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 T.S. HAULERS, INC. TO OPERATE AS A TRADE WASTE BUSINESS.

On January 23, 2007, T.S. Haulers, Inc. ("T.S." or the "Applicant") submitted an application 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.

T.S. has 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 & 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 it 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:

1. The Applicant's sole disclosed principal, Edward Partridge, was convicted of a misdemeanor that was related to the trade waste industry;

2. The Applicant has failed to pay government obligations for which judgments have been entered;

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

1. The Applicant provided false and misleading information on the Registration Application;

2. The Applicant's principal, Edward Partridge, provided false and misleading information to the Commission in connection with the Registration Application;

3. The Applicant failed to respond to a request for information from the Commission.

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 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. 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 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. City. 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, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 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. THE APPLICANT

T.S. was incorporated in New York on July 31, 1990. On January 23, 2007, T.S. filed an application for an exemption from licensing and a trade waste registration for removal of construction and demolition debris (the "Registration Application"). The sole principal disclosed on the application is Edward C. Partridge ("Partridge"). See Registration Application at 9.

The staff has conducted an investigation of the Applicant and its principal. On March 11, 2009, the staff issued a 14-page recommendation that the application be denied. The Applicant was served with the recommendation on or about March 13, 2009 and was granted ten business days to respond (March 27, 2009). 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 T.S. Haulers, Inc. lacks good character, honesty, and integrity, and denies its registration application.

III. GROUNDS FOR DENIAL

A. The Applicant has failed to demonstrate eligibility for a trade waste exemption from licensing and a trade waste registration.

1. The Applicant's sole disclosed principal, Edward Partridge, was convicted of a misdemeanor that was related to the trade waste industry.

On June 21, 1989, a Criminal Information filed in the Pennsylvania Court of Common Pleas, Susquehanna County, charged Partridge with three counts of violating the Pennsylvania Solid Waste Management Act. See Criminal Information.

Count One alleged that Partridge "unlawfully stored, transported, processed or disposed of residual waste, i.e., loads of shredded automotive fluff material... when such storage, transportation, processing or disposal was done in a manner inconsistent with or not authorized by the rules and regulations of the Pennsylvania Department of Environmental Resources and/or at a time when [Partridge] had not first obtained a permit for the disposal of the residual waste from the Department of Environmental Resources to operate a residual waste processing or disposal facility," in violation of Section 301 of the Solid Waste Management Act, 35 P. S. §6018.301, which constitutes a misdemeanor in the third degree.[1] See Criminal Information at 1. Count Two of the Criminal Information alleged that Partridge "unlawfully transported or permitted the transportation of a residual waste, shredded automotive fluff, from an industrial automotive shredding facility..." to facilities that did not "hold a permit to accept such waste," in violation of Section 303 of the Solid Waste Management Act, 35 P. S. §6018.303, which constitutes a misdemeanor in the third degree. See Criminal Information at 1-2. Count Three alleged that Partridge "dumped or deposited, or permitted the dumping or depositing, of an industrial waste, shredded automotive fluff, a solid waste onto the surface of the ground... without a permit from the Department of Environmental Resources," in violation of Section 303 of the Solid Waste Management Act, 35 P. S. §6018.610(1), which constitutes a misdemeanor in the third degree. See Criminal Information at 2.

In February 1990, a Susquehanna County Common Pleas Court jury found Partridge guilty of three violations of the Pennsylvania Solid Waste Management Act.[2] See Certificate of Disposition; see also July 11, 2007 Deposition Transcript of Edward Partridge (" Partridge Tr.") at 25-26; see also Barry S. Shanoff, *Owner Liable in Fluff Dumping*, WORLD WASTES, May 1990. After the jury found him guilty, Partridge failed

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[1] Fluff is the fibrous or soft material, such as the remains of car seats, carpets and dashboards, created when vehicles are cut up in a shredder. When vehicles are shredded, oil and PCB's often contaminate the fluff, making it potentially toxic. See Gregory S. Johnson, *Tri-State Chief Sentenced in Fluff-Dumping Case,* THE JOURNAL OF COMMERCE, July 21, 1992.

