

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

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATION OF ANCAR TRUCKING CORP. FOR A REGISTRATION TO OPERATE AS A TRADE WASTE BUSINESS

Ancar Trucking Corp. (“Ancar” or the “Applicant”) has applied to the New York City Business Integrity Commission (the “Commission”), formerly known as the New York City Trade Waste Commission, for an exemption from licensing requirements and a registration to operate a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code (“Admin. Code”), § 16-505(a). Local Law 42, which created the Commission to regulate the trade waste removal industry in New York City, was enacted to address pervasive organized crime and other corruption in the commercial carting industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

Ancar applied to the Commission for an exemption from licensing requirements and for a registration enabling it to operate a trade waste business “solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation” – a type of waste commonly known as construction and demolition debris, or “C&D.” Admin. Code § 16-505(a). Local Law 42 authorizes the Commission to review and determine such applications for exemptions. See id. If, upon review and investigation of the exemption application, the Commission grants the applicant an exemption from licensing requirements applicable to businesses that remove other types of waste, the applicant will be issued a registration. See id.

In determining whether to grant an exemption from licensing requirements and a registration to operate a construction and demolition debris removal business, the Commission considers the same types of factors that are pertinent to the Commission’s determination whether to issue a license to a business seeking to remove other types of waste. See, e.g., Admin. Code § 16-504(a) (empowering Commission to issue and establish standards for issuance, suspension and revocation of licenses and registrations); compare Title 17, Rules of the City of New York (“RCNY”) §§ 1-06 and 2-02 (specifying information required to be submitted by license applicant) with id. §§ 1-06 & 2-03(b) (specifying information required to be submitted by registration applicant); see also Admin. Code § 16-513(a)(i) (authorizing suspension or revocation of license or registration for violation of Local Law 42 or any rule promulgated pursuant thereto). Central to the Commission’s investigation and determination of an exemption application

is whether the applicant has business integrity. See 17 RCNY § 1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law, knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices); Admin. Code § 16-509(a) (authorizing Commission to refuse to issue licenses to applicants lacking “good character, honesty and integrity”).

Based on the record, the Applicant’s exemption application is denied on the following grounds:

1. The Applicant refused to cooperate with the Commission’s investigation.
2. The Applicant failed to demonstrate eligibility for an exemption from the licensing requirements because it failed to pay a \$10,000 fine for which judgment was entered by an administrative tribunal of competent jurisdiction.

I. REGULATORY BACKGROUND

A. The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. For the past four decades, and until only a few years ago, the private carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as “a ‘black hole’ in New York City’s economic life.” Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) (“SRI”).

Extensive testimonial and documentary evidence adduced during lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anti-competitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council made numerous factual findings concerning organized crime’s longstanding and corrupting influence over the City’s carting industry and its effects, including the anticompetitive cartel, exorbitant carting rates and rampant customer overcharging. More generally, the Council found “that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct.” Local Law 42, § 1.

The City Council’s findings of extensive corruption in the commercial carting industry have been validated by the successful prosecution of many of the leading figures and companies in the industry. In 1995 and 1996, the Manhattan District Attorney

obtained racketeering indictments against more than sixty individuals and firms connected to the City's waste removal industry, including powerful mob figures such as Genovese organized crime family capo Alphonse Malangone and Gambino soldier Joseph Francolino. Simply put, the industry's entire modus operandi, the cartel, was indicted as a criminal enterprise. Since then, all of the defendants have either pleaded guilty or been found guilty of felonies; many have been sentenced to lengthy prison terms, and many millions of dollars in fines and forfeitures have been imposed.

The Commission's regulatory and law-enforcement investigations have confirmed that organized crime has long infiltrated the construction and demolition debris removal sector of the carting industry as well as the garbage hauling sector that was the focus of the Manhattan District Attorney's prosecution. In light of the close nexus between the C&D sector of the carting industry and the construction industry, mob influence in the former should come as no surprise. The construction industry in New York City has been corrupted by organized crime for decades. See, e.g., James B. Jacobs, Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime 96-115 (1999) (detailing La Cosa Nostra's influence and criminal activity in the concrete, masonry, drywall, carpentry, painting, trucking and other sectors of the City's construction industry).

