

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

**DEPARTMENT OF CONSUMER AFFAIRS,**

**Complainants,**

**-against-**

**RITEWAY TOWING INC., RICHARD  
CINTRON and VALENTIN GALLAN,**

**Respondents.**

**DECISION AND ORDER**

**NOH No.:  
5312919**

**License Nos.:  
1451257-DCA  
1360683-DCA  
1390455-DCA**

**Record Nos.:  
10960-2014-ADJC  
10976-2014-ADJC  
11005-2014-ADJC**

A hearing on the above caption matter was held on January 20, 2015, and continued on February 25, 2015.

Appearances: For the Department: Jordan Cohen, Esq. & Mark Butler, Esq. For Respondents: Respondent Valentin Gallan, Respondent Richard Cintron and Lance Lazzaro, Esq. (representing Richard Cintron only). Although duly notified of the time and place of the hearing, respondent Riteway Towing Inc. failed to appear.

The respondent **Riteway Towing Inc.** is charged with violating the following:

1. Title 6 of the Rules of the City of New York ("6 RCNY") §2-378 *et seq.* for failing to maintain records in electronic format. (1 count)
2. 6 RCNY § 2-377(d)(6) for failing to stay open during required times for vehicle redemption. (2 counts)
3. New York City Administrative Code ("Administrative Code") § 19-169.1(a) for illegally towing vehicles parked consistent with posted instructions. (1 count)
4. Administrative Code § 20-527 for refusing to accept credit cards for payment for towing services. (2 counts)
5. Administrative Code § 19-169.1(e) for failing to take towed

- vehicles directly to its storage facilities. (95 counts)
6. Administrative Code § 19-169.1(g) for charging consumers more than one-half of the charge allowed for removal when the consumer arrived before the car was removed from the premises. (88 counts)
  7. Administrative Code § 19-169.1(a) for charging consumers more than the legally permissible amount. (24 counts)
  8. Administrative Code § 20-509(d)(1) for charging fees not authorized by law. (111 counts)
  9. 6 RCNY § 2-366(d) for failing to issue receipts containing all required information. (10 counts)
  10. Administrative Code § 20-700 for engaging in deceptive trade practices by telling a consumer the storage yard was closed in order to charge higher fees, when lot was required to stay open. (1 count)
  11. Administrative Code § 20-700 for engaging in deceptive trade practices by telling a consumer their vehicle was towed to the storage yard, when it was not, in order to charge higher fees. (1 count)
  12. Administrative Code § 20-700 for engaging in deceptive trade practices by charging a consumer the rate for towing a vehicle to its storage facility, when the vehicle was never towed. (1 count)
  13. Administrative Code § 20-101 for failing to maintain the standards of integrity, honesty, and fair dealing required of licensees.

The respondent **Richard Cintron** is charged with violating the following:

14. Administrative Code § 19-169.1(e) for failing to take towed vehicles directly to its storage facilities. (28 counts)
15. Administrative Code § 19-169.1(g) for charging consumers more than one-half of the charge allowed for removal when the consumer arrived before the car was removed from the premises. (25 counts)
16. Administrative Code § 19-169.1(a) for charging consumers more

than the legally permissible amount. (5 counts)

17. Administrative Code § 20-509(d)(1) for charging fees not authorized by law. (53 counts)
18. Administrative Code § 20-101 for failing to maintain the standards of integrity, honesty, and fair dealing required of licensees.

The respondent **Valentin Gallan** is charged with violating the following:

19. Administrative Code § 19-169.1(e) for failing to take towed vehicles directly to its storage facilities. (35 counts)
20. Administrative Code § 19-169.1(g) for charging consumers more than one-half of the charge allowed for removal when the consumer arrived before the car was removed from the premises. (32 counts)
21. Administrative Code § 19-169.1(a) for charging consumers more than the legally permissible amount. (4 counts)
22. Administrative Code § 20-509(d)(1) for charging fees not authorized by law. (13 counts)
23. Administrative Code § 20-101 for failing to maintain the standards of integrity, honesty, and fair dealing required of licensees.

Based on the evidence in the record, I **RECOMMEND** the following:

### **Findings of Fact**

#### **Respondent Riteway Towing Inc.**

On or about September 30, 2013, the Department served on Riteway Towing Inc. (“Riteway”) a subpoena *duces tecum* (“the Subpoena”) requiring Riteway to produce documents responsive to twenty-two specific requests. Riteway failed to produce any documents in response to Subpoena Request 12, which sought documents concerning the purchase or lease of any vehicles by Riteway in the operation of its business. Riteway also failed to produce complete responses to Subpoena Requests 2 and 3, which sought a variety of records regarding employees and independent contractors employed by or affiliated with Riteway. Subpoena Requests 14 through 22 requested tow

records in a specific electronic format, as required by RCNY §2-378 *et seq.* Riteway did not produce the records in the required electronic format.

On February 15, 2013, Riteway towed Cono Sanseverino's vehicle from the parking lot at 80 Guyon Avenue in Staten Island, NY at approximately 5:41p.m. Sanseverino called Riteway at approximately 5:52p.m. and Riteway told Sanseverino that it closed at 5:00pm and, therefore, Sanseverino could either pick up the vehicle from Riteway the next day or pay for the driver to return the vehicle immediately. Riteway returned with the vehicle and charged Sanservino \$217.75. CD500134956.

On April 13, 2013, Carol Diaz's son parked his vehicle in the parking lot at 80 Guyon Avenue, in Staten Island, NY. After noticing that his car was missing, Ms. Diaz's son called Riteway. Riteway told the consumer that Riteway is open for vehicle redemption Monday through Friday between 9am and 5pm. The signs in the parking lots from which Riteway towed the consumer's vehicle state Riteway tows from the parking lot 24 hours per day, 7 days per week. Riteway charged \$136.00 for towing the vehicle from the parking lot and an additional \$136.09 for towing the vehicle back to the parking lot. CD500135388.