[2] At his deposition before the Commission on July 11, 2007, Partridge demonstrated his lack of respect for the justice system. When asked if he pled guilty or was found guilty after trial, Partridge stated, "well I didn't plead guilty. But I went to, like, a circus court. You know what I mean? It was like in the middle of nowhere..." See Partridge Tr. at 25.

to appear for sentencing and became a fugitive for approximately two and a half years.[3] See Partridge Tr. at 26. In July 1992, after Partridge was involuntarily returned on a bench warrant, he was sentenced to one to twelve months in jail, was fined ten thousand dollars, was ordered to pay for cleanup costs for illegally dumping more than one hundred tons of vehicle fluff, and was ordered to perform one hundred hours of community service following his jail term. See Partridge Tr. at 26; see also Gregory S. Johnson, *Tri-State Chief Sentenced in Fluff-Dumping Case,* THE JOURNAL OF COMMERCE, July 21, 1992.

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.
>
> (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.
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> (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).

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[3] At his July 11, 2007 deposition, Partridge testified that he did not appear for sentencing "'cause it was a joke." See Partridge Tr. at 26. Partridge later elaborated that he did not appear for sentencing "because the jury came back with a, a verdict that was unbelievably stupid." See id. at 27.

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 Edward Partridge are antithetical to the very purpose of Local Law 42, which is to root out organized crime and other corruption from the trade waste industry. The conviction is for activity directly related to the waste industry, and happened when Partridge was 36 years old. In addition, Partridge's behavior subsequent to his conviction (failing to appear for sentencing) and his deposition testimony about the subject establish his lack of remorse and his blatant disregard for the law.

Finally, 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. Partridge's conviction for crimes involving the waste industry compels the conclusion that the Applicant lacks good character, honesty, and integrity. The Applicant did not dispute this point, leaving this ground uncontested. Accordingly, the Commission denies the Applicant's registration application on this independently sufficient ground.

2. The Applicant has failed to pay 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 NYC Admin. Code §16-509(a)(x). According to a judgment and lien search conducted by the Commission on February 24, 2009, the following thirteen (13) judgments have been docketed against this Applicant:

• Criminal Court of New York	Filed 4/2/98	$1,000.00
• Criminal Court of New York	Filed 4/2/98	$1,000.00
• Criminal Court of New York	Filed 4/2/98	$1,000.00
• Criminal Court of New York	Filed 2/2/00	$100.00
• Criminal Court of New York	Filed 2/2/00	$125.00
• Criminal Court of New York	Filed 2/2/00	$50.00
• Criminal Court of New York	Filed 2/2/00	$50.00
• Criminal Court of New York	Filed 2/3/00	$125.00
• Criminal Court of New York	Filed 2/3/00	$100.00
• Criminal Court of New York	Filed 2/3/00	$50.00
• Criminal Court of New York	Filed 2/3/00	$50.00
• Criminal Court of New York	Filed 8/20/02	$100.00
• Criminal Court of New York	Filed 2/22/02	$100.00

These judgments filed against T.S. total $3,850.00. See Westlaw printouts, T. S. Haulers, Inc.

According to a judgment and lien search conducted by the Commission on February 24, 2009, the following six (6) judgments have been docketed against Applicant's affiliate, Tri State Trucking Corp[4]:

• Criminal Court of New York	Filed 8/20/02	$1,000.00
• Criminal Court of New York	Filed 8/20/02	$1,000.00
• Criminal Court of New York	Filed 2/20/02	$1,000.00
• Criminal Court of New York	Filed 8/20/02	$1,000.00
• Criminal Court of New York	Filed 8/20/02	$1,000.00
• Criminal Court of New York	Filed 8/20/02	$1,000.00

These judgments filed against the Applicant total $6,000. See Lexis/Nexis printouts, Tri State Trucking Corp.

