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 ATLANTIC LEASING GROUP CORP. FOR A REGISTRATION TO OPERATE AS A TRADE WASTE BUSINESS

Atlantic Leasing Group Corp. (the "Applicant" or "Atlantic") has applied to the New York City Business Integrity Commission ("Commission"), formerly named the New York City Trade Waste Commission, pursuant to Local Law 42 of 1996, for an exemption from licensing requirements for the removal of construction and demolition debris. See Title 16-A of the New York City Administrative Code ("Admin. Code"), §16-505(a). Local Law 42 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.

Atlantic applied to the Commission 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 registration. See id. If, upon review and investigation of the application, the Commission grants the Applicant a registration, the Applicant becomes "exempt" from the licensing requirement applicable to businesses that remove other types of waste. See id.

In determining whether to grant 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 & 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 a registration 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, deceptive trade practices, and failing to timely pay taxes); Admin. Code §16-509(a) (authorizing Commission to refuse to issue licenses to applicants lacking "good character, honesty and integrity"). Local Law 42 makes it clear that the Commission is not limited to consideration of the enumerated factors; the list is meant to be illustrative and not exhaustive.

Based upon the record as to the Applicant, the Commission denies its exemption/registration application on the ground that this Applicant lacks good character, honesty and integrity for the following independent reasons:

A. The Applicant has failed to demonstrate eligibility for a trade waste exemption from licensing and a trade waste registration because the Applicant failed to pay taxes and other government obligations for which judgments have been entered.

B. The Applicant knowingly failed to provide information and documentation required by the Commission.

C. The Applicant provided false and misleading information to the Commission in the Registration Application.

I. BACKGROUND

A. The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. 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 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. See Attonito v. Maldonado, 3 A.D.3d 415, 771 N.Y.S.2d 97 (1st Dept. 2004).

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 facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, 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); Attonito, 3 A.D.3d 415.

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. Id.; accord Breeze Carting Corp. v. The City of New York, No. 107859/07 (Sup. Ct. N.Y. Cty. April 1, 2008) (Commission denial not arbitrary and capricious where based on a criminal conviction, identification as an organized crime associate, and false and misleading statements). 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. DISCUSSION

On November 13, 2000, Labella Trucking Corp. ("Labella") applied to the Commission for an exemption from licensing requirements for the removal of construction and demolition debris. See Labella Trucking Corp. Application for Exemption from Licensing Requirement for Removal of Demolition Debris ("Labella Registration Application"). Thomas Massimillo ("Massimillo") was the sole owner and principal of Labella, a company that performed dump truck service of construction debris. See Labella Registration Application at 3, 8. Labella was located at 2242 West Street, Brooklyn, New York.

During its investigation of Labella, Commission staff determined that there were various outstanding unsatisfied judgments filed in favor of the Criminal Court of the City of New York and the New York City Department of Finance against Labella. Therefore, a Commission staff member notified Massimillo about the judgments and directed Massimillo to provide proof that the judgments had been satisfied or otherwise resolved prior to a final determination on Labella's registration application. See letter from Noel A. Rosengart dated December 4, 2002; letter from Noel A. Rosengart dated March 5, 2003. After initially being unresponsive to the Commission's requests for information, a Commission staff member spoke with Massimillo and extended his deadline to provide the proof. Subsequently, however, Massimillo was again unresponsive to the Commission's requests, and on June 23, 2003, the Commission withdrew Labella's Registration Application.