Moreover, the C&D sector of the carting industry has been a subject of significant federal prosecutions over the past decade. In 1990, Anthony Vulpis, an associate of both the Gambino and the Genovese organized crime families, Angelo Paccione, and six waste hauling companies owned or controlled by them were convicted of multiple counts of racketeering and mail fraud in connection with their operation of a massive illegal landfill on Staten Island. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992). Many C&D haulers dumped their loads at this illegal landfill, which accumulated 550,000 cubic yards of refuse over a mere four-month period in 1988; during that period, "the City experienced a sharp decline in the tonnage of construction waste deposited" at its Fresh Kills landfill, as well as "a concomitant decline in revenue" from the fees that would have been charged for dumping at a legal landfill. 949 F.2d at 1188. The trial judge described this scheme as "one of the largest and most serious frauds involving environmental crimes ever prosecuted in the United States." United States v. Paccione, 751 F. Supp. 368, 371 (S.D.N.Y. 1990).

Another illegal waste disposal scheme also prominently featured haulers of construction and demolition debris. This scheme involved certain "cover" programs instituted by the City of New York at Fresh Kills, under which the City obtained materials needed to cover the garbage and other waste dumped at the landfill. Under the "free cover" program, transfer stations and carting companies could dispose of "clean fill" (i.e., soil uncontaminated by debris) at Fresh Kills free of charge. Under the "paid cover" program, the City contracted with and paid carting companies to bring clean fill to Fresh Kills. Numerous transfer stations and carters, however, abetted by corrupt City sanitation workers, dumped non-qualifying materials (including C&D) at Fresh Kills under the guise of clean fill. This was done by "cocktailing" the refuse: Refuse was placed beneath, and hidden by, a layer of dirt on top of a truckload. When the trucks arrived at Fresh Kills, they appeared to contain nothing but clean fill, which could be dumped free of charge.

In 1994, twenty-eight individuals, including numerous owners of transfer stations and carting and trucking companies, were indicted in connection with this scheme, which deprived the City of approximately \$10 million in disposal fees. The indictments charged that from January 1988 through April 1992, the defendants participated in a racketeering conspiracy and engaged in bribery and mail fraud in connection with the operation of the City's "cover" programs. The various hauling companies, from Brooklyn, Queens and Staten Island, were charged with paying hundreds of thousands of dollars in bribes to Department of Sanitation employees to allow them to dump non-qualifying materials at Fresh Kills without paying the City's tipping fees. See United States v. Cafra, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); see also United States v. Caccio, et al., Nos. 94 Cr. 357,358, 359, 367 (four felony informations). Twenty-seven defendants pleaded guilty in 1994 and 1995, and the remaining defendant was found guilty in 1996 after trial.

In sum, the need to root organized crime and other forms of corruption out of the City's waste removal industry applies with equal force to the garbage hauling and the C&D sectors of the industry. Local Law 42 recognizes this fact in requiring C&D haulers to obtain registrations from the Commission in order to operate in the City.

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs ("DCA") for the licensing and registration of businesses that remove, collect or dispose of trade waste. See Admin. Code § 16-503. "Trade waste" is broadly defined and specifically includes "construction and demolition debris." Id. § 16-501(f)(1). The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated constitutional challenges (both facial and as applied) by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997). The United States Court of Appeals has definitively ruled that an applicant for a trade waste removal license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997).

Local Law 42 specifically permits the Commission to refuse to issue a registration to an applicant "who has knowingly failed to provide the information and/or documentation required by the commission pursuant to [Title 16 of the Administrative Code or any rules promulgated thereto]" or "who has otherwise failed to demonstrate eligibility for such license." Admin. Code § 16-509(b). Applicants who knowingly fail to provide information required by the Commission (whether they fail to provide the information altogether or they provide false and misleading information) fall under the first prong. In Attonito v. Maldonado, 3 A.D.3d 415 (1st Dept. 2004); *leave denied*, 2

N.Y.3d 705 (2004), the Appellate Division affirmed the authority of the Commission to “review” exemption applications, to fully investigate any matter within its jurisdiction and to deny such applications in those cases “where the applicant fails to provide the necessary information, or knowingly provides false information.” It further affirmed the authority of the Commission to investigate the accuracy of the information provided in an application. Id.