On June 15, 2013, a Saturday, Carmela Decicco parked her vehicle in the Waldbaum's and Family Dollar parking lot at 375 Tompkins Avenue, in Staten Island, NY. Decicco's daughter proceeded to shop in the Family Dollar store while Decicco shopped in a different store. Riteway towed Decicco's vehicle even though her daughter was shopping in Family Dollar. CD500136476.

On September 11, 2013, Riteway towed Ronald Merritt's vehicle from the private parking lot at 1351 Forest Avenue, in Staten Island, NY, and demanded \$217.75 in cash for return of the vehicle, which Mr. Merrit paid. 374-2013-CMPL.

On September 13, 2013, Riteway towed Mike Scerbo's vehicle from a parking lot at 834 Annadale Road in Staten Island, NY, and demanded from Scerbo \$250.00 in cash for return of his vehicle, which Mr. Scerbo paid. CD500137121.

Riteway towed Safwan Aziz's vehicle from a private parking lot. Riteway attempted to charge Aziz \$274.00 for the tow. Riteway never towed the vehicle to its storage facility. 12140-2014-CMPL.

Riteway did not fill in the required information on at least 10 tow invoices.<sup>1</sup> Riteway failed to tow 95 vehicles directly to its storage facility.<sup>2</sup> Riteway charged 88 consumers more than one-half of the charge allowed for removal when the consumer arrived before the car was removed from the premises.<sup>3</sup> Riteway charged 24 consumers more than the legally permissible amount.<sup>4</sup> Riteway charged 111 consumers unauthorized fees.<sup>5</sup>

Riteway's Tow Truck Company license (1451257-DCA) expired on April 30, 2014.

Respondent Richard Cintron

At all relevant times, Mr. Cintron was an employee of Riteway Towing Inc., and maintained a Tow Truck Driver license (1360683-DCA).

Mr. Cintron failed to tow 22 vehicles directly to Riteways' storage facility.<sup>6</sup> Mr. Cintron charged 4 consumers more than one-half of the charge allowed for removal when the consumers arrived before their vehicles were removed from the premises.<sup>7</sup> Mr. Cintron charged 32 consumers unauthorized fees.<sup>8</sup>

Respondent Valentin Gallan

At all relevant times, Mr. Gallan was an employee of Riteway Towing Inc., and maintained a Tow Truck Driver license (1390455-DCA).

Mr. Gallan failed to tow 33 vehicles directly to Riteways' storage facility.<sup>9</sup> Mr. Gallan charged one consumer more than one-half of the charge allowed for removal when the consumer arrived before the car was removed from the premises.<sup>10</sup> Mr. Gallan charged 3 consumers more than the legally permissible towing fees.<sup>11</sup> Mr. Gallan charged 9 consumers unauthorized fees.<sup>12</sup>

---

<sup>1</sup> See Exhibit 2, 5 and 9. Bates Invoices: 001317, 001325, 001341, 001347, 001350, 001352, 001354, 001362, 001412, and 001431.

<sup>2</sup> See Exhibits 2 & 5.

<sup>3</sup> See Exhibits 2 & 5.

<sup>4</sup> See Exhibits 2 & 5.

<sup>5</sup> See Exhibits 2 & 5.

<sup>6</sup> See Exhibits 2 & 3.

<sup>7</sup> See Exhibits 2 & 3.

<sup>8</sup> See Exhibits 2 & 3.

<sup>9</sup> See Exhibits 2 & 4.

<sup>10</sup> See Exhibits 2 & 4.

<sup>11</sup> See Exhibits 2 & 4.

<sup>12</sup> See Exhibits 2 & 4.

**Opinion****Respondent Riteway Towing Inc.**

Riteway Towing Inc. failed to appear, and is found guilty upon default of all charges.

The credible evidence establishes that Riteway Towing Inc. owes the following consumers restitution<sup>13</sup>, totaling \$21,841.98, as follows:

Aziz, Safwan	\$274.00
Ancona, Antonio	\$272.18
Scerbo, Mike	\$272.00
Decicco, Carmela	\$272.00
Diaz, Carol	\$136.00
Sanseverino, Cono	\$75.00
Ravotto, Mark	\$5.00
Addario, Frank	\$5.00
Bacchino, Robert	\$217.75
Roussel, Theresa	\$5.00
Barasch, Daniel	\$5.00
Ford, Feffrey	\$5.00
Willfong, Theresa	\$5.00
Mamdouh, Maximous	\$5.00
Velija, Zija	\$5.00
Ligotti, Ann Marie	\$5.00
Arena, Denise	\$5.00
Olbitas, Grover	\$5.00
Aiello, Francis	\$5.00
Girgis, George	\$5.00
Ferranti, Salvatore	\$5.00
Boccardiuoco, Danielle	\$5.00
Grosso, James	\$5.00
Dibenedetto, M	\$5.00
Riley, Patrick	\$5.00
Italiano, Anthony	\$5.00
McKeon, James	\$5.00
Patrizi, James	\$20.00
Pascoe, Donald	\$5.00
Nelson, Elizabeth	\$5.00
Champion Construction	\$217.75
Scalon, Eric	\$5.00
Rose, Jacquelyn	\$50.00

<sup>13</sup> Restitution is not awarded where the consumer's name is unknown or the restitution amount is not specified in the Department's chart (Exhibit 2).

