed to the tow company's premises (1 count);
6. Title 6 of the Rules of the City of New York ("6 RCNY") Section 2-363(m) for failure to take reasonable care to prevent damage to or loss of a consumer's vehicle or personal property contained therein (5 counts);
7. Code Section 19-169.1(h) and 6 RCNY 2-366(d) for failure to provide consumers with a detailed, signed receipt with required information (3 counts);
8. Code Section 20-700 for engaging in a deceptive trade practice by requesting from consumer a lower fee if they paid in cash and did not require a receipt; by having an expired license hanging in their office; and by promising, but failing, to send consumer a refund (3 counts);
9. Code Section 20-527 for insisting on being paid in cash and not allowing consumers to use a major credit card (5 counts);
10. Code Section 20-101 for, through its employees, being rude and belligerent to consumers by throwing consumer's receipt out of tow truck window, driving away while consumer stood in front of truck and causing injury to consumer's hand, and pushing consumer against car (2 counts);
11. 6 RCNY Section 1-15 for failing to satisfy judgments against it, obtained by consumers within (30) days (1 count);
12. 6 RCNY Section 1-14 for failing to comply with a subpoena duces tecum (1 count);
13. Code Section 20-516 for failing to comply with a subpoena duces tecum and failing to make records available for inspection by the Commissioner at his request at the offices of the Department (1 count);
14. Code Section 20-104(e)(3) for failing to comply with a subpoena duces tecum and failing to comply with a lawful order of the Department (1 count);
15. Code Section 20-101 for failure to maintain the standards of integrity, honesty and fair dealing required of licensees (1 count).

Based on the evidence in the record, the following is **RECOMMENDED**:

### **Findings of Fact**

For the time period commencing July 21, 2011, the date of the first violation (see Department's Exhibit 12) to July 29, 2014, the date of hearing, respondent C & C Wreckers, Inc. engaged in the following practices:

C & C Wreckers removed eight cars from private parking lots that were parked consistent with posted instructions. CD500126553, CD500128398,

CD500132949, CD500133086, CD500133666, CD500135540, CD500135732, CD500135800. (See Department Exhibits 9-12).

C & C Wreckers towed vehicles without permission from the owners of private parking lots on nineteen occasions, at the following locations:

1. 606 Neptune Avenue, Brooklyn, NY 11224 (McDonalds). CD500127923. (See Department Exhibit 12).
2. 18th Avenue and 82nd Street, Brooklyn, NY 11214. CD500128398. (See Department Exhibit 12).
3. 43-44 Kissena Blvd., Flushing, NY 11355. CD500131052. (See Department Exhibit 12).
4. 227 Cherry Street, New York, NY 10002 (Pathmark). CD500128797, CD500131323, CD500133086. (See Department Exhibit 12).
5. 4228 Main Street, Flushing, NY 11355 (Duane Reade). CD500131463, CD500132949. (See Department Exhibits 10,12).
6. 3405 Neptune Avenue, Brooklyn, NY 11224. CD500133100. (See Department Exhibit 12).
7. Hugh J. Grant Circle, Bronx, NY 10472. CD500133666. (See Department Exhibit 12).
8. 102-04 Flatlands Avenue, Brooklyn, NY 11234 (CVS). CD500134343. (See Department Exhibit 12).
9. 2940 W. 21st Street, Brooklyn, NY 11224. CD500134814; CD500134917. (See Department Exhibits 5-6).
10. 2850 W. 24th Street, Brooklyn, NY 11224. CD500135235). (See Department Exhibit 12).
11. 48-01 Queens Blvd., Queens, NY 11377 (Duane Reade and Sleepy's). CD500135374. (See Department Exhibit 7).
12. 8813-8899 4th Avenue, Brooklyn, NY 11209 (7-11). CD500135540. (See Department Exhibit 12).
13. 48-01 Queens Blvd., Woodside, NY 11377 (Duane Reade). CD500135732. (See Department Exhibit 12).
14. 1950 Fulton Street, Brooklyn, NY 11233 (Rite Aid). CD500135800. (See Department Exhibit 12).
15. 135 Queens Blvd., Sunnyside, NY 11104 (strip mall parking lot). CD500135957. (See Department Exhibit 12).

