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 DEMO BUSTERS HAULAGE, INC. A CLASS 2 REGISTRATION TO OPERATE AS A TRADE WASTE BUSINESS

Demo Busters Haulage, Inc. ("Demo Busters" or the "Applicant") has applied to the New York City Business Integrity Commission ("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.

On October 27, 2006, Demo Busters 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.[1] 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

[1] On or about May 15, 2007, the Applicant submitted an amended application to the Commission.

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 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"); Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008).

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

A. Principal Stanley Morabito has been convicted of numerous crimes that were related to the trade waste industry.

B. The Applicant failed to provide information and provided false and misleading information to the Commission.

C. The Applicant engaged in repeated unregistered trade waste removal activity.

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. Id.; Accord Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008) (Commission denial based on a criminal conviction, identification as an organized crime associate and false and misleading statements not considered arbitrary and capricious). 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 or about September 27, 1996, the Applicant applied to the Commission for an exemption from licensing and registration as a trade waste business that removes construction and demolition debris. See September 27, 1996 Application. On September 14, 1998, principal Stanley Morabito ("Morabito") appeared at the Commission for a deposition. On or about September 19, 2003, this application was withdrawn.[2]

On or about October 27, 2006, the Applicant submitted another application to the Commission for exemption from licensing and registration as a trade waste business that removes construction and demolition debris. See Registration Application filed on October 27, 2006 ("Application"). This application disclosed Morabito as the sole principal. See id. at 9. On March 25, 2008, Morabito appeared at the Commission for a deposition.

On March 3, 2010, the staff issued a 14-page recommendation that the application be denied. The Applicant and the Applicant's attorney were each served with the recommendation on or about March 3, 2010. The Applicant was granted ten business days to respond (March 16, 2010). See 17 RCNY §2-08(a). The Applicant failed to submit a response to the staff's recommendation.

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

III. GROUNDS FOR DENIAL

A. Principal Stanley Morabito has been convicted of numerous crimes that were related to the trade waste industry.

On October 17, 1993, Morabito was arrested and charged with numerous crimes stemming from his involvement in a stolen truck and "chop shop" operation.[3] Many of

---

[2] Morabito contacted the Commission's staff and requested that the application be withdrawn because his attorney at the time informed him that the Commission would not license or register the company due to Morabito's criminal record. See March 25, 2008 Deposition Transcript of Stanley Morabito ("2008 Morabito Tr.") at 66-68, 70.

[3] A "chop shop" is defined in Section 2322(b) of Title 18, United States Code as "any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative

the trucks involved in this criminal operation were of the type used for the transportation of trade waste. The stolen vehicles were stored and dismantled at the Moriches Middle Island Road location used by "Cobra Materials, aka Demo Busters Haulage."[4] See People v. Stanley V. Morabito, Felony Complaint No. 93-513731. The charges included criminal possession of stolen property in the second degree and criminal possession of stolen property in the third degree. See Id. On October 19, 1993, a search warrant was executed on Morabito's property and revealed additional stolen trucks. Morabito was therefore arrested again, and was charged with criminal possession of stolen property in the second degree. See People v. Stanley Morabito, Superior Court Information Nos. 93-513731 and 93-523353 (Supreme Court, Suffolk County); See also Estelle Lander Smith, *Chop Shop Charges*, NEWSDAY, October 21, 1993. On April 21, 1995, Morabito pled guilty to criminal possession of stolen property in the third degree, a Class E felony. He was sentenced to five years probation. See Morabito Criminal History. Although Morabito pled guilty to criminal possession of stolen property in the third degree, at his March 25, 2008 deposition, he denied culpability for his involvement in the larger chop shop operation.