Agosto, Nicolette	\$5.00
Sabater, Linda	\$5.00
Keane, Marie	\$5.00
Aferdita, Duka	\$55.00
Messina, Gabriella	\$5.00
Stagno, Stephen	\$136.09
Reda, Michael	\$50.00
Picciallo, Vito	\$136.09
Babayan, Eduard	\$5.00
Bianco, Marilyn	\$5.00
Ianelli, Linda	\$5.00
Trisha, Julia	\$141.10
Feliccia, Darlene	\$5.00
Rogovoy, Dennis	\$5.00
Serra, Joseph	\$136.10
Thrapp, Kaitlin	\$136.10
Alacha, Milena	\$141.10
Gosling, Jennifer	\$5.00
Locascio, Salvatore	\$136.09
Luna, Daniel	\$5.00
Deborah, Ann	\$280.00
Almonte Jr., Manuel	\$108.88
Mazzola, Vincent	\$190.53
Neves, Judy	\$141.09
Alaminer, Brenda	\$5.00
Swiene, Alex	\$136.09
Agro, Gerald	\$136.09
Trezzino, James	\$136.09
Kochankski, John	\$201.42
Chen, Ping	\$75.00
Livoti, Claudio	\$50.00
Demester, Michael	\$136.09
Rivera, Ruben	\$50.00
Wolfen, Michael	\$217.75
Atanasio, Sonia	\$25.00
Diamond, Robert	\$166.09
Nunir, Muhammad	\$25.00
Dav, Tina	\$25.00
Sengel, Stephanie	\$75.00
Sacco, Gina	\$75.00
Barbi, Mary	\$75.00
Calderon, Irma	\$75.00
Tirath, Singh	\$25.00
Crowin, Anthony	\$25.00
Cavicchio, Aberino	\$168.31
Sala, Gashi	\$50.00

Fennimore, Vincent	\$136.09
Pintus, Jason	\$50.00
Osborn, Williams	\$168.13
Brown, Ahkeim	\$136.09
Alogu, Gabriel	\$25.00
Gibbs, Benjamin	\$136.09
Ammersbach, Michelle	\$168.31
Guzman, Mileska	\$168.31
Zakarya, Jennifer	\$168.31
Light, Richard	\$168.31
Maruka, Andrew	\$160.00
Nehme, Amanda	\$244.97
Grant, Angelica	\$25.00
Osmond, Theresa	\$75.00
Alcantara, Roberto	\$299.41
Cincola, William	\$25.00
Sefarin, Alcaide	\$136.09
Sanet, Brady	\$168.31
Zeneli, Elvira	\$25.00
Krenar, Cane	\$50.00
Lovell, Taylor	\$50.00
Iyaji, Jonas	\$136.09
Rocchio, Marie	\$136.09
Orlando, Karen	\$125.00
Gomez, Francisca	\$136.09
Varone, James	\$136.09
Summa, James	\$136.09
Lampros, Xydos	\$217.75
Kroski, Alan	\$50.00
Torres, Jose	\$136.09
Guardino, Linda	\$50.00
Reifschneider, L.	\$136.09
Lekperic, Musa	\$60.00
Mickey, Carol	\$136.09
Wu, Jimmy	\$136.09
Demarco, Vincent	\$217.75
Wilbur, Jeffrey	\$100.00
Panteli, Andreas	\$136.09
Massaria, Chris	\$136.09
Rivera, Richard	\$136.09
Drennan, Joseph	\$174.41
Nicolosi, Vincent	\$136.09
Carp. Construction	\$136.09
Petruzzelli, Rocco	\$174.97
Kava, Arline	\$136.09
Sands, Jaime	\$25.00

Cafiso, Frank	\$217.75
Colamaria, Anthony	\$136.09
Morreale, Robert	\$217.75
Viglione, Richard	\$136.09
Dardo, J. Molina	\$136.09
Roldan, David	\$90.00
Sosa, Jonathan	\$136.09
Campbell, Brandon	\$55.00
Grbic, Ivan	\$136.09
Labiran, J.	\$136.09
Carter, Jason	\$217.75
Mamach, Mary	\$217.75
Vroulos, Nicholas	\$136.09
Gilling, Vilma	\$75.00
Bernard, Ravis	\$136.09
Pimentel, Emmanuel	\$136.09
Sartini, James	\$50.00
Kim Sun, Kyung	\$50.00
Shanmuganathan, V.	\$136.09
Pabellon, Angel	\$136.09
Nikolakos, Linda	\$50.00
Dejesus, Sol	\$136.09
Mariasz, Jarosz	\$136.09
Kovenovic, Omer	\$136.09
Green, Billy	\$190.53
Jakiun, Regina	\$136.09
Hinneh, Waillia	\$50.00
Varney, Saykur	\$50.00
Plumacher, Stephanie	\$50.00
Ajustina, Massaquoi	\$136.09
Vann, Ronald	\$50.00
Miller, Catherine	\$50.00
Cooke, Erina	\$136.09
Briley, Shantika	\$125.00
Bilella, Vincent	\$50.00
Kamara, Alfred	\$136.09
Guerrero, Cabanas	\$50.00
Cangemi, Thomas	\$136.09
Nertila, Klobucista	\$136.09
Nunez, Jose	\$50.00
Winfield, David	\$136.09
Bunay, Andrago	\$136.09
Anderson, George	\$136.09
Rragami, Bardhyl	\$136.09
Milkie, Joseph	\$136.09
Darling, Meg	\$136.09

