NYC Business Integrity Commission

DECISION OF THE BUSINESS INTEGRITY COMMISSION TO DENY THE LICENSE APPLICATION OF STALLION RECYCLING CORP. TO OPERATE AS A TRADE WASTE BUSINESS

Introduction

Stallion Recycling Corp. (the "Applicant" or "Stallion") has applied to the New York City Business Integrity Commission (the "Commission") for renewal of its Trade Waste Removal License pursuant to New York City Administrative Code ("Admin. Code") §16-505(a).

On May 2, 2012, the Commission served Stallion with Notice of Grounds to Recommend Denial of the License Application ("Notice"). The Notice stated the grounds for denial of the application and notified Stallion of its opportunity to submit a written response to the Notice and/or to provide other information it would have the Commission consider in connection with its exemption application. The Notice further stated that any factual assertions in Stallion's response were to be made under oath. Response was due within ten (10) business days from the date of the notice. On May 16, 2012, the Commission received "Opposition to the License Denial Recommendation for Stallion Recycling Corp." and supporting affidavits (collectively, "Response"). A copy of the Response was provided to members of the Commission for their review.

Based upon the record as to the Applicant, and after considering Stallion's Response, the Commission now denies Stallion's renewal application because the Applicant lacks good character, honesty and integrity based on the following independently sufficient reasons:

A. Stallion's owner, Edward John Romeo ("Romeo"), associated with Angelo Paccione, a member of the Gambino organized crime family and a convicted racketeer.

B. Romeo made false and misleading statements to the Commission about his association with Paccione.

Background and Statutory Framework

Every commercial business establishment in New York City must contract with a private carting company to remove and dispose of the waste it generates. Historically, the private carting industry in the City was operated as a cartel controlled by organized crime. As evidenced by numerous criminal prosecutions, the industry was plagued by pervasive racketeering, anticompetitive practices and other corruption. See e.g., United States v. International Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993); People v. Ass'n of Trade Waste Removers of Greater New York Inc. et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.);

United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.); People v. GNYTW, 701 N.Y.S.2d 12 (1st Dep't 1999).

The Commission is charged with, *inter alia*, combating the pervasive influence of organized crime and preventing its return to the City's private carting industry, including the construction and demolition debris removal industry. Instrumental to this core mission is the licensing scheme set forth in Local Law 42, which created the Commission and granted it the power and duty to license and regulate the trade waste removal industry in New York City. Admin. Code §16-505(a). It is this licensing scheme that continues to be the primary means of ensuring that an industry historically plagued with corruption remains free from organized crime and other criminality, and that commercial businesses that use private carters can be ensured of a fair, competitive market.

Local Law 42 provides that "[i]t shall be unlawful for any person to operate a business for the purpose of the collection of trade waste . . . without having first obtained a license therefor from the [C]ommission." Admin. Code §16-505(a). Before issuing such license, the Commission must evaluate the "good character, honesty and integrity of the applicant." Id. at §16-508(b). The New York City Administrative Code provides an illustrative list of relevant factors for the Commission to consider in making a licensing decision:

> 1. failure by such applicant to provide truthful information in connection with the application;
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> 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;
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> 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;
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> 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;
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> 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.

Id. at § 509(a)(i)-(x). Additionally, the Commission may refuse to issue a license or registration to any applicant who has "knowingly failed to provide information or documentation required by the Commission...or who has otherwise failed to demonstrate eligibility for a license. Id. at § 509(b). The Commission may refuse to issue a license or registration to an applicant when such applicant was previously issued a license which was revoked or not renewed, or where the applicant "has been determined to have committed any of the acts which would be a basis for the suspension or revocation of a license." Id. at § 509(c). Finally, the Commission may refuse to issue a license or registration to any applicant where the applicant or its principals have previously had their license or registration revoked. Id. at § 509(d).

An applicant for a trade waste license or registration has no entitlement to and no property interest in a license or registration and the Commission is vested with broad discretion to grant or deny a license or registration application. Sanitation & Recycling Industry, Inc., 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). Admin. Code § 16-116.