Just a few years later, on December 29, 1998, and while still on probation, Morabito was indicted by a federal grand jury in the Eastern District of New York. See United States of America v. Richard Visone, Stanley Morabito, et. al., CR 981165 ("Indictment"). Morabito was charged in a seven-count indictment with crimes that spanned over the course of approximately ten years, including "stolen trucks conspiracy," "chop shop conspiracy," "VIN alteration conspiracy," "trafficking in tagged trucks conspiracy," "transporting stolen trucks conspiracy," and "arson conspiracy." See Indictment. In this case, Morabito was involved in the "cutting up" of approximately three stolen trucks in his yard. He also picked up a truck from a friend who reported the truck stolen and dismantled the truck. See Complaint, United States v. Provenzano, et. al., ("Provenzano Complaint") 98 1855M at 54-55.[5] Finally, upon learning that a search

---

thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce."

[4] The Applicant's original principal office address was Moriches-Middle Island Road, Moriches, New York. See September 27, 1996 Application at 1; 2008 Morabito Tr. at 13.

[5] In an accompanying criminal case against Joseph Provenzano and others, the federal government identified Morabito as an associate of the "Visone Organization," whose "principal purpose... was to generate money for its members through various criminal activities, primarily through the theft of trucks, trailers, and heavy equipment and tagging and resale of stolen trucks." See Provenzano Complaint at 15-16. Richard Visone was the leader of the Visone Organization. See Complaint at 16. Visone was present when Morabito was arrested and charged with possession of a stolen truck in 1993. However, Visone was not charged at the time.[5] See Provenzano Complaint at 52. In addition to the Visone Organization, another organization involved in similar criminal activities was known as the "Provenzano Organization." See Provenzano Complaint at 9. The Visone Organization and the Provenzano Organization were interconnected and Morabito played a role in both. The leader of the Provenzano Organization was Joseph Provenzano. "Although they were separate Organizations... the Organizations shared members and associates. Additionally, the Organizations cooperated in the theft and tagging of stolen trucks." See Provenzano Complaint at 9-16. According to the Provenzano Complaint, a confidential source stated that Provenzano was at one time "with" Salvatore Avellino, indicating that Avellino was Provenzano's organized crime contact. Avellino is a captain in the Luchese crime family and a convicted racketeer who is infamous for controlling the carting industry on Long Island. In August 1989, Robert Kubecka and Donald Barstow, two garbage carters on Long Island, were shot to death in their office. See Provenzano

warrant was being executed, Morabito attempted to destroy a stolen truck by dousing it with fuel and setting it on fire. See 2008 Morabito Tr. at 60-62; Complaint at 55-56.

On September 15, 1999, Morabito pleaded guilty to vehicle arson in a matter affecting interstate commerce, a class C felony. Morabito acknowledged that this guilty plea was related to the fact that upon learning that a search warrant was being executed at Provenzano's yard, Morabito attempted to destroy a stolen truck by dousing it with fuel and setting it on fire.[6] See 2008 Morabito Tr. at 60-62; Complaint at 55-56. On November 15, 2000, Morabito was sentenced to one year probation to include six months of house detention. See Morabito Criminal History.

Additionally, at Morabito's 2008 deposition, Morabito admitted that in 1987 and 1988, he "helped a guy named Joey Provenzano at his garage dismantle some trucks." See 2008 Morabito Tr. at 49. Morabito knew these were stolen trucks at the time. See 2008 Morabito Tr. at 51. Thus, Morabito admittedly committed other crimes, for which he was not charged, with Provenzano.

In determining whether an applicant possesses good character, honesty, and integrity, the Commission may consider prior convictions of the Applicant (or any of its principals) for crimes which, in light of the factors set forth in section 753 of the Correction Law, would provide a basis under that statute for refusing to issue a license. See Admin. Code §16-509(a)(iii); see also Admin. Code §16-501(a). Those factors are:

(a) The public policy of this state, as expressed in [the Correction Law], to encourage the licensure . . . of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities necessarily related to the license . . . sought.

(c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties and responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) The age of the person at the time of occurrence of the criminal offense or offenses.

Complaint. In 1994, Avellino pleaded guilty to a charge that he conspired to murder Kubecka and Barstow, and was sentenced to a ten and one half year term of incarceration. Id. Avellino was released from prison on October 13, 2006. See Federal Bureau of Prisons Printout.