Bobb, Sharon	\$136.09
Dantonio, John	\$136.09
Eappen, Nibu	\$136.09
Corrado, Minardi	\$136.09
Diaz, Richard	\$50.00
Collins, Jerry	\$136.09
Colon, Peter	\$75.00
Aponte, Chastity	\$50.00
Eappen, Benny	\$136.09
Plage, Martin	\$136.09
Russom, Elsa	\$50.00
Suseela, Nair	\$136.09
Manganaro, Annette	\$50.00
Monteleone, Noelle	\$75.00
Woods, Theresay	\$136.09
Saez, Frances	\$136.09
Kim, Daniel	\$5.00
Ologu, Arber	\$136.09
He, Yuyan	\$136.09
Burnside, Elizabeth	\$50.00
Thames, Noel	\$217.75
Sunana, Matthew	\$50.00
Byrnes, Marle	\$136.09
Jenkins, Susan	\$5.00
Diglacomo, Michael	\$136.09
Odion, Imaraw	\$234.75
Sadiki, Drios	\$272.18
Gariazzo, Jeffrey	\$136.09
Ramus, Izmue	\$136.09
Leanza, Lisa Marie	\$136.09
Jiminez, Luis	\$136.09
Kaufman, Stephanie	\$136.09
Valvo, Michele	\$136.09
Burkley, Natalie	\$136.09
Turner, Marcu	\$5.00
Sheppard, Brenda	\$136.09
Vera, Carmen	\$136.09
Dmello, Charles	\$217.75
Ferdinando, Joseph	\$136.09
Antone, J.	\$136.09

Respondent Richard Cintron

Administrative Code § 19-169.1(e)(28 counts)

The Department established 22 violations of Administrative Code § 19-169.1(e) by a preponderance of the credible evidence. Administrative Code § 19-169.1(e) states, in relevant part, that “a vehicle which is removed shall be taken *directly* to a facility for storage”. (emphasis added). The Department introduced credible documentary evidence, in the form of towing receipts and consumer complaints,<sup>14</sup> to establish Mr. Cintron did not take 22 vehicles directly to Riteway’s storage facility.<sup>15</sup> Mr. Cintron testified that he did not always take the vehicles directly to Riteway’s storage facilities after hooking them to his tow truck and removing them from the property. Instead, it was company policy that if a consumer stopped him as he was on his way to the storage facility, or if his employer called him and instructed him to stop and wait for the consumer to arrive, he would stop and return the vehicle to the consumer even though he had not reached the storage facility.

Mr. Cintron argued that he was following the instructions of his employer. However, as a licensee, Mr. Cintron has an independent duty to abide by the rules pertaining to his license. Further, Mr. Cintron also argued that returning the vehicle to the consumer before it reaches the storage facility is beneficial because it eliminates the inconvenience to the consumer of traveling to the storage facility. However, I find that the rule is unambiguous, and that it does not allow for the return of a vehicle once the vehicle is removed from the initial parking lot or parking space. At that point, the vehicle must be transported to a storage facility.

Accordingly, Mr. Cintron failed to establish a meritorious defense, and is found guilty of 22 counts of Administrative Code § 19-169.1(e).

The Department did not establish 6 violations of Administrative Code § 19-169.1(e) by a preponderance of the credible evidence. The Department introduced a detailed chart with the list of consumers and alleged violations by Mr. Cintron, with supporting towing receipts. However, for 4 counts of a violation of Administrative Code § 19-169.1(e) (for consumers Vito Picciallo, Joseph Serra, Carp. Construction and James Trezzino), I find, pursuant to the towing receipts and Mr. Cintron’s credible testimony, that the consumers’ vehicles were not transported by Mr. Cintron, but instead released on the property. For the fifth violation, I find, pursuant to the towing receipt (for consumer Jason Carter), that the vehicle was fully transported to Riteway’s storage facilities. For the sixth violation, (for consumer Champion Construction), I find, pursuant to Mr. Cintron’s credible testimony, that Mr. Cintron did not fill out the towing receipt, that the handwriting was not his, and that there was another driver with the initials “R” employed by Riteway. Accordingly, 6 counts of Administrative Code § 19-169.1(e) are dismissed.

---

<sup>14</sup> See Exhibits 2 & 3.

<sup>15</sup> Exhibit 2 contains a detailed chart listing the consumers whose vehicles were not taken directly to Riteway’s storage facility.

Administrative Code § 19-169.1(g)(25 counts)

The Department established 4 violations of Administrative Code § 19-169.1(g) by a preponderance of the credible evidence. Administrative Code § 19-169.1(g) states, in relevant part, that when the consumer “arrives at the scene prior to the removal of [their] vehicle...the vehicle shall be disconnected from the apparatus...upon payment of a reasonable service fee” as required by the statute.<sup>16</sup>

The Department introduced credible documentary evidence, in the form of towing receipts,<sup>17</sup> to establish that 4 vehicles were released on the property, but charged above the permitted amount.<sup>18</sup> Accordingly, Mr. Cintron is found guilty of 4 counts of Administrative Code § 19-169.1(g).

The Department did not establish 21 violations of Administrative Code § 19-169.1(g) by a preponderance of the credible evidence. The Department introduced a detailed chart with the list of consumers and alleged violations by Mr. Cintron, with supporting towing receipts. However, for 21 counts of Administrative Code § 19-169.1(g), the towing receipts indicate that the consumers’ vehicles were removed from the property. Mr. Cintron credibly testified that the vehicles were removed from the property because the vehicles were parked illegally, and that the consumers did not arrive before he departed the parking lot.

Accordingly, because Administrative Code § 19-169.1(g) only applies to the fee charged before the removal of a consumer’s vehicle, and because I find that the Department has failed to establish that 21 consumers arrived before their vehicles were removed, 21 counts of Administrative Code § 19-169.1(g) are dismissed.

Administrative Code § 19-169.1(a)(5 counts)

The Department did not establish 5 violations of Administrative Code § 19-169.1(a) by a preponderance of the credible evidence. The Department introduced 5 towing receipts to support the allegation that Mr. Cintron charged consumers more than the legally allowed towing fees pursuant to the rule.