On June 13, 2007, New York City Police Department detectives arrested Emmanuel Cruz, an employee of Atlantic Transportation Corp., and seized the truck he was operating while collecting and transporting trade waste without the required license or registration from the Commission. See DD5 dated June 13, 2007 from Sgt Lee Chong; Property Clerk's Invoice; DD5 dated September 1, 2009 from Det Emilio Bermonty. Massimillo contacted the Commission on behalf of the company and entered into a Stipulation of Settlement in Lieu of Notice of Violation and Hearing against Atlantic Transportation Corp. for operating a trade waste business without the proper license or registration in violation of Admin. Code §16-505(a). On June 27, 2007, Massimillo paid $2500 to the Commission in full satisfaction of the agreed upon fine. Stipulation of Settlement in Lieu of Notice of Violation and Hearing, TW- 1832 ("Stipulation of Settlement"). The check that was submitted to the Commission to pay the fine was signed by Massimillo and contained handwritten notes: "Atlantic Leasing Group Corp.[,] 2274 West Street [,] Brooklyn[,] N.Y. 11223." See copy of check dated June 27, 2007. The telephone number and fax number that Massimillo provided to the Commission at that time were the same numbers provided for the Applicant. See Email dated June 14, 2007; Registration Application at 1. The truck used on June 13, 2007 is currently registered to the Applicant, and Emmanuel Cruz is an employee of the Applicant. See Application at Schedule D. Additionally, public records disclose that Atlantic Transportation Corp. shared the same address as Labella. See Accurint Report for Atlantic Transportation Corp.; Labella Registration Application at 1.

On June 28, 2007, one day after payment of the above fine, Atlantic Leasing Group Corp. applied to the Commission for exemption from the licensing requirement for the removal of construction and demolition debris. See Atlantic's Application for Exemption from Licensing Requirement for Removal of Construction and Demolition Debris ("Registration Application"). Thomas Massimillo is the sole owner and principal of the Applicant, a trucking company that collects and disposes of construction debris. See id. at 4, 9. Massimillo certified that the information contained in the Registration Application was true and accurate. See id. at 12.

There is substantial evidence that Atlantic is the successor company to first Labella and then Atlantic Transportation Corp. First, Massimillo is the owner and operator of each company. See Labella Registration Application at 8; Registration Application at 9; Stipulation of Settlement. Each company is or was a trucking company formed to provide dump truck service for the removal of construction debris. Further, Atlantic Transportation Corp. and Labella were

located at the same address (See Accurint Report for Atlantic Transportation Corp.; Atlantic Transportation Corp. judgment filed 12/22/06; Labella Registration Application), and Atlantic Transportation Corp. and the Applicant have the same telephone numbers. See Email dated June 14, 2007; Registration Application. Moreover, as discussed throughout this recommendation, Atlantic was formed after Labella's application was withdrawn for failure to respond to the Commission's requests related to outstanding government debts and Atlantic Transportation Corp's truck was seized for unlicensed operation of a trade waste business. Therefore, for all intents and purposes, Labella, Atlantic Transportation Corp. and Atlantic are one entity and will be treated as such in this recommendation.

The Commission's staff has conducted a background investigation of the Applicant and its principal. On October 26, 2009, the staff issued an eleven-page recommendation that the Registration Application be denied (the "Recommendation"). On October 26, 2009, the Commission sent the Recommendation to the Applicant's address by regular mail. See Registration Application at 1; letter dated October 26, 2009 from Michael J. Mansfield, Commissioner/Chair. Pursuant to the Commission's rules, the Applicant had ten business days to submit a response to the Recommendation. See 17 RCNY §2-08(a); see also Recommendation at 11. The Applicant did not submit any response to the staff's Recommendation.

The Commission has carefully considered the staff's Recommendation. For the reasons set forth below, the Commission finds that the Applicant lacks good character, honesty, and integrity, and has failed to demonstrate eligibility for a registration. Therefore, Atlantic's Registration Application is denied.

III. GROUNDS FOR DENIAL

A. The Applicant has failed to demonstrate eligibility for a trade waste exemption from licensing and a trade waste registration because the Applicant failed to pay taxes and other government obligations for which judgments have been entered.

"[T]he failure to pay any tax, fine, penalty or fee related to the applicant's business for which ... judgment has been entered by a court or administrative tribunal of competent jurisdiction" reflects adversely on an applicant's integrity. See Admin. Code §16-509(a)(x).