[6] However, at his 2008 deposition, Morabito denied that he was involved in the conspiracy to operate a chop shop. See 2008 Morabito Tr. at 93-94.

(f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency . . . in protecting property, and the safety and welfare of specific individuals or the general public.

N.Y. Correct. Law §753 (1).

Applying the above factors, the Commission finds that, notwithstanding the public policy of the State of New York to encourage licensure of persons convicted of crimes, the crimes committed by Morabito were so serious and closely connected to the trade waste industry that they disqualify Morabito. Both criminal cases involved complex conspiracies involving, among other things, the destruction, transportation, and resale of stolen trucks used to transport trade waste. Furthermore, Morabito lied to authorities when he was asked questions about one of his coconspirators. See infra. Moreover, Morabito had numerous opportunities during two separate depositions to offer the Commission truthful and complete accounts about his criminal record. Instead, Morabito's deposition testimony establishes his lack of remorse and his blatant disregard for the law, as he offered the Commission false, misleading and incomplete information in an attempt to minimize his role in both criminal cases. See infra. During the ten year period of his participation in these criminal schemes, Morabito was between the age of 22 and 32 years old- plainly old enough to know what the law is and how to obey it. His crimes were the result of a conscious decision to choose another path and are an all too accurate reflection of the cynical disregard for the law that corrupted the City's waste removal industry for decades.[7] Moreover, the public interest in eliminating the entrenched corruption that has plagued the New York City carting industry for decades is clear. Public confidence in the integrity of the carting industry would be undermined if those proven to have ignored the law received licenses or registrations from the Commission. Stanley Morabito is, quite simply, unworthy of registration in that same industry. The Applicant did not dispute this point, leaving this ground uncontested. Accordingly, in the exercise of its discretion, the Commission concludes that, by reason of his crimes, Morabito lacks good character, honesty, and integrity and denies the Applicant's registration application on this independently sufficient ground.

B. The Applicant failed to provide information and provided false and misleading information to the Commission.

All Applicants must provide truthful and non-misleading information to the Commission. A knowing failure to do so is a ground for denial of the application. See Admin. Code §16-509(b); Attonito v. Maldonado, 3 A.D.3d 415 (1st Dept. 2004); *leave*

[7] Morabito testified that after his 1993 arrest, he actually decided that he would take the path toward "not hav[ing] any more [legal] problems" and would "walk on the narrow and straight." See 2008 Morabito Tr. at 56-57, 76. Yet, as described above, he continued to commit crimes and was arrested again in 1998.

denied 2 N.Y.3d 705 (2004); Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008).

During his deposition in 1998, Morabito offered the Commission false, misleading, and incomplete information about the facts surrounding his 1993 arrest. Although he admitted that he was arrested for criminal possession of stolen property, he attempted to minimize his role by testifying that he only purchased a stolen transmission. See 1998 Morabito Tr. at 43. Morabito also falsely testified that the purchase of the transmission was a one time transaction. See September 14, 1998 Deposition Transcript of Stanley Morabito ("1998 Morabito Tr.") at 44. Morabito's testimony in 1998 was undercut by the testimony he provided in 2008, and by an examination of the complete record.

In 2008, Morabito testified that the 1993 charges related to purchasing the parts of a complete truck over the course of four or five months, "and then after that, there was another [stolen] truck that was brought to [him]" for which Morabito was arrested for possessing. See 2008 Morabito Tr. at 39. According to Morabito, after he purchased the parts to build nearly a complete truck from Richard Visone, Visone asked Morabito to do him a favor and park a truck in Morabito's yard. See 2008 Morabito Tr. at 40. Morabito knew that all of the truck parts and the truck were stolen at the time. See 2008 Morabito Tr. at 47. Thus, Morabito's involvement was not just a one-time transaction to purchase a stolen transmission and Morabito's 1998 testimony about the same was false and misleading.