C & C Wreckers towed seven vehicles without obtaining the express written authorization of the owner of the property or its agent to do so. CD500128398, CD500131052, CD500131323, CD500133100, CD500133086, CD500133930, 1619-2014-CMPL. (See Department Exhibits 8, 12)

C & C Wreckers' tow truck driver threw a consumer's receipt out of the window, and drove away while the consumer stood in front of the truck, resulting in a cut to consumer's hand. CD500131323. (See Department Exhibit 12). C & C Wreckers' tow truck driver pushed consumer against a car.

CD500 133086. (See Department Exhibit 12). Five consumer vehicles sustained damage as a result of tows by C & C Wreckers. See CD500127923, CD500131323, CD500133086, CD500133930, CD500135235. (See Department Exhibits 8, 12).

C & C Wreckers failed to provide receipts to two consumers. CD500131323, CD5001344917. (See Department Exhibits 5, 12). C & C Wreckers refused to accept five payments by credit card. CD500126553, CD500131323, CD500132949, CD500133930, CD500134343. (See Department Exhibit 8, 10-12).

On March 12, 2014, consumer Patricia Martin was charged \$217.00 when her vehicle was towed, but the receipt provided by C & C Wreckers listed \$200 as the charge. Further, C & C Wreckers never towed the vehicle back to its facility. 4530-2014-CMPL. (See Department Exhibit 12).

C & C Wreckers provided six authorization to tow forms that are missing required information, such as the date and time of the car's release, reason for tow and/or method of payment, the authorizer's signature, the method of payment, and the date/time of the tow. CD500128398, CD500131052, CD500131323, CD500133100, CD500133086, CD500133930. (See Department Exhibits 8, 12).

C & C Wreckers failed to disconnect seven vehicles when consumers arrived before C & C Wreckers towed the vehicle from the lot unless the consumers payed a fee higher than the legally permissible "drop-fee." CD500128797, CD500131052, CD500132949, CD500132955, CD500134343, CD500135375, CD500135374. (See Department Exhibit 7, 10-12).

C & C Wreckers requested from consumer Mohamed Saeed Abdelrahman a lower fee if he paid cash and did not require a receipt. CD500134814. (See Department Exhibit 6). C & C Wreckers promised to send consumer Eunice Manning a refund, but she never received it CD500132955. (See Department Exhibit 12).

C & C Wreckers had an expired license hanging in its office. CD500133930. (See Department Exhibit 8). C & C Wreckers failed to satisfy Judgments issued against it within thirty (30) days. 1326-2013-CMPL. (See Department Exhibit 12).

On or about March 18, 2014, the Department served a *subpoena duces tecum* ("Subpoena") on C & C Wreckers. The Subpoena was returnable on April 1, 2014. C & C Wreckers did not appear at the Department on April 1, 2014, or otherwise produce documents in response to the Subpoena. To date, C & C Wreckers has not responded to the Subpoena.

Pursuant to the affidavits and other documents submitted by the Department, during the period in question, respondent also collected fees from the following nine consumers through deceptive practices:

1. C & C Wreckers towed consumer Gilbert Robin's vehicle from his resident housing parking lot on six separate occasions during the time in question, despite the consumer having a valid parking permit displayed on his windshield. Consumer paid respondent a total of **\$692** for towing fees. (See Department Exhibit 14).
2. C & C Wreckers attempted to tow consumer David Thomas' vehicle from a 7 Eleven parking lot as he was making a purchase at 7 Eleven. The consumer paid C & C Wreckers a total of **\$136** to have his vehicle released. (See Department Exhibit 14).
3. C & C Wreckers attempted to tow consumer Clifford Sansarico's vehicle from the store parking lot where consumer was making a purchase. The consumer paid C & C Wreckers a total of **\$68** to have their vehicle released. (See Department Exhibit 5).
4. C & C Wreckers towed consumer Mohamed Saeed Abderahman's vehicle from a realty parking lot where the consumer had received permission to park. Consumer paid respondent a total of **\$136** for towing fees. (See Department Exhibit 6).
5. C & C Wreckers attempted to tow consumer Carlyle Thompson's vehicle from a Capital One Bank parking lot. The consumer was parked in a handicap parking space, but displayed a valid handicap parking permit. The consumer paid C & C Wreckers a total of **\$136** to have their vehicle released. (See Department Exhibit 7).
6. C & C Wreckers towed consumer George Mitchedlishvili's vehicle from his resident housing parking lot, despite the consumer having a parking permit to park in the area. Consumer paid respondent a total of **\$200** for towing fees. (See Department Exhibit 8).
7. C & C Wreckers attempted to tow consumer Browder Geanette's vehicle from the store parking lot where consumer was shopping. The consumer paid C & C Wreckers a total of **\$136** to have their vehicle released. (See Department Exhibit 9).
8. C & C Wreckers attempted to tow consumer Bowie Lai's vehicle from a Duane Reade parking lot. The consumer paid C & C Wreckers a total of **\$125** to have their vehicle released. (See Department Exhibit 10).
9. C & C Wreckers attempted to tow consumer Ron Alon's vehicle from a shopping mall parking lot where consumer was shopping. The consumer paid C & C Wreckers a total of **\$100** to have their vehicle released. (See Department Exhibit 11).