Again, the Applicant's failure to satisfy numerous debts that have been reduced to judgment demonstrates that the Applicant lacks good character, honesty and integrity. The Applicant did not dispute this point, leaving this ground uncontested. Based on this independently sufficient ground, this application is denied.

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

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." Admin. Code §16-504(c). In numerous instances, the Applicant hindered the Commission's requests for truthful and complete information, culminating in the Applicant's willful failure to provide requested information.

1. The Applicant provided false and misleading information on 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(b); Attonito, 3 A.D.3d 415. See also Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008). Partridge submitted false and misleading information in T.S.'s Registration Application filed with the Commission on January 23, 2007.

Partridge certified that the information contained in the Registration Application was complete and truthful. See Registration Application at 17. Question 26 of the application asks, "Has the applicant business, or any current principal, or any past

[4] Tri State Trucking Corp. and T.S. Haulers, Inc. are closely affiliated companies. Partridge owns both companies, both companies work in the same industry, and both companies share the same business address. See Partridge Tr. at 29, 31.

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?" Partridge responded to the question by answering "no." See Registration Application at 5. This was false. In fact, as discussed above, in 1990, Partridge was convicted of three misdemeanors for violating the Pennsylvania Solid Waste Management Act.

This failure to provide truthful information demonstrates that Partridge lacks the requisite good character, honesty and integrity to operate a trade waste business in New York City. The Applicant did not dispute this point, leaving this ground uncontested. For this independently sufficient reason, T.S.'s application is denied.

2. The Applicant's principal, Edward Partridge, provided false and misleading information to the Commission in connection with the Registration Application.

On July 11, 2007, Partridge provided the Commission with sworn testimony in connection with the Registration Application. When asked if he has ever been arrested, Partridge answered, "hmm, traffic tickets, yeah." See Deposition Transcript of Edward Partridge ("Deposition Transcript) at 20. Partridge explained that his "drivers used to get tickets; throw the tickets in the dashboard. And then I'd get a, a warrant. I didn't even know they were in existence." See id. Partridge described these as tickets for "having [truck] lights out, overloading [trucks], etc." See id. When asked if he was arrested for anything else, Partridge testified that he was arrested "for, uh, having an altercation at the sand pit... with a DEC [Department of Environmental Conservation] official."[5] See Deposition Transcript at 21. Partridge did not, however, testify that he was arrested and convicted in Pennsylvania.

As described above, on the Application, Partridge failed to disclsose the fact that he was arrested in 1989 and convicted in 1990. At his deposition, Partridge continued to conceal his 1989 arrest and 1990 conviction. Only after the staff directly confronted him with information regarding that criminal case did Partridge admit that he was the subject of this criminal case.[6] See Deposition Transcript at 24.

After the staff confronted Partridge, he conceded that he was arrested in 1988 and that he was arrested again in 1989 because he failed to appear in court.[7] See Deposition Transcript at 25-26. He stated that a jury found him guilty after trial. See id. He admitted that after the guilty verdict, "I was released on my own recognizance, yeah. And I didn't show back up." See id. When asked why he did not appear in court for sentencing, Partridge stated, "Cause it was a joke... Because the jury came back with a, a verdict that was unbelievably stupid." See Deposition Transcript at 26-27.

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[5] On December 1, 2006, Partridge was arrested and charged with obstructing governmental administration and harassment. Partridge pleaded guilty to harassment. This case is sealed.

[6] Partridge demonstrated his lack of respect for the law by referring to the Pennsylvania Court of Pleas as a "circus court." See Deposition Transcript at 25.

[7] It appears that Partridge confused the years of his arrest and conviction.