Applicants who fail to demonstrate good character, honesty and integrity using the criteria by which license applicants are judged fall under the second prong of §16-509(b). While the Appellate Division in Attonito did not directly address the second prong, by affirming the Commission’s authority to investigate matters within the trade waste industry, it necessarily follows that the Commission need not ignore the results of its investigation that bear on an applicant’s good character, honesty and integrity. Accordingly, the Commission evaluates whether applicants meet the fitness standard using the same criteria upon which license applicants may be denied, including:

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.

Admin. Code § 16-509(a)(i)-(x). While the presence of one of the above factors in the record of a registration applicant would not necessarily require a denial as a matter of law, the Commission may consider such evidence as a factor in determining overall eligibility.

II. APPLICANT BACKGROUND

In or about August 1996, Ancar submitted an application to the Commission for an exemption from licensing requirements and a registration to operate as a trade waste business ("1996 Application"). The 1996 Application listed Joseph Fuschetto ("Joseph") as the sole principal of Ancar. After an investigation and careful review, the Commission exercised its discretion and issued Ancar a registration effective February 1, 1999. The registration was valid for a period of two years.

In or about February 2001, Ancar submitted an application to renew its registration. This application also listed Joseph as the sole principal of Ancar. The application was renewed and Ancar was granted permission to operate during the registration period beginning February 1, 2001 until January 31, 2003, at which point Ancar's registration expired.

In or about March 2005, Ancar again applied to the Commission for a registration enabling it to operate a trade waste business ("2005 Application"). In this application, the only disclosed principal was Anthony Fuschetto ("Anthony"), Joseph's brother. See Schedule A of the 2005 Application. Pending the Commission's investigation of the 2005 Application, Ancar was granted temporary permission to operate.

Over the course of the Commission investigation into the 2005 Application, the staff conducted a new background investigation of the Applicant and its listed principal,

Anthony. The background investigation revealed that Anthony has a 1993 federal felony conviction for conspiracy to alter motor vehicle identification numbers (“VINs”). Anthony was convicted as a participant in the scheme and sentenced to prison for eighteen (18) months and supervised release for three (3) years.

In addition, the Commission staff’s investigation obtained information suggesting that Anthony was in fact a principal of Ancar dating back to the first registration application in 1996. The Commission determined that less than one year after the 1996 Application was granted, Joseph resigned as an officer and director of Ancar. Joseph transferred all of his Ancar shares to Anthony, and Anthony became Ancar’s sole officer, director and shareholder. This was not disclosed, despite an ongoing reporting requirement.¹ Moreover, on Ancar’s first renewal of the 1996 Application, Anthony was not disclosed as a principal.

In order to inquire into the apparent failure to disclose Anthony’s position in the prior applications, the Commission requested documentation of the transfer of interest from Joseph to Anthony. On September 9, 2005, Joseph faxed the Commission a management agreement between Ancar and Anthony, dated May 1, 1996. Under the agreement, Ancar agreed to hire Anthony to run the company’s day-to-day business activities “as he sees fit” and Anthony was granted various broad powers relating to those business activities.²

To further investigate and address the issue of Anthony as a potential undisclosed principal of Ancar, Commission staff faxed a letter to Ancar’s counsel, Eleanor Capograsso, dated March 7, 2007, requesting the production of various documents including: Ancar’s original corporate records (including all corporate minutes, all notices of corporate meetings, the bylaws, all issued and canceled stock certificates, and copies of all issued and outstanding stock certificates, with all binders containing the specified documents and all other contents of the binders), all original agreements providing for the management of Ancar’s business, all original agreements providing for the transfer of an ownership interest in Ancar, copies of Ancar’s tax returns for selected years, copies of the biennial statements filed by Ancar with the New York State Department of State for selected years, Ancar’s original bank records for selected years, and copies of Anthony’s personal income tax returns for selected years. The Commission specified a March 21, 2007 deadline for the production of the documents. On March 20, 2007, Commission staff faxed a letter to Ancar’s counsel reminding her of the March 21, 2007 due date for production of the requested documents. On March 21, 2007, Ancar’s counsel faxed a letter to Commission staff challenging the Commission’s authority to request the documents in question. Ancar never produced any of the requested documents.