The Department did not provide consumer affidavits supporting restitution for any other consumers.

Department records establish respondent is a recidivist at to Code Section 19-169.1(a), 6 RCNY Section 2-363(m), 6 RCNY 2-366(d), Code Section 20-700 and Code Section 20-101. (See 903-2014-ADJC 500136925 and 196-2014-ADJC Co0039513).

### **Opinion**

The credible evidence establishes that the following consumers are entitled to restitution from the respondent in the **total amount of \$1,729**, to be paid as follows:

Gilbert Robin	<b>\$692</b>
David Thomas	<b>\$136</b>
Clifford Sansarico	<b>\$68</b>
Mohamed Saeed Abderahman	<b>\$136</b>
Carlyle Thompson	<b>\$136</b>
George Mitchedlishvili	<b>\$200</b>
Browder Geanette	<b>\$136</b>
Bowie Lai	<b>\$125</b>
Ron Alon	<b>\$100</b>

**Total Restitution Due to the Consumers                    \$1,729**

### **ORDER**

The Respondent is found **guilty** upon default with respect to the charges as set forth in the Notice of Hearing, and is hereby

**Ordered to pay to the Department a TOTAL FINE of \$115,000, which is immediately due and owing, as follows:**

<b>Charge 1:</b> Code Section 19-169.1(a)	<b>\$8000</b> (\$1000 per count, for 8 counts)
<b>Charge 2:</b> Code Section 19-169.1(a)	<b>\$19000</b> (\$1000 per count, for 19 counts)
<b>Charge 3:</b> Code Section 19-169.1(c)	<b>\$3500</b> (\$500 per count, for 7 counts)
<b>Charge 4:</b> Code Section 19-169.1(g)	<b>\$3500</b> (\$500 per count, for 7 counts)
<b>Charge 5:</b> Code Section 19-169.1(g)	<b>\$500</b> (\$500 per count, for 1 count)
<b>Charge 6:</b> 6 RCNY Section 2-363(m)	<b>\$50,000</b> (\$10,000 per count, for 5 counts)
<b>Charge 7:</b> Code Section 19-169.1(h)	<b>\$1500</b> (\$500 per count, for 3 counts)

6 RCNY 2-366(d)	<b>\$9000</b> (\$3000 per count, for 3 counts)
<b>Charge 8:</b> Code Section 20-700	<b>\$1500</b> (\$500 per count, for 3 counts)
<b>Charge 9:</b> Code Section 20-527	<b>\$15,000</b> (\$3000 per count, for 5 counts)
<b>Charge 10:</b> Code Section 20-101	<b>Revocation of License</b> (2 counts)
<b>Charge 11:</b> 6 RCNY Section 1-15	<b>\$500</b> (\$500 per count, for 1 count)
<b>Charge 12:</b> 6 RCNY Section 1-14	<b>\$500</b> (\$500 per count, for 1 count)
<b>Charge 13:</b> Code Section 20-516	<b>\$2500</b> (\$2500 per count, for 1 count)
<b>Charge 14:</b> Code Section 20-104(e)(3)	<b>Suspension of License</b> (1 count)
<b>Charge 15:</b> Code Section 20-101	<b>Revocation of License</b> (1 count)

**Total Fine Due:**

**\$115,000**

The respondent is **ORDERED to pay RESTITUTION to the consumers in the amount of \$1,729.** The award must be paid by certified check, money order or attorney trust account. The respondent must provide to the Department proof of payment of the restitution to the Consumers within thirty (30) days of the date of this decision, to the following address: “NYC Department of Consumer Affairs, Collections Division - Accounts Receivable, 42 Broadway, 9<sup>th</sup> Floor, New York, NY 10004” or by emailing such proof to: [collections@dca.nyc.gov](mailto:collections@dca.nyc.gov).