However, the 5 towing receipts indicate that the consumers’ vehicles were towed to Riteway’s storage facility.<sup>19</sup> Mr. Cintron credibly testified that

---

<sup>16</sup> The maximum fee allowed is \$62.50.

<sup>17</sup> See Exhibit 3.

<sup>18</sup> For consumers Vito Picciallo Jr., Joseph Serra, James Trezzino and Carp. Construction.

<sup>19</sup> See Exhibits 2 and 3.

when he dropped off a vehicle at Riteway's storage facility, he never charged the consumer, but instead would leave to continue his duty of towing vehicles. Mr. Cintron further stated that the Riteway office staff would charge any consumer appearing at the storage facility. Therefore, because I find that the towing receipts do not establish that it was Mr. Cintron who charged the consumers for the release of their vehicles, the 5 counts of Administrative Code § 19-169.1(a) are dismissed.

Administrative Code § 20-509(d)(1)(53 counts)

The Department established 32 violations of Administrative Code § 20-509(d)(1) by a preponderance of the credible evidence. Administrative Code § 20-509(d)(1) states, in relevant part, that a "tow truck operator shall not require the payments of any fee or charge for towing...that is not specifically authorized by law or rule." The Department introduced credible documentary evidence, in the form of towing receipts and consumer complaints, to establish that 32 consumers were charged a higher fee than allowed by law by Mr. Cintron, including unauthorized service fees for paying with a credit card.<sup>20</sup>

Mr. Cintron argued that he was following the instructions of his employer. This is not a meritorious defense, as a licensee has an independent duty to abide by the rules pertaining to his license. Accordingly, since I find that Mr. Cintron overcharged 32 consumers, he is found guilty of 32 violations of Administrative Code § 20-509(d)(1).

The Department did not establish 21 violations of Administrative Code § 20-509(d)(1) by a preponderance of the credible evidence. The Department introduced a detailed chart with the list of consumers and alleged violations by Mr. Cintron, with supporting towing receipts. However, for 21 counts<sup>21</sup> of Administrative Code 20-509(d)(1), the towing receipts indicate that the consumers' vehicles were transported to Riteway's storage facilities. Mr. Cintron credibly testified that when he dropped off a vehicle at Riteway's storage facility, he never charged the consumer, but instead would leave to continue his duty of towing vehicles. Mr. Cintron further stated that the Riteway office staff would charge any consumer appearing at the storage facility. Therefore, because I find that the towing receipts do not establish that

---

<sup>20</sup> Exhibit 2 contains a detailed chart listing the consumers who were charged a higher fee than permitted by law, by Mr. Cintron. Exhibits 3 and 9 contain the relevant towing receipts and consumer complaints.

<sup>21</sup> The consumers are Joseph Drennan, Jeffrey Wilbur, Alan Kroski, Taylor Lovell, William Cincola, Theresa Osmond, Nehme Amanda, Ping Chen, Sonia Atanasio, Irma Calderon, Mary Barbi, Dav Tina, Tirath Singh, Jacquelyn Rose, Linda Sabater, Robert Bacchino, Michael Reda, David Roldan, James Sartini, Cono Sanseverino and Mary Ann Urciuoli.

it was Mr. Cintron who charged the consumers, the 21 counts of Administrative Code § 20-509(d)(1) are dismissed.

### Administrative Code § 20-101

The Department established a violation of Administrative Code § 20-101 by a preponderance of the credible evidence. Mr. Cintron admitted that as a licensee, he was familiar with the New York City towing rules and regulations. However, Mr. Cintron failed to tow 22 vehicles directly to Riteways' storage facility, charged 4 consumers more than one-half of the charge allowed for removal when the consumers arrived before their vehicles were removed from the premises, and charged 32 consumers unauthorized fees. I find that such actions establish that Mr. Cintron failed to maintain the standards of integrity, honesty, and fair dealing required of a licensee. Accordingly, Mr. Cintron is found guilty of violating Administrative Code § 20-101.

### Restitution

Mr. Cintron admitted that as a licensee, he was well aware of the allowable towing rates, but then routinely overcharged consumers on behalf of Riteway. At no time did Mr. Cintron present any evidence or testify that, in the 12 months he has been employed by Riteway, he opposed or objected to the illegal fees. Accordingly, I find that Mr. Cintron acted in concert with Riteway. Mr. Cintron is found jointly and severally liable with Riteway for restitution to the consumers he overcharged on Riteway's behalf, for a total of \$1,040.47, as follows:<sup>22</sup>

Picciallo, Vito	\$136.09
Serra, Joseph	\$136.10
Trezzino, James	\$136.09
Carp. Construction	\$136.09
Ravotto, Mark	\$5.00
Addario, Frank	\$5.00
Roussel, Theresa	\$5.00
Barasch, Daniel	\$5.00
Ford, Feffrey	\$5.00
Ligotti, Ann Marie	\$5.00
Arena, Denise	\$5.00
Olbitas, Grover	\$5.00
Aiello, Francis	\$5.00
Girgis, George	\$5.00

<sup>22</sup> Restitution is not awarded where the consumer's name is unknown or the restitution amount is not specified on the Department's chart (Exhibit 2). The names of the consumers owed restitution by Mr. Cintron are also included in the list of consumers owed restitution by Riteway Towing.