Statement of Facts

A. Application History

November 2006 Application

On or about November 20, 2006, Stallion submitted an application for a Trade Waste Removal License "(Application") to the Commission. The Application listed Edward John Romeo ("Romeo"), and Michael Anthony Mazzella ("Mazzella") as its principals. The application also listed Romeo's mother, Liberta Romeo ("Liberta"), and Mazzella's mother, Roseanne Mazzella, as "Holders of a Beneficial Interest" of the company. Romeo and Mazzella certified that the information contained in the Application was "full, complete and truthful." See Application at 33 and 37.

In addition to the Application, the Commission requires all principals to complete the "Disclosure Form for a Principal of a Trade Waste Business" ("Principal Disclosure"), which requests additional, sworn information about each principal. Romeo and Mazzella submitted their Principal Disclosures with the Application, and certified that the information provided on the Principal Disclosure forms was "full, complete and truthful." See Romeo Principal Disclosure at 19; and Mazzella Principal Disclosure at 19.

While the application was still pending, on December 2, 2006, Stallion's counsel informed the Commission that Mazzella and Roseanne Mazzella had been divested from the company. Stallion's remaining principals were Romeo, President and 100% owner of the company's stock, and Liberta, Treasurer. See Application Amendment, dated December 4, 2006 at 2 and 5. On February 6, 2007, Liberta submitted a Principal Disclosure, and certified that the information provided on the Principal Disclosure forms was "full, complete and truthful." See Liberta Principal Disclosure at 19.

In response to question 35(j) of the application, Stallion disclosed that its principals had "associated with [a] person that [they] knew, or should have known, was a member or associate of an organized crime group." Specifically, it was stated that Romeo (as well as Mazzella) had associated with Angelo Paccione ("Paccione"). Id. at 12. Paccione is a notorious made member of the Gambino crime family. See Affidavit of Elliot R. Peters, dated March 8, 1990 at 4. Moreover, on June 8, 1990, Paccione was convicted of racketeering for operating a massive illegal landfill on Staten Island, a scheme which the trial judge described as "one of the largest

and most serious frauds involving environmental crimes ever prosecuted in the United States."[1] See United States v. Angelo Paccione, 751 F. Supp. 368 (S.D.N.Y. 1990); See United States v. Paccione, 949 F.2d 1183, 1192-3 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992).

In the Application, Romeo detailed the manner in which he has associated with Paccione. Romeo explained as follows:

> Angelo Paccione is my grandmother's brother on my mother's side. He was at my 20th birthday party and probably will attend my wedding in May of 2007. I have no dealing with Mr. Paccione outside of these functions. I have never discussed any business with Mr. Paccione and I have no affiliation with any company in which Mr. Paccione owns or is associated with. Mr. Paccione will not have any dealings, financial or otherwise with my newly formed company that is the subject of this application.

Application at 12. This same response was largely repeated in Romeo's Principal Disclosure, which requires disclosure of any knowing association with individuals who have been convicted of a felony or who have ties to organized crime. See Romero Principal Disclosure at 12. Additionally, Liberta answered affirmatively and provided the following statement: "I am Angelo Paccione's niece. We see each other occasionally at family functions. I have no business dealings with Mr. Paccione and I have not seen him in two years." See Liberta Romeo Principal Disclosure at 12.

On February 8, 2007, after an extensive background investigation, and based in part upon Romeo's affirmative representation that he would have no dealings with Paccione, the Commission granted Stallion's Application. The trade waste license was effective for a period of two years, effective March 1, 2007.

January 2009 Renewal Application

On January 21, 2009, Stallion submitted its first Renewal Application for a License as a Trade Waste Business ("First Renewal Application") to the Commission. Romeo certified that the information provided was truthful. See First Renewal Application at 9.

Similar to the initial application, Romeo was asked whether he has "knowingly associated in any manner with any member or associate of organized crime?" Romeo again answered affirmatively, and made the following statement:

> "Angelo Paccione is my grandmother's brother on my motherside [sic]. I see Mr. Paccione at large family functions. I have no discussions or dealings with Mr. Paccione outside of these

[1] Paccione was convicted and sentenced to a period of incarceration of 12 years and was forced to forfeit $22 million. Paccione was released from federal prison on September 26, 2003.

functions. I have never discussed any business with Mr. Paccione concerning my business."