The respondent’s license is **REVOKED effective immediately.** The respondent is **directed to surrender the license document** immediately in person or by mail to DCA’s Licensing Center which is located at 42 Broadway, New York, NY 10004.

If respondent operates while the license is revoked, the respondent will be subject to criminal prosecution and/or civil penalties of at least \$100 per day for each and every day of unlicensed activity, as well as the closing of the respondent’s business and/or the removal of items sold, offered for sale, or utilized in the operation of such business, pursuant to Administrative Code Sections 20-105 and 20-106 (the “Padlock Law”).

The Respondent Company is deemed **permanently unfit to hold any license from the Department.**

**This constitutes the recommendation of the Administrative Law Judge.**

**Noel R. Garcia  
Administrative Law Judge**

**DECISION AND ORDER**

**The recommendation of the Administrative Law Judge is approved.**

**This constitutes the Decision and Order of the Department. If the respondent has obtained a license, its failure to comply with this Decision and Order (including payment of the fine) within thirty (30) days, shall result in the suspension of that license, and may result in the suspension of any other Department of Consumer Affairs license(s) held by the respondent. Payment with a check that is dishonored or a credit card transaction that is denied or reversed will not be considered compliance with this Decision and Order. The license(s) will not be reinstated until the respondent has served any suspension period ordered in this Decision and has paid ALL fines owed to the Department.**

**Date: October 10, 2014**

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**Eryn DeFontes  
Associate Director of Adjudication**

cc: C & C Wreckers Inc.  
9 Woodhull Street  
Brooklyn, NY 11231

Charles Diaz  
111 Pioneer Street  
Brooklyn, NY 11231

Mary H. Park, Esq.  
Staff Attorney, Legal Division

**Mail payment in the enclosed envelope addressed to:**

NYC Department of Consumer Affairs  
Collections Division  
42 Broadway, 9<sup>th</sup> Floor  
New York, NY 10004

**APPEALS**

**RESPONDENT(S):** You may file a **MOTION TO VACATE** this decision **within 15 days** from the date you knew or should have known of this decision. Your motion **must** include: 1) the reason you did not appear at the hearing; AND 2) a sworn statement outlining a meritorious defense to the charge(s) in the Notice of Hearing. You must include with your motion a check or money order for \$25 payable to DCA; and *a check or money order* payable to DCA for the entire restitution amount you were ordered to pay in the decision. You may file your Motion to Vacate either by email or regular mail, as follows:

**BY EMAIL:** Send your motion to [myappeal@dca.nyc.gov](mailto:myappeal@dca.nyc.gov) and, at the same time, mail the \$25 appeal fee and the restitution to: DCA Administrative Tribunal, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. Make sure to write the violation number(s) on your check or money order. **NOTE:** The determination on your motion

to vacate may be sent to you by email if you choose to submit your motion to us by email.

**BY REGULAR MAIL:** Send your motion, along with the \$25 fee and the restitution, to: Director of Adjudication, Department of Consumer Affairs, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. **Make sure to include in your motion** some indication or proof that you have sent copies of the motion **TO THE CONSUMER** at the consumer's address, **AND to DCA'S LEGAL DIVISION**, 42 Broadway, 9<sup>th</sup> Floor, New York, NY 10004.

**CONSUMER:** You may file an **APPEAL** of this decision **within 30 days from the date of the decision**. You may file your Appeal either by email or regular mail, as follows: **BY EMAIL:** Send your appeal to [myappeal@dca.nyc.gov](mailto:myappeal@dca.nyc.gov). **NOTE:** The determination on your motion to vacate may be sent to you by email if you choose to submit your motion to us by email.

**BY REGULAR MAIL:** Send your appeal to: Director of Adjudication, Department of Consumer Affairs, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. **Make sure to send a copy of your appeal to each of the respondents.**

**IMPORTANT NOTICE TO BOTH PARTIES**

**YOUR MOTION OR APPEAL MAY BE DENIED IF YOU DO NOT**

**INCLUDE SOME INDICATION THAT YOU HAVE SENT A COPY OF IT TO EACH OF THE OPPOSING PARTIES LISTED IN THE NOTICE OF HEARING.**