Ferranti, Salvatore	\$5.00
Boccardiuoco, Danielle	\$5.00
Grosso, James	\$5.00
Dibenedetto, M	\$5.00
Riley, Patrick	\$5.00
Italiano, Anthony	\$5.00
McKeon, James	\$5.00
Patrizi, James	\$20.00
Pascoe, Donald	\$5.00
Nelson, Elizabeth	\$5.00
Scalon, Eric	\$5.00
Agosto, Nicolette	\$5.00
Keane, Marie	\$5.00
Aferdita, Duka	\$55.00
Messina, Gabriella	\$5.00
Babayan, Eduard	\$5.00
Bianco, Marilyn	\$5.00
Ianelli, Linda	\$5.00
Sala, Gashi	\$50.00
Pintus, Jason	\$50.00
Guardino, Linda	\$50.00
Trisha, Julia	\$141.10

Respondent Valentin Gallan

Administrative Code § 19-169.1(e)(35 counts)

The Department established 33 violations of Administrative Code § 19-169.1(e) by a preponderance of the credible evidence. Administrative Code § 19-169.1(e) states, in relevant part, that “a vehicle which is removed shall be taken *directly* to a facility for storage”. (emphasis added). The Department introduced credible documentary evidence, in the form of towing receipts and consumer complaints,<sup>23</sup> to establish that Mr. Gallan did not take 33 vehicles directly to Riteway’s storage facility.<sup>24</sup> Indeed, Mr. Gallan admitted that he did not always take the vehicles directly to Riteway’s storage facilities after hooking them to his tow truck and removing them from the property. Instead, it was company policy that if a consumer stopped him as he was on his way to the storage facility, or if his employer called him and instructed him to stop and wait for the consumer to arrive, he would stop and return the vehicle to the consumer even though he had not reached the storage facility.

---

<sup>23</sup> See Exhibit 4.

<sup>24</sup> Exhibit 2 contains a detailed chart listing the consumers whose vehicles were not taken directly to Riteway’s storage facility.

The respondent argued that he was following the instructions of his employer. However, as a licensee, Mr. Gallan has an independent duty to abide by the rules pertaining to his license. Further, Mr. Gallan argued that returning the vehicle to the consumer before it reaches the storage facility is beneficial because it eliminates the inconvenience to the consumer of traveling to the storage facility. However, I find the rule unambiguous, and that it does not allow for the return of a vehicle once the vehicle is removed from the initial parking lot or parking space. At that point, the vehicle must be brought to a storage facility.

Accordingly, Mr. Gallan has failed to establish a meritorious defense, and is found guilty of 33 counts of Administrative Code § 19-169.1(e).

The Department did not establish 2 violations of Administrative Code § 19-169.1(e) by a preponderance of the credible evidence. The Department introduced a detailed chart with the list of consumers and alleged violations by Mr. Gallan, including 2 alleged violations of Administrative Code § 19-169.1(e) in the towing of consumer Vincent Nicolosi's vehicle. However, a thorough review of the evidence establishes that there is no supporting towing receipt or other documents to sustain the first listed violation, and was likely an erroneous duplicative charge. Accordingly, the first charge is dismissed.

As to the second charge against Mr. Gallan for violating Administrative Code § 19-169.1(e) (for consumer Vincent Nicolosi), the towing receipt and consumer complaint state that the vehicle was "released on the property", which is allowable under the rules. Accordingly, the second charge is dismissed.

Administrative Code § 19-169.1(g)(32 counts)

The Department established 1 violation of Administrative Code § 19-169.1(g) by a preponderance of the credible evidence. Administrative Code § 19-169.1(g) states, in relevant part, that when the consumer "arrives at the scene prior to the removal of [their] vehicle...the vehicle shall be disconnected from the apparatus...upon payment of a reasonable service fee" as required by the statute.<sup>25</sup>

The Department introduced credible documentary evidence, in the form of a towing receipt, to establish that one vehicle was released on the property, but charged above the permitted amount.<sup>26</sup> Accordingly, Mr. Gallan is found guilty of one count of Administrative Code § 19-169.1(g).

---

<sup>25</sup> The maximum fee allowed is \$62.50.

<sup>26</sup> For consumer Vincent Nicolosi, Exhibit 4.

The Department did not establish 31 violations of Administrative Code § 19-169.1(g) by a preponderance of the credible evidence. The Department introduced a detailed chart with the list of consumers and alleged violations by Mr. Gallan, with supporting towing receipts. However, for 30 counts of Administrative Code § 19-169.1(g), the towing receipts indicate that the consumers' vehicles were removed from the property. Mr. Gallan credibly testified that the vehicles were removed from the property because the vehicles were parked illegally, and that the consumers did not arrive before he departed the parking lot.

Accordingly, because Administrative Code § 19-169.1(g) only applies to the fee charged before the removal of the consumers' vehicles, and because I find that the Department has failed to establish that 30 consumers arrived before their vehicles were removed, 30 violations of Administrative Code § 19-169.1(g) are dismissed. One violation, for consumer Vincent Nicolosi, is dismissed as duplicative, as it was listed twice on the Department's chart.

Administrative Code § 19-169.1(a)(4 counts)

The Department established 3 violations of Administrative Code § 19-169.1(a) by a preponderance of the credible evidence. The Department introduced credible documentary evidence, in the form of towing receipts, consumer complaints and affidavits,<sup>27</sup> to establish that Mr. Gallan charged 3 consumers<sup>28</sup> more than the legally allowed towing fees pursuant to the rule. Accordingly, Mr. Gallan is found guilty of 3 counts of Administrative Code § 19-169.1(e).

However, one of the towing receipts indicates that the consumer's vehicle was towed to Riteway's storage facility.<sup>29</sup> Mr. Gallan credibly testified that once he dropped off a vehicle at Riteway's storage facility, he never charged consumers, but instead would leave to continue his duty of towing vehicles. Mr. Gallan also stated that the Riteway office staff would charge any consumer appearing at the storage facility. Therefore, because I find that the towing receipt did not establish that it was Mr. Gallan who charged the consumer for the release of their vehicle. Accordingly, one count of Administrative Code § 19-169.1(a) is dismissed.