See First Renewal Application at 6. As described below, the Commission undertook an investigation of Stallion's First Renewal Application, specifically investigating Romeo's association with Paccione. That investigation was ongoing in 2011, when Stallion submitted its second Renewal Application for a License as a Trade Waste Business ("Second Renewal Application").

B. Romeo's Undisclosed Association with Paccione

In or about December 2008, the Commission began an investigation into Paccione's continued involvement in the New York City private carting industry. As part of that investigation, the Commission uncovered evidence that showed that Stallion's principal, Romeo, had business associations with Paccione that went far beyond that which was disclosed. Commission investigators, in conjunction with the Organized Crime Task Force of the New York State Attorney General's Office, conducted surveillance of Paccione. On June 1, 2009, at approximately 10:05 A.M. Paccione was picked up at his house by Joseph Bomengo.[2] Paccione and Bomengo traveled to the vicinity of Kings Highway and West 10th Street in Brooklyn, New York. Between 10:30 A.M. to 12:30 P.M., Paccione was seen entering approximately twenty-eight stores in the vicinity, carrying with him a stack of business cards. Paccione was overheard speaking with at least one business about the provision of carting services. At another business that Paccione had approached, Commission investigators spoke with the store owner, asking what Paccione had been soliciting. The store owner provided Commission investigators with the business card which Paccione had provided. That business card contained the following information: Stallion Recycling Corp., 20 Westport Lane, Staten Island, NY, 10314, Edward Romeo (president), Cell: (646) 261-2210, Office: (718) 982-5582, Fax: (718) 983-5645. On June 9, 2009, Commission investigators again observed Paccione returning to the same area of Brooklyn, soliciting business for Stallion.

The next day, on June 10, 2009, Commission investigators again observed Paccione being picked up at his home by Bomengo. Commission investigators followed Paccione and Bomengo to 2nd Avenue and 14th Street, Brooklyn, NY. Romeo arrived in a garbage truck emblazoned with Stallion's logo, Romeo and Paccione got out of their respective vehicles, and were observed having a meeting. Paccione handed Romeo what appeared to be a stack of business cards with handwriting on the back of them, after which Romeo and Paccione returned to their vehicles and left the area.

[2] Joseph Bomengo is a convicted felon. On January 12, 1993, he was indicted by United States Attorney's Office for the Southern District of Florida for felony level controlled substance charges and firearms possession in violation of 22 U.S.C. § 841(a)(1) and 18 U.S.C. §§ 922. Bomengo was convicted of both counts after a jury trial and sentenced to a 10 year term of incarceration followed by 8 years of supervised release. See Docket Report for United States v. Bomengo, 9:93-mj-05013 KLR-1.

In its Response, Stallion denies that the June 10, 2009, meeting between Romeo and Paccione occurred. Stallion claims that it was "*unlikely* that Edward [Romeo] was even awake when this meeting happened," as he drives the truck at night. See Response at 2 (emphasis added). Stallion also suggests that Commission investigators saw Salvatore rather than Edward Romeo, since Salvatore is allegedly the primary operator of Stallion's company pick-up truck. Id. However, Commission investigators observed an individual who they positively identified as 29 year-old Romeo (not his 59 year-old father) getting out of a Stallion garbage truck (not a pickup truck), and meet with Paccione. Accordingly, the Commission does not find Romeo's claim about the June 2009 meeting between him and Paccione credible.

C. Romeo's statements to the Commission

August 11, 2009, Interview with Commission Investigators

On August 11, 2009, Commission investigators interviewed Romeo at the Commission's offices. When asked about his relationship with Paccione, Romeo initially stated that Paccione is his mother's uncle and that he has no contact with him.[3] At his interview, Romeo maintained that Paccione had no interest in the business or involvement in the daily operations. Moreover, Romeo stated that he would never let Paccione interfere with his business. Romeo stated that the last time he saw Paccione was at Easter 2009. Given the fact that Commission investigators had observed Romeo meeting with Paccione on the street in June 2009, Romeo's statement is not truthful.