On March 19, 2007, Commission staff faxed a letter to Ancar’s counsel notifying her of scheduled depositions for Anthony and Joseph. Both depositions were scheduled for April 4, 2007. On April 2, 2007, Commission staff faxed a letter to Ancar’s counsel to confirm that Anthony and Joseph Fuschetto had scheduled depositions for April 4. Neither Anthony nor Joseph appeared for their April 4, 2007 depositions.

¹ 17 RCNY §2-05(a)(1) and (b), and the definitions of “material change” and “principal” set forth in 17 RCNY §1-01.

² See May 1, 1996 management agreement.

In the following month, substitute counsel appeared for Ancar.³ When notified that the Commission would not reinstate Ancar's temporary permission to operate pending a decision on their application, Ancar's counsel advised that Anthony wished to withdraw his application on business and economic grounds.

On June 6, 2007, the Commission's staff faxed a letter to Ancar's counsel renewing the document request originally made on March 7, 2007, and setting June 22, 2007 as the new due date for production. In accordance with Commission staff's conversations with Ancar's counsel, Anthony and Joseph were to again be scheduled for depositions following production of the requested documents. However, once again, none of the documents were produced. On June 22, 2007, the deadline for production, Ancar's counsel faxed a letter to Commission staff seeking to withdraw the application. The Commission staff replied that it would only permit withdrawal of the application if Anthony submitted an affidavit agreeing to lifetime debarment from the City's trade waste industry, and specified June 29, 2007 as the deadline for response. As no such affidavit was received by the deadline or at any time subsequent, the application was not withdrawn.

On June 28, 2011, the staff issued an 11-page recommendation that the application be denied. The Applicant and the Applicant's attorney were each served with the recommendation on or about July 1, 2011. The applicant was granted 10 business days to respond (July 15, 2011). See 17 RCNY §2-08(a). Applicant's counsel requested an extension of time to respond. The Commission granted the Applicant 5 more business days to respond (July 22, 2011). The Applicant failed to submit a response to the staff's recommendation.

The Commission has carefully considered the staff's recommendation and for the reasons set forth below, the Commission finds that Ancar Trucking lacks good character, honesty and integrity, and denies its registration application.

III. GROUNDS FOR DENIAL

A. The Applicant refused to cooperate with the Commission's investigation.

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.”⁴ The Commission may refuse to issue a registration to an applicant who has knowingly failed to provide information or documentation required by the Commission,⁵ and may deny an application for exemption where the applicant fails to provide the necessary information, or knowingly provides false information.⁶

³ The firm of Giaimo Associates, LLP appeared in place of Ms. Capogrosso.

⁴ Admin. Code § 16-504(c).

⁵ Admin. Code § 16-509(b).

⁶ Attonito v. Maldonado, 3 AD3d 415 (1st Dept. 2004), lv. denied 2 NY3d 705 (2004).

In accordance with these powers, the Commission conducted a background investigation and requested various documents from Ancar relating to the circumstances of Anthony's arrest, and the transfer of interest from Joseph to Anthony.

During the investigation, the applicant and its counsel were uncooperative and evasive. The Commission provided the Applicant opportunities to produce the documentation requested on March 7, 2007 and June 6, 2007. Despite these repeated requests, Ancar failed to comply and obstructed the Commission's investigation. In addition, principal Anthony Fuschetto was requested on multiple occasions to come forward and provide sworn testimony at scheduled depositions. He failed to do so.

While the Commission is not required to provide a motive, it is clear that the failure to disclose Anthony was strategic. A disclosure of Anthony as a principal on any of the earlier applications would have required disclosure of his 1993 conviction.⁷ To avoid possible denial of the application due to the nature of Anthony's conviction, Ancar made false and misleading representations to the Commission by holding out Joseph as Ancar's sole principal.

Anthony's deliberate and repeated failure to cooperate in the Commission's investigation of Ancar and to provide required information constitute sufficient independent grounds for denial.

"[T]he commission may refuse to issue a license or registration to an applicant [...] who has knowingly failed to provide the information and/or documentation required by the commission pursuant to this chapter or any rules promulgate hereto."⁸ By failing to respond to the Commission's repeated requests, Ancar has "knowingly failed to provide the information" required by the Commission and has demonstrated that it lacks good character, honesty and integrity. The Applicant's deliberate failure to provide required information to the Commission constitutes a sufficient independent ground to deny the application.