Administrative Code § 20-509(d)(1)(13 counts)

The Department established 9 violations of Administrative Code § 20-509(d)(1) by a preponderance of the credible evidence. Administrative Code § 20-509(d)(1) states, in relevant part, that a "tow truck operator shall not

<sup>27</sup> Exhibits 2, 4 and 10.

<sup>28</sup> Consumers Mary Mamach, Frank Cafiso and Carmela Decicco.

<sup>29</sup> Consumer Michael Wolfen.

require the payments of any fee or charge for towing...that is not specifically authorized by law or rule.” The Department introduced credible documentary evidence, in the form of towing receipts and consumer complaints,<sup>30</sup> to establish that 9 consumers were charged a higher fee that allowed by law by Mr. Gallan, including unauthorized fees for paying with a credit card.<sup>31</sup>

Mr. Gallan argued that he was following the instructions of his employer. This is not a meritorious defense, as a licensee has an independent duty to abide by the rules pertaining to his license. Accordingly, since I find that Mr. Gallan overcharged 9 consumers, he is found guilty of 9 counts of Administrative Code § 20-509(d)(1).

The Department did not establish 4 violations of Administrative Code § 20-509(d)(1) by a preponderance of the credible evidence. The Department introduced a detailed chart with the list of consumers and alleged violations by Mr. Gallan, with supporting towing receipts. However, for 3 counts<sup>32</sup> of Administrative Code 20-509(d)(1), the towing receipts indicated that the consumers’ vehicles were transported to Riteway’s storage facilities. Mr. Gallan credibly testified that when he dropped off a vehicle at Riteway’s storage facility, he never charged the consumer, but instead would leave to continue his duty of towing vehicles. Mr. Gallan further stated that the Riteway office staff would charge any consumer appearing at the storage facility. Therefore, because I find that the towing receipts do not establish that it was Mr. Gallan who charged the consumers, the 3 counts of Administrative Code § 20-509(d)(1) are dismissed. As to the fourth violation which alleges Mr. Gallan overcharged consumer Shantika Brilay, the Department’s chart indicated that the relevant towing receipt was marked as Bates Stamp number 735. A review of the evidence establishes that document 735 is not a towing receipt for Ms. Briley, and the towing receipt was also not found in the evidence submitted against Mr. Gallan. Accordingly, the Department did not establish the violation of Administrative Code § 20-509(d)(1), and the fourth count is also dismissed.

#### Administrative Code § 20-101

The Department established a violation of Administrative Code § 20-101 by a preponderance of the credible evidence. Mr. Gallan admitted that as a licensee, he was familiar with the New York City towing rules and regulations. However, Mr. Gallan failed to tow 33 vehicles directly to Riteways’ storage facility, charged 1 consumer more than one-half of the charge allowed for removal when the consumer arrived before the car was removed from the premises, charged 3

---

<sup>30</sup> See Exhibit 4.

<sup>31</sup> Exhibit 2 contains a detailed chart listing the consumers who were charged a higher fee than allow by law by Mr. Gallan. Exhibit 4 contains the relevant towing receipts and consumer complaints.

<sup>32</sup> For consumers Roberto Alcantara, Jaime Sands, and Gabriel Alogu.

consumers more than the legally permissible towing fees, and charged 9 consumers unauthorized fees. I find that such actions establish that Mr. Gallan failed to maintain the standards of integrity, honesty, and fair dealing required of a licensee. Accordingly, Mr. Gallan is found guilty of violating Administrative Code § 20-101.

### Restitution

Mr. Gallan admitted that as a licensee and former tow truck company owner, he was well aware of the allowable towing rates, but then routinely overcharged consumers on behalf of Riteway. At no time did Mr. Gallan present any evidence or testify that, in the 12 months he has been employed by Riteway, he opposed or objected to the illegal fees. Accordingly, I find that Mr. Gallan acted in concert with Riteway. Mr. Gallan is found jointly and severally liable with Riteway for restitution to the consumers he overcharged on Riteway's behalf, for a total of \$1,381.30, as follows:<sup>33</sup>

Nicolosi, Vincent	\$136.09
Decicco, Carmela	\$272.00
Cafiso, Frank	\$217.75
Mamach, Mary	\$217.75
Willfong, Theresa	\$5.00
Mamdouh, Maximous	\$5.00
Velija, Zija	\$5.00
Gosling, Jennifer	\$5.00
Alaminer, Brenda	\$5.00
Green, Billy	\$190.53
Bilella, Vincent	\$50.00
Dantonio, John	\$136.09
Eappen, Nibu	\$136.09

### **ORDER**

#### **Riteway Towing Inc. (10960-2014-ADJC)**

Respondent **Riteway Towing Inc.** is found **guilty upon default** of the charges set forth in the Notice of Hearing, and of violating 6 RCNY § 1-14, and is hereby

---

<sup>33</sup> Restitution is not awarded where the consumer's name is unknown or the restitution amount is not specified on the Department's chart (Exhibit 2). The names of the consumers owed restitution by Mr. Gallan are also included in the list of consumers owed restitution by Riteway Towing.

**ORDERED to pay to the Department of Consumer Affairs a TOTAL FINE of \$474,500 which is immediately due and owing, as follows:**

1) 6 RCNY §2-378 (\$2,500 per count, for one count)	\$2,500
2) 6 RCNY §2-377(d)(6) (\$2,500 for all counts under rule section)	\$2,500
3) Administrative Code § 19-169.1(a) (\$500 per count, for one count)	\$500
4) Administrative Code § 20-527 (\$3,000 per count, for 2 counts)	\$6,000
5) Administrative Code § 19-169.1(e) (\$500 per count, for 95 counts)	\$47,500
6) Administrative Code § 19-169.1(g) (\$500 per count, for 88 counts)	\$44,000
7) Administrative Code § 19-169.1(a) (\$500 per count, for 24 counts)	\$12,000
8) Administrative Code 20-509(d)(1) (\$3,000 per count, for 111 counts)	\$333,000
9) 6 RCNY § 2-366(d) (\$2,500 per count, for 10 counts)	\$25,000
10) Administrative Code 20-700 (\$500 per count, for 3 counts)	\$1,500

Respondent **Riteway Towing Inc.** is further found **guilty upon default** of violating Administrative Code § 20-101.