Indeed, after continued questioning, Romeo stated that about three to four months prior to the August 11th interview, Paccione offered to obtain customers for Stallion, including a large home improvement store in Brooklyn. Romeo claimed that he declined the offer, but added that his father still socialized with Paccione. Romeo stated that his father had given Paccione a stack of Stallion business cards so that Paccione could solicit business for Stallion, but he was not sure if Paccione handed any out. However, after further questioning, Romeo admitted that Paccione had solicited business for Stallion, that two new customers were obtained and that Paccione requested a payment of $100.00 per month for every $200.00 in business that he solicited.

Additionally, despite his assurances to the Commission that he would have no dealings with Paccione, Romeo admitted that he had visited Paccione at his residence to discuss purchasing a truck from Paccione's friend. Romeo informed Commission investigators that he decided not to buy the truck, and that two weeks later, he had a big "blow out" with Paccione and his father concerning Paccione's involvement. Romeo claimed he had not seen Paccione since.

When Commission Investigators asked for an explanation of why Romeo had previously and inaccurately reported the nature of his relationship with Paccione, Romeo stated that he was

[3] Remarkably, in Stallion's Response now discloses for the first time that in 2005, the year before Stallion's first application to the Commission for a trade waste license, Paccione in fact lived with Liberta, a principal of Stallion and Romeo's mother. See Response at 5; and Romeo Affidavit ¶ 3. This is a far cry from the "occasional" meetings referenced in Stallion's 2006 application and subsequent statements to the Commission.

aware of Paccione's past and did not want to jeopardize his business because of his involvement with Paccione.

Romeo's Deposition

On October 27, 2010, Romeo appeared at the Commission for a sworn deposition. Notwithstanding the fact that on Stallion's Application and Renewal application he had previously identified Paccione as a member of an organized crime group, Romeo testified as follows:

> Q. Did you ever hear that Angelo Paccione was a named associate of an organized crime family?
>
> A. No.

Transcript of October 27, 2010, deposition of Edward John Romeo ("Romeo Dep.") at 25-26. With respect to Paccione's criminal record, Romeo testified as follows:

> Q. Now, have you ever heard that your uncle, Angelo Paccione and Anthony Vulpis.... were arrested.
>
> A. Yes.
>
> Q. What was that in connection with?
>
> A. I was young at the time, I was nine-years-old, you know. I was a baby.
>
> Q. Have you ever heard anything being in the industry... about what your uncle, Mr. Paccione and Mr. Vulpos were involved in?
>
> A. No. All I heard was taxes, behind taxes. That's all I really heard.

Id. Notably, later in the deposition, Romeo appeared to recall additional information related to Paccione's arrest:

> Q. Did you ever hear that Mr. Paccione was convicted in connection with operating a large illegal dump on Staten Island?
>
> A. Yes.

Id. at 26. With respect to his relationship with Paccione, Romeo testified that he does not currently, nor has he ever had a personal or business relationship with Paccione. Id. at 30. However, Romeo went on to testify that Paccione had brought Stallion business and/or recommended customers. Romeo claimed that his father had provided Paccione "a couple of business cards, and [Paccione] went around without permission, handing out business cards." Id. at 46. Romeo further testified as follows:

Q. Do you know how many business cards your father gave to Angelo Paccione?

A. I think a couple.

Q. When you say "a couple", more than two –

A. I am not even too sure.

Q. Less than ten?

A. Less than ten. I would say so.

Q. Has your father ever told you that he told or authorized Mr. Paccione to solicit business for Stallion?

A. He had mentioned to me that he had given a couple of cards, but he would never think he would go out and start walking around the street doing this.