In 1993, authorities questioned Morabito about Visone's presence and involvement in the crime. See Provenzano Complaint. Morabito denied that Visone was involved even though Visone was a leader of the criminal conspiracy. See Id. Yet, at his deposition in 2008, Morabito falsely asserted that he did not know why Visone was not arrested at the time Morabito was arrested. See 2008 Morabito Tr. at 53. In fact, Morabito's false statements to law enforcement about Visone's involvement may have contributed to the failure to arrest Visone. Further, Morabito failed to admit that he lied to authorities in 1993 during his 2008 deposition. In fact, Morabito only testified that he tried to assist law enforcement to implicate Visone.[8] See 2008 Morabito Deposition Tr. at 53-54.

Morabito also testified he "never saw" Visone dismantling a truck. See 2008 Morabito Tr. at 94, 95-96. This is false. In fact, Morabito personally observed Visone grinding down the Vehicle Identification Number on a trailer in Morabito's yard. According to the Provenzano Complaint, in a recorded conversation with a confidential source in 1998, "Morabito recounted how the authorities asked him about Visone's involvement and that he denied [that Visone] was involved..." Morabito told the confidential source about "Visone actually bringing the stolen truck to his yard." Morabito said "Yeah, cause he came, [Visone] came with his, came with the truck, the guy driving the truck, the guy got out of the truck, parked the truck in the driveway, got

[8] Any assistance Morabito may have provided to law enforcement was provided after he initially lied to them.

out of the truck and got in [Visone's] car and they left. And left the truck right in the driveway." The confidential source asked Morabito if Visone was actually working on the truck. Morabito responded, "Yes, he was doing the numbers outside when they, when the cops actually came he was putting, he was taking, he took the numbers off the trailer. There were no numbers on the trailer." The confidential source asked Morabito if law enforcement found the stamps that Visone was using. Morabito replied, "Nope. They never found. He went outside and behind one of the telephone poles put his little red box with the beater[9] and his numbers in there and they never found it." The confidential source inquired if law enforcement ever found it. Morabito stated, "No, cause he went out there with me like, when I got out of jail. He was out there, he, you know he stopped in again and went right there and there was all his stuff, right there in the red tool box, you know a little red tool box." See Provenzano Complaint at 53-54. The Provenzano Complaint clearly demonstrates that Morabito provided false testimony about his observations of Visone's activities.

Further, the Provenzano Complaint also establishes that Morabito offered misleading and incomplete information about his own role in the stolen truck operation at his deposition in 2008. According to the Provenzano Complaint, Morabito was involved in the "cutting up" of approximately three stolen trucks in his yard. Morabito also personally picked up a truck from a friend who reported the truck stolen. Morabito then dismantled this truck. See Provenzano Complaint CR 98 1855M at 54-55. In his attempt to minimize his involvement in the criminal scheme, Morabito failed to mention any of these facts during either of his depositions.

The failure of the Applicant to provide truthful and non-misleading information to the Commission is evidence that the Applicant lacks good character, honesty and integrity. The Applicant did not dispute this point, leaving this ground uncontested. The Commission denies Demo Busters' application on this independently sufficient ground. See Admin. Code §§16-509(b); 16-509(a)(i).

C. The Applicant engaged in repeated unregistered trade waste removal activity.

The Applicant has never had authority to remove trade waste in New York City. Nevertheless, the record establishes that Morabito (and his companies, including the Applicant) has engaged in unlicensed or unregistered trade waste activity even though he knew that a license or registration was required for such activity. Morabito admitted that the Applicant removed trade waste in New York City while the Applicant's first application was pending. See 2008 Morabito Tr. at 10-18. Morabito also admitted that after the Applicant's first application was withdrawn (at Morabito's request), in September 2003, the Applicant continued to engage in unregistered trade waste removal activity in New York City. See 2008 Morabito Tr. at 68-69.

[9] The beater referred to by Morabito is a pneumatic tool used to obliterate numbers from the truck frame rails and other parts. See Provenzano Complaint at 54.