Numerous judgments and liens have been docketed against Labella Trucking Corp. and Atlantic Transportation Corp. by New York State and the Criminal Court of the City of New York. A judgment and lien search conducted by the Commission reveals that as of August 26, 2009, the following outstanding judgments and liens have been docketed against Labella:

NYS Department of Taxation and Finance: $57,433.18

- Filing date 4/1/04 - $21,675.99
- Filing date 4/1/04 - $534.28
- Filing date 7/16/04 - $35,233.90

Criminal Court of the City of New York: $133,100

- Filing date 8/1/02 - $300.00
- Filing date 1/9/03 - $1,000 (26 judgments)
- Filing date 3/3/03 - $1,000 (19 judgments)
- Filing date 7/16/03 - $250
- Filing date 12/30/03 - $13,000
- Filing date 12/30/03 - $13,000
- Filing date 9/2/99 - $1,025
- Filing date 12/15/03 - $5,000
- Filing date 12/11/97 - $5,525

NYS Commissioner of Labor: $15,033.99

- Filing date 11/30/06 - $7,000
- Filing date 7/25/08 - $8033.99

Additionally, the following outstanding judgments and liens have been filed against Atlantic Transportation Corp.:

Criminal Court Richmond: $9,500

- Filing date 10/13/05 - $9,500

NYS Commissioner of Labor: $21,250

- Filing date 12/22/06 - $21,250

The judgments filed against Labella total $205,567.17. The total amount owed by Atlantic Transportation Corp. is $30,750. Consequently, the Applicant owes a total of $236,317.17 in outstanding judgments and liens filed on behalf of tax and other government authorities.

By letters dated March 24, 2008 and April 24, 2008, a Commission staff member informed Massimillo of the numerous outstanding judgments filed against Labella on behalf of various government authorities and directed that they be satisfied or otherwise resolved. See Letter to Massimillo dated March 24, 2008 ("3/24/08 letter"); Letter to Massimillo dated April 24, 2008 ("4/24/08 letter").[1] Id. Additionally, during the pendency of Labella's Registration Application, by letters dated December 4, 2002, and March 5, 2003, a Commission staff member notified Massimillo of three of the above-referenced judgments filed on behalf of the NYC Criminal Court, totaling $6,850.

[1] Subsequent to both correspondence, an additional judgment for $8033.99 was filed on July 25, 2008 on behalf of the New York State Commissioner of Labor. Additionally, one judgment, filed on February 10, 2003 on behalf of the NYC Department of Finance for $436.88 has been satisfied.

Despite the above notifications, as of August 26, 2009, the judgments remain unsatisfied. Moreover, even after being informed of these outstanding judgments, the Applicant incurred additional debt. On July 25, 2008, an additional judgment was filed against Labella on behalf of the New York State Commissioner of Labor.[2] In addition to the failure to pay taxes and other government obligations, it is reasonable to conclude that it is Massimillo's practice to incorporate new businesses, and incorporated Atlantic, as a means to continue conducting business while avoiding payment of legitimate debts incurred in the operation of that business. The Applicant does not refute either of these points. This pattern of incorporating new businesses to avoid the payment of debts incurred by predecessor businesses is additional evidence that Atlantic lacks the good character, honesty, and integrity necessary to obtain a trade waste registration.

The Commission would deny an application from Labella or Atlantic Transportation for their failure to pay the above-mentioned judgments, and Atlantic Leasing Group, as the de facto successor to these companies, should not be treated differently. Accordingly, the Applicant's Registration Application is denied on this independently sufficient ground.

B. The Applicant knowingly failed to provide information and documentation required by the Commission.

"The commission may refuse to issue a license or registration to an applicant for such license or an applicant for registration who has knowingly failed to provide the information and/or documentation required by the commission pursuant to this chapter or any rules promulgated pursuant hereto." See Admin. Code §16-509(b).