Before his deposition started on July 11, 2007, Partridge also provided responses to a written questionnaire ("Deposition Questionnaire"). At his deposition, he testified that he filled out the deposition questionnaire truthfully to the best of his ability. See Partridge Tr. at 37; Deposition Questionnaire. Again, the responses that Partridge provided in the deposition questionnaire establish that he provided false and misleading information to the Commission.

Question 32 of the Deposition Questionnaire asks, "Have you ever been charged with any criminal violations? Include misdemeanor charges, felony charges, and all non-traffic violations (including DWI)." In response, Partridge initially answered "no." See Deposition Questionnaire at 8. At his deposition, however, Partridge was asked:

Q: You've never been charged with a criminal violation?

A: No.

Q: Uh, in light of what we discussed, you've never been charged?

A: You mean with the DEC official?

Q: With the DEC official; with - -

A: Well, once again, I, in New York. You're not talking about Pennsylvania. See Partridge Tr. at 39.

Eventually, after several additional questions on the topic, Partridge changed his answer and admitted that he has been charged with criminal violations. Id.

As discussed above, on June 21, 1989, Partridge was charged with three counts of violating the Pennsylvania Solid Waste Management Act. On December 1, 2006, he was charged with obstructing governmental administration and harassment. Accordingly, Partridge's initial response to this question was false and misleading.

Question 33 of the Deposition Questionnaire asks, "Have you ever been arrested? Include misdemeanor charges, felony charges, and all non-traffic violations (including DWI). In response, Partridge initially answered "no." See Deposition Questionnaire at 8. Again, as discussed above, Partridge was arrested on several different occasions. Thus, Partridge's response to this question was false and misleading. Partridge volunteered to amend his answer after the Commission's staff established that Partridge falsely answered this question.

This failure to provide truthful information demonstrates that Partridge lacks the requisite good character, honesty and integrity to operate a trade waste business in New York City. The Applicant did not dispute this point, leaving this ground uncontested. For this independently sufficient reason, T.S.'s application is denied.

3. The Applicant failed to respond to a request for information from 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).

After his deposition on July 11, 2007, the Commission's staff provided Partridge with the results of a judgment and lien printout. See Letter from David Mandell, Special Counsel to the Applicant. In the July 11, 2007 letter, the Commission requested proof that the judgments have been paid and satisfied or otherwise disposed. Id. The letter requested that the information and documentation be provided by the due date of July 27, 2007. The July 11, 2007 letter warned the Applicant that the Commission "may refuse to issue a license or registration to any applicant... who has knowingly failed to provide information and/or documentation required by the Commission." Id. As of the date of this Decision, the Applicant has failed to respond to the Commission's request for information and documentation.

On September 6, 2007, the Commission sent another letter to the Applicant seeking the same information as the July 11, 2007 letter. See September 6, 2007 letter from David Mandell, Special Counsel, to the Applicant. The letter requested that the information and documentation be provided by the due date of September 26, 2007. Id. The September 6, 2007 letter warned the Applicant that the Commission "may refuse to issue a license or registration to any applicant... who has knowingly failed to provide information and/or documentation required by the Commission." Id. Again, as of the date of this Decision, the Applicant has failed to respond to the Commission's request for information and documentation.

By failing to respond to the Commission's requests for information and or documentation, the Applicant has "knowingly failed to provide the information" required by the Commission and has failed to "cooperate fully with the Commission, including providing requested information on a timely basis," if at all. The Applicant did not dispute this point, leaving this ground uncontested. The Commission denies T.S.'s registration application based on this independently sufficient ground.

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 T.S. Haulers, Inc. falls far short of that standard. Based upon the above independently sufficient reasons, the Commission denies T.S. Haulers, Inc.'s exemption application and registration.

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

Dated: April 14, 2009

THE BUSINESS INTEGRITY COMMISSION

Michael J. Mansfield
Commissioner/Chair

John Doherty, Commissioner
Department of Sanitation

Jonathan Mintz, Commissioner
Department of Consumer Affairs

Jayme Naberezny, Inspector General (designee)
Department of Investigation

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

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