In addition, **Riteway Towing Inc.'s Tow Truck Company license (1451257-DCA) 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 the 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 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 **Riteway Towing Inc.** is further **Ordered to pay RESTITUTION to the Consumers in the amount of \$21,841.98, which is immediately due and owing.**

The respondent **Riteway Towing Inc.** is further **Ordered** to provide to the Department proof of payment of restitution to the Consumer 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, 9th floor, New York, New York 10004” or by emailing such proof to: [collections@dca.nyc.gov](mailto:collections@dca.nyc.gov).

I also hereby **DECLARE** that the respondent **Riteway Towing Inc.** is deemed unfit to hold any license issued by the Department for a minimum of five years.

**Richard Cintron (10976-2014-ADJC)**

Respondent **Richard Cintron** is found **guilty** of the following charges,<sup>34</sup> and is hereby

**ORDERED to pay to the Department of Consumer Affairs a TOTAL FINE of \$38,500 which is immediately due and owing,** as follows:

- |   |          |
|---|----------|
| 1) Administrative Code § 19-169.1(e)<br>(\$250 per count, for 22 counts)  | \$5,500  |
| 2) Administrative Code § 19-169.1(g)<br>(\$250 per count, for 4 counts)   | \$1,000  |
| 3) Administrative Code 20-509(d)(1)<br>(\$1,000 per count, for 32 counts) | \$32,000 |

Respondent **Richard Cintron** is further found **guilty** of violating Administrative Code § 20-101.

Respondent **Richard Cintron** is found **not guilty** of violating 6 counts of Administrative Code § 19-169.1(e), 21 counts of Administrative Code § 19-169.1(g), 5 counts of Administrative Code § 19-169.1(a) and 21 counts of Administrative Code § 20-509(d)(1).

---

<sup>34</sup> Due notice that the respondent is not a recidivist shall be considered in assessing the fines.

In addition, **Richard Cintron's Tow Truck Driver license (1360683-DCA) 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 the 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 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 **Richard Cintron** is further **Ordered to pay RESTITUTION to the Consumers in the amount of \$1,040.47, which is immediately due and owing.**

The respondent **Richard Cintron** is further **Ordered** to provide to the Department proof of payment of restitution to the Consumer 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, 9th floor, New York, New York 10004" or by emailing such proof to: [collections@dca.nyc.gov](mailto:collections@dca.nyc.gov).

The respondent is **not deemed unfit to hold any license** issued by the Department. Departmental records establish this is respondent's first violation.

**Valentin Gallan (11005-2014-ADJC)**

Respondent **Valentin Gallan** is found **guilty** of the following charges,<sup>35</sup> and is hereby

**ORDERED to pay to the Department of Consumer Affairs a TOTAL FINE of \$18,250 which is immediately due and owing,** as follows:

- |  |         |
|--|---------|
| 1) Administrative Code § 19-169.1(e)<br>(\$250 per count, for 33 counts) | \$8,250 |
| 2) Administrative Code § 19-169.1(g)<br>(\$250 per count, for 1 count)   | \$250   |
| 3) Administrative Code § 19-169.1(a)<br>(\$250 per count, for 3 counts)  | \$750   |

---

<sup>35</sup> Due notice that the respondent is not a recidivist shall be considered in assessing the fines.

- 4) Administrative Code 20-509(d)(1) \$9,000  
(\$1,000 per count, for 9 counts)

Respondent **Valentin Gallan** is further found **guilty** of violating Administrative Code § 20-101.

Respondent **Valentin Gallan** is found **not guilty** of violating 2 counts of Administrative Code § 19-169.1(e), 31 counts of Administrative Code § 19-169.1(g), one count of Administrative Code § 19-169.1(a) and 4 counts of Administrative Code § 20-509(d)(1).

In addition, **Valentin Gallan's Tow Truck Driver license (1390455-DCA) 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 the 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 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 **Valentin Gallan** is further **Ordered to pay RESTITUTION to the Consumers in the amount of \$1,381.30, which is immediately due and owing.**

The respondent **Valentin Gallan** is further **Ordered** to provide to the Department proof of payment of restitution to the Consumer 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, 9th floor, New York, New York 10004" or by emailing such proof to: [collections@dca.nyc.gov](mailto:collections@dca.nyc.gov).

The respondent is **not deemed unfit to hold any license** issued by the Department. Departmental records establish this is respondent's first violation.

**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. The Department will suspend the respondent's DCA license(s) if the respondent fails to comply with this Decision and Order, including payment of the fine. 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: May 6, 2015**

---

**Eryn DeFontes  
Associate Director of Adjudication**

cc: Jordan Cohen, Esq.  
[JCohen@dca.nyc.gov](mailto:JCohen@dca.nyc.gov)

Mark Butler, Esq.  
[Mbutler@dca.nyc.gov](mailto:Mbutler@dca.nyc.gov)

Riteway Towing Inc.  
459 Sharrotts Road  
Staten Island, NY 10309

Lance Lazzaro, Esq.  
360 Court Street, Suite 3  
Brooklyn, NY 11231  
[Lazzarolaw@aol.com](mailto:Lazzarolaw@aol.com)

Richard Cintron  
136 27<sup>th</sup> Ave.  
Brooklyn, NY 11214

Valentin Gallan  
2026 Ocean Ave., Apt. 6A  
Brooklyn, NY 11230

**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.**