Q. Did you ever retrieve these cards from Mr. Paccione? Does he still have them or –

A. I couldn't even tell you, to tell you the truth.

Id. at 48-49. Romeo testified Paccione obtained only two stops for Stallion, and identified those businesses. Id. at 47. Romeo claimed that after only two weeks of servicing those businesses, he "walked away" from them after learning that Paccione had solicited them. Id. This testimony is in direct contravention to information obtained by the Commission during its investigation. As part of its investigation, the Commission interviewed one of the businesses that Romeo conceded had been solicited by Paccione, and that Romeo claimed he "walked away" from. The Commission investigator was advised by the business that they, not Stallion, terminated their relationship with Stallion due to poor service.[4]

Stallion's Customer Register Submission

Biannually, the Commission requires its licensed trade waste companies, including Stallion, to file a register of its customers with the Commission ("Customer Register"). The information required includes customer names, addresses and the customer representative who obtained the customer. On July 27, 2009, Stallion submitted its Customer Register for the period of January 1, 2009 to June 30, 2009, and certified that the information provided was truthful. In its submission, Stallion listed those two businesses that Romeo concedes were obtained by Paccione. Notably, in its Customer Register, Stallion indicated that it began servicing those

[4] Stallion's complaint that the Commission is impermissibly relying on a "hearsay" statement of an "unnamed third party" is without merit. It is well-established that "hearsay may be competent to support the type of administrative determination challenged here." See DeCostell Carting, Inc. v. McCormack, 837 N.Y.S.2d 543, 548 (2007). See also Hollywood Carting v. City of New York, 288 A.D.2d 71 (1st Dept. 2001). Moreover, the fact that the witness's name is being kept confidential has in no way impeded Stallion's notice and opportunity to be heard. In fact, in the same breath that Stallion complains that the Commission is relying on an "unnamed third party," he states that it is "conceivable that both sides are saying the same thing." See Response at 4. This cryptic statement does little to explain the basis of Stallion's due process argument.

businesses on June 14, 2009, only four days after Romeo was observed meeting with Paccione. However, Stallion falsely stated to the Commission that Romeo, and not Paccione, solicited the customer. This false statement was undoubtedly designed to conceal Paccione's involvement in the company.

In its Response, Stallion denies that it made false statements on the Customer Register. Stallion argues that it truthfully responded that, as of the date of submission, Romeo was the "Salesperson" for the two accounts. Response at 4. While Romeo may have been the "Salesperson" (i.e., the person who handles the account) as of the date of submission, in a separate field, Stallion affirmatively stated that it *obtained* those two customers as follows: "Carter Solicitation – Edward Romeo." Romeo has admitted that these two customers were obtained by Paccione's solicitation and his representation to the Commission otherwise in Stallion's Customer Register amounts to a false statement designed to hide Paccione's involvement.

Additional Factual Assertions in Stallion's Response

In its Response, Stallion attempts to explain away its previous misrepresentations to the Commission concerning Romeo's associations with Paccione. However, the proffered explanation falls flat, and only serves to further support the Commission's conclusion that Romeo's associations with Paccione were extensive and more significant than what was disclosed.

First, Stallion once again confirms that Romeo went to Paccione's home to discuss the purchase of a truck. See Response at 2; Romeo Affidavit, ¶ 2. Romeo attempts to minimize this contact by stating that he "turned down" Paccione's offer. Id. However, the relevant fact is not the outcome of the business dealing. Rather, the fact that the principal of a carting company had business dealings of any sort with an organized crime figure who is notorious in the trade waste industry for committing the largest environmental crime in United States history is the salient point and the attempts to obfuscate the relationship from the Commission is impossible to abide.

Second, Stallion's newest explanation regarding the manner in which Paccione obtained Stallion's business cards is not credible. While at his August 2009 interview with Commission investigators, Romeo stated that his father gave Paccione "a stack" of Stallion's business cards. At his 2010 deposition, Romeo claimed that his father gave Paccione fewer than 10 of Stallion's business cards. Now, in light of the fact that Commission investigators witnessed Paccione distributing dozens of Stallion's business cards, Romeo now advances yet another version of events. Though never disclosed to the Commission, Romeo now claims that from 2005-2009, his father used Stallion's company pickup truck to take Paccione on "errands." See Sal Romeo Aff. ¶ 5. Romeo claims that while his father was driving this notorious organized crime figure around the City in a Stallion company truck, Paccione took Stallion business cards that were in the truck. Id. at ¶ 5-6. While Romeo appears to rely on this event in support of his argument that he was not personally involved in providing Paccione with business cards to be used to solicit business for Stallion, this newest version of events only highlights the fact that Romeo impermissibly permitted Paccione's involvement in Stallion, and that Romeo made material

misrepresentations or omissions to the Commission about his and his family's association with Paccione. Romeo's statement that he allowed his father to use Stallion's company truck to chauffer Paccione, which ultimately led to Paccione attempting to obtain customers for Stallion, does nothing to rehabilitate Stallion's application.