C. The Applicant failed to demonstrate eligibility for an exemption from the licensing requirements because it failed to pay a \$10,000 fine for which judgment was entered by an administrative tribunal of competent jurisdiction.

The "failure to pay any tax, fine, penalty, fee related to the business . . . for which judgment has been entered by a court or administrative tribunal of competent jurisdiction" reflects adversely on an applicant's character and integrity.⁹ A review of Commission records indicates that Ancar has never satisfied a fine which is in judgment status in the amount of \$10,000.

⁷ At the time of the 1996 Application and subsequent renewals, the application required that principals disclose information all arrests in the previous ten year period.

⁸ Admin. Code §16-509(b).

⁹ See Admin. Code §16-509(a)(x).

On January 31, 2007, the New York City Department of Consumer Affairs (“DCA”) issued a Default Decision and Order (the “Default Decision”) finding Ancar guilty, upon default, of violating 17 RCNY Section 7-03(b) and ordering Ancar to pay to the Commission a fine of \$10,000. Ancar moved to vacate the Default Decision and sought a stay of enforcement pending a decision on the motion. DCA denied the stay request on February 22, 2007, and subsequently, on March 13, 2007, DCA denied the motion to vacate.

By letter dated March 12, 2007, the Commission’s staff notified Ancar of the Default Decision and directed that the fine be paid by March 28, 2007. A copy of the March 12, 2007 notice and payment demand letter was faxed to Ancar’s counsel the following day. By letter dated March 15, 2007, the Commission staff notified Ancar’s counsel of DCA’s decision. The March 15, 2007 letter also contained a reminder that payment was due on March 28, 2007. On March 29, 2007, the day after payment was due, Ancar’s counsel faxed a letter to the Commission in response to the March 12, 2007 and March 13, 2007 letters, stating “we are going to appeal the court’s decision to the Supreme Court through an Article 78 proceeding.” No proceeding was ever commenced by Ancar under Article 78 of the Civil Practice Law and Rules.¹⁰ To date, Ancar has not paid any portion of the \$10,000 fine imposed by DCA on January 31, 2007.

By failing to satisfy this judgment debt, the Applicant clearly has failed to demonstrate eligibility for registration. Therefore, the Commission denies the application on this independently sufficient ground.

IV. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license, or to refuse to grant an exemption from the license requirement and issue a registration in lieu of a license, to any applicant who it determines to be lacking in good character, honesty, and integrity. The record as detailed above demonstrates that the Applicant and its current principal, Anthony Fuschetto, fall short of that standard. Additionally, the Commission may deny an application for exemption and registration if the applicant has knowingly failed to provide information required by the Commission. Ancar and its current principal, Anthony Fuschetto, failed to provide required information and were generally uncooperative in the investigation of the application. Accordingly, the Commission denies the Applicant’s application.

¹⁰ Such a proceeding is now time-barred. Ancar had four months after DCA’s Default Decision became “final and binding” upon the company to commence an Article 78 proceeding for judicial review of that decision. See CPLR §217(1). Even assuming that the Default Decision did not become “final and binding” until DCA denied Ancar’s motion to vacate it, the limitations period has now run.

Ancar later replaced its attorney, but the appearance of new counsel did not result in cooperation from Ancar to satisfy the DCA fine. In a letter faxed to Ancar’s new counsel on June 11, 2007, the Commission attorney again demanded payment of the DCA fine, setting a deadline of June 22, 2007, and including a warning that “[c]ontinued failure to pay the fine may be grounds for denial of Ancar’s pending application and can result in further collection efforts.” On June 22, 2007, the deadline for payment, Ancar’s counsel faxed a letter to the Commission attorney seeking to withdraw the application.

This exemption registration denial is effective immediately. Ancar Trucking Corp. may not operate as a trade waste business in the City of New York.

Dated: August 2, 2011

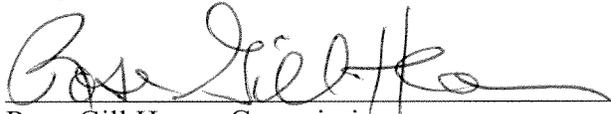
THE BUSINESS INTEGRITY COMMISSION



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Janet Lim, Assistant General Counsel (designee)
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