As stated above, on March 24, 2008, a Commission staff member sent a letter to Massimillo notifying him of numerous outstanding judgments that had been filed against Labella on behalf of various government agencies. See 3/24/08 letter. In that letter, the Commission staff listed the numerous judgments, provided the Applicant with supporting documentation, and advised the Applicant that it must provide documentation that the outstanding judgments had been satisfied or otherwise resolved. Id. The Commission directed that a response be provided by April 14, 2008. Massimillo failed to respond in any manner. Therefore, on April 24, 2008, a Commission staff member sent another letter to Massimillo, titled "FINAL NOTICE." See 4/24/08 letter. That letter again notified Massimillo about the outstanding judgments. It also informed Massimillo that the failure to provide the information could result in the denial of the Registration Application. See id. Massimillo failed to respond.[3]

As of the date of this recommendation, the Commission has not received any documentation that any of the above-referenced judgments have been satisfied, otherwise resolved, or even addressed. The Applicant does not refute this point. Therefore, the Applicant has "knowingly failed to provide the information" required by the Commission. See Admin.

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[2] This judgment was for $8033.99.

[3] As discussed supra at 9. Massimillo similarly failed to respond to the Commission's requests for proof in 2002 and 2003 when Labella's Registration Application was pending.

Code §16-509(b). The Applicant's Registration Application is denied based on this independent ground.

C. The Applicant provided false and misleading information to the Commission in the Registration Application.

The Commission may refuse to issue a registration to an applicant who has failed "to provide truthful information in connection with the application." See Admin. Code §16-509(a), (b); Attonito, 3 A.D.3d 415. See also Breeze Carting Corp. v. The City of New York, No. 107859/07 (Sup. Ct. N.Y. Cty. Apr. 1, 2008). In the Registration Application filed June 28, 2007, Massimillo provided false and misleading information to the Commission.

Question 26 of the Registration Application asks, "Has the applicant business, or any current principal, or any past principal who was a principal in the last three (3) years of the applicant business, ever been convicted of any misdemeanor or felony in any jurisdiction?" The Applicant responded, "No." See Registration Application at 5. As the sole principal of the Applicant business, on May 31, 2007, Massimillo certified that the information contained in the Registration Application was true and accurate. See id. at 12.

On January 16, 1985, Massimillo was convicted of mail fraud. See Massimillo criminal history. He received a sentence of five years' probation and was ordered to pay $14,682 in restitution.

Further, question 15 of the Registration Application asks, "At any time during the past ten (10) years, has the applicant business or any current principal or past principal of the applicant business ever been a principal in another trade waste business?" See Registration Application at 3. The Applicant responded "No." As discussed above, Massimillo was a principal of Labella, another trade waste business that had previously applied to the Commission for a registration.

Thus, as demonstrated above, Massimillo provided false and misleading information to the Commission in Atlantic's Registration Application, a point not contested by the Applicant. While the Commission need not prove a motive for such false statements, it is likely that the Applicant intentionally failed to disclose his relationship with Labella in an effort to conceal Massimillo's recorded government liabilities. Further, the Applicant likely believed that his criminal history might jeopardize approval of the Registration Application. In any event, Massimillo's refusal to provide truthful information to the Commission demonstrates that the Applicant lacks the requisite good character, honesty and integrity to operate such a business in New York City. For this independently sufficient reason, Atlantic's Registration Application is denied.

III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant that it determines lacks good character, honesty, and integrity. The evidence recounted above demonstrates convincingly that Atlantic falls short of that standard. For the reasons discussed above, the Commission hereby denies the Registration Application of Atlantic Leasing Group Corp.

This exemption/registration denial decision is effective immediately. The Applicant shall not service any customers or otherwise operate a trade waste removal business in the City of New York.

Dated: March 18, 2010

THE BUSINESS INTEGRITY COMMISSION

Michael J. Mansfield
Chairman

John Doherty, Commissioner
Department of Sanitation

Rose Gill Hearn, Commissioner
Department of Investigation

Andrew Eiler, Director of Legislative Affairs (designee)
Department of Consumer Affairs

Deborah Buyer, General Counsel (designee)
Department of Small Business Services

Brian O'Neill, Inspector (designee)
New York City Police Department