Third, Romeo claims that after he discovered that Paccione had been approaching business owners on behalf of Stallion, Romeo told his father to end his long-time, undisclosed personal relationship with Paccione. Response at 3. However, this assertion does not alter the Commission's conclusion that by act or omission, Romeo failed to prevent a notorious organized crime figure from going business to business on behalf of Stallion in order to solicit carting customers. It is precisely this type of activity that the Commission is charged with preventing.

Finally, as evidence that Stallion did not benefit from Romeo's relationship with Paccione, Stallion cites the fact that its reported annual revenue has only gradually increased in recent years, and the fact that Romeo has only taken a reported annual salary of $70,000.00. See Response at 4-5. However, Stallion's self-reported financial information has limited probative value, and certainly does not change the Commission's view that *any* involvement by Paccione in Stallion's business warrants denial.

Basis for Denial

> **The Applicant knowingly associated with Angelo Paccione, a member of the Gambino organized crime family, and a convicted racketeer. Further, the Applicant made false and misleading statements to the Commission about his relationship with Paccione.**

The Commission's investigation revealed that Stallion's principal, Edward Romeo, knowingly associated with Angelo Paccione, a member of the Gambino organized crime family, and convicted racketeer, whose name is synonymous with one of the worst environmental crimes on record in the United States. See supra at 8.

As detailed above, in 2009 Commission investigators witnessed Paccione soliciting business on behalf of Stallion. In stark contrast to Romeo's sworn testimony that Paccione only referred two customers to Stallion on June 1, 2009, Commission investigators witnessed what appears to be Paccione soliciting work for Stallion at 28 businesses in Brooklyn. See transcript Romeo Dep. at 46-47; supra at 10 and 12. Several days later, on June 9, 2009, Paccione was observed returning to the same area, again going store to store. The following day, on June 10, 2009, only six months after Romeo affirmed in his First Renewal Application that he had "no discussions or dealings with Mr. Paccione outside of [large family functions]," Paccione was seen meeting with Romeo in Brooklyn, at which time Paccione was observed handing a stack of business cards which appeared to have writing on them to Romeo. Id. Four days later, Stallion began servicing at least two of those companies solicited by Paccione. See Stallion's Customer Register submission dated July 27, 2009.

The Commission does not credit Romeo's claims that: he was not aware that Paccione was soliciting business for Stallion; that such solicitation was not at Romeo's behest; or that Romeo did not meet with Paccione on June 10, 2009. As discussed above, Commission investigators directly observed the meeting between Paccione and Romeo at which Paccione handed Romeo a stack of business cards. As Stallion correctly notes, Romeo's meeting with Paccione just days after Paccione was observed soliciting customers on Stallion's behalf is "damning" and by itself warrants denial. Remarkably, in a failed attempt to explain how Paccione obtained Stallion's business cards in the first instance, Romeo now admits that for several years his father used Stallion's company truck to drive Paccione around the City. The Commission finds that permitting the use of a trade waste vehicle to chauffer a made member of the Gambino crime family is evidence of an "association" with an organized crime member that itself supports denial. See River Produce Corp. v. Business Integrity Comm., Index No. 113436/2011 (N.Y. Sup. Ct. N.Y. Cty., May 14, 2012) (Sustaining the Commission's decision to deny an application where the applicant "associated with organized crime figures...evidenced by dealings with...[an associate of the Genovese crime family and an associate of the Lucchese crime family.]").