In addition, on or about September 8, 2006, the Commission issued Notice of Hearing for Unlicensed Activity against JBH Transport, Inc. See Notice of Hearing for Unlicensed Activity, TW-1532. At his March 25, 2008 deposition, Morabito admitted that JBH Transport, Inc. received a Commission violation for unregistered activity.[10] See 2008 Morabito Tr. at 10. On or about November 10, 2006, Morabito signed a Stipulation of Settlement on behalf of JBH Transport, Inc. and paid a two thousand five hundred ($2,500) dollar fine to the Commission.[11] See Stipulation of Settlement, TW-1532. Nevertheless, Morabito testified that he continued to haul construction and demolition debris in New York City even though he never held a license or registration.[12] See 2008 Morabito Tr. at 16-17. Although he knew he was not authorized to conduct such activity in New York City, Morabito said he did so between one and three times per week "to serve [its] customers." See 2008 Morabito Tr. at 18.

On or about February 1, 2007, the Commission issued another violation against the applicant for unlicensed or unregistered trade waste removal activity. See Notice of Hearing For Unlicensed Activity, TW-1695. On or about March 1, 2007, the Applicant entered into a Stipulation of Settlement with the Commission and paid another two thousand five hundred ($2,500) dollar fine to settle violation number TW-1695. See Stipulation of Settlement, TW-1695.

The record amply and incontestably proves that Morabito and his companies have engaged in a pattern of unlawful waste removal activity without the required trade waste

---

[10]JHB Transport, Inc. is essentially a holding company that is owned by Morabito and affiliated with the Applicant. Several trucks are registered to JBH. These trucks are leased to the Applicant. See 2008 Morabito Tr. at 6-11.

[11] The Stipulation of Settlement stated, "Respondent is hereby put on notice that any future violations of Title 16(A) Chapter 1 of the Administrative Code may subject the respondent to the maximum penalty under the law." See 2008 Morabito Tr. at 21-22; see also Stipulation of Settlement, TW-1532.

[12] Morabito initially attempted to provide false and misleading information to the Commission:

Q.: Now, Demo Busters does carting throughout Nassau and Suffolk County?

A.: Yes.

Q.: And what about within the City of New York?

A.: We deliver sand within the City of New York. We really stopped all of our dirt—

Q.: When did you stop all of your pickups?

A.: I guess after that violation we got in September [2006].

Q.: Which violation?

A.: The one on the JBH truck, whatever that was, September - -

Q.: No, but you didn't stop in September.

Morabito changed his answer about unlicensed and unregistered trade waste removal activity after his attorney counseled him on this subject. See 2008 Morabito Tr. at 16.

removal license or registration. Furthermore, Morabito and his companies have demonstrated an utter lack of concern with regulatory compliance and continued to engage in unlawful removal of waste. Morabito's admissions to unlicensed or unregistered carting compel the conclusion that the Applicant lacks good character, honesty, and integrity. Moreover, the Commission is authorized to deny the registration application of a company that has engaged in unregistered carting activity in the City of New York. See Admin. Code §§16-505(a), 16-509(c)(ii), 16-513(a)(i). This Applicant plainly engaged in such activity. Under the circumstances, the Applicant's unregistered carting merits the denial of this registration application. Repeated unlicensed or unregistered activity is further evidence of Morabito's lack of honesty, integrity and good character. The Applicant did not dispute this point, leaving this ground uncontested. Based on this independently sufficient ground, this application is denied.

IV. 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 Demo Busters falls far short of that standard. Based upon the above independently sufficient reasons, the Commission denies Demo Busters Haulage, Inc.'s exemption application and registration.

This exemption/registration denial is effective immediately. Demo Busters Haulage, Inc. may not operate as a trade waste business in the City of New York.

Dated: March 18, 2010

THE BUSINESS INTEGRITY COMMISSION

Michael J. Mansfield
Commissioner/Chair

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 Business Services

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