Romeo had affirmatively represented to the Commission that "Paccione will not have any dealings, financial or otherwise with my newly formed company that is the subject of this application." See Application at 12. Nonetheless, Romeo concedes that he went to Paccione's home to purchase a truck for Stallion.[5] The fact that the sale did not occur is of no moment. The Commission relied on Romeo's statement that he would not associate with Paccione when it granted Stallion's Application – a statement that has now been revealed as an affirmative misrepresentation. Such breach is significant and insurmountable, as it goes to the core of the Commission's mission, and by itself, justifies denial.

Stallion repeatedly made material misrepresentations to the Commission and failed to truthfully disclose the nature of Romeo's relationship with Paccione. This alone independently justifies denial. For example. Romeo and his mother (who was a principal of Stallion at the time of the initial application) repeatedly characterized their familial relationship with Paccione as distant and infrequent. Stallion failed to disclose to the Commission that Paccione actually lived with Liberta Romeo only a year before Stallion submitted its initial application. Nor was it disclosed to the Commission that, for four years, Romeo's father used Stallion's truck to take Paccione on "personal errands." Nor was it disclosed that Paccione actually obtained business for Stallion. Rather, Stallion chose to materially misrepresent the manner in which at least two of its accounts were obtained on the Customer Register. That Romeo ultimately provided additional information when confronted by the Commission at his 2009 interview, at his 2010 deposition[6] and now in his recent Response, does not change the fact that Stallion made material

[5] As Romeo himself characterized his visit to Paccione's house as a business dealing for Stallion, it undoubtedly occurred after Stallion was formed, and after Stallion submitted sworn statements to the Commission in support of its license application.

[6] Even in his 2009 and 2010 statements to the Commission, Romeo continued to falsely claim that he had no association with Paccione. Only after continued questioning did Romeo admit to even minimal association.

misstatements and omissions to the Commission in an effort to minimize Paccione's relationship with its principals and in order to obtain and maintain licensure.

Finally, the Commission finds that Stallion's complaint regarding the timing of the instant denial lacks merit. As recently held by the New York State Supreme Court, any delay in reaching a final determination is irrelevant unless the applicant can show prejudice as a result of the delay. See Pure Earth, Inc. v. New York City Business Integrity Comm., Index No. 113998/2010 (N.Y. Sup. Ct. N.Y. Cty., October 5, 2011); See also Parkview Associates v. City of New York, et. al., 71 N.Y.2d 274 (1988) (laches may not be invoked against a municipal agency to prevent it from discharging its statutory duties). Here, Stallion does not articulate actual prejudice, but rather makes a vague and conclusory statement that "[w]itnesses' memory fades," and further appears to argue that Stallion was permitted to operate longer than it should have, given the timing of the facts uncovered by the Commission. The fact that Stallion was allowed to operate and continue earning money during the Commission's ongoing investigation is hardly prejudicial. Moreover, any argument that the Commission should be foreclosed from taking action against an applicant with ties to organized crime because its investigation was lengthy, conflicts with the Commission's statutory duties pursuant to Local Law 42.

Stallion clearly lacks the requisite good character, honesty and integrity to continue operating a trade waste business in the City of New York. Romeo knowingly associated with Paccione, an organized crime figure and a convicted racketeer. Further, he made false statements about such association in an effort to deceive the Commission as to the true extent of the relationship. Accordingly, the Commission's Staff recommends that Stallion's Renewal Application be denied.

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Commission

Conclusion

The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant that it determines to lack in good character, honesty and integrity. The record as detailed above demonstrates that the Applicant falls short of that standard. Accordingly, based on the above independently sufficient reasons, the Commission denies Stallion Recycling Corp.'s license renewal application.

This license denial is effective immediately. Stallion Recycling Corp. may not operate as a trade waste business in the City of New York.

Dated: June 5, 2012

THE BUSINESS INTEGRITY COMMISSION

Shari C. Hyman
Commissioner and Chair

John Doherty, Commissioner
Department of Sanitation

Janet Lim, Assistant General Counsel (designee)
Department of Consumer Affairs

Rose Gill Hearn, Commissioner
Department of Investigation

NYC
Business Integrity
Commission

Kathleen Ahn, General Counsel (designee)
Department of Small Business Services

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