NYC
Business Integrity
Commission

DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE REGISTRATION RENEWAL APPLICATION OF EL CAMINO TRUCKING CORP.TO OPERATE AS A TRADE WASTE BUSINESS

Introduction

El Camino Trucking Corp. (the "Applicant" or "El Camino") has applied to the New York City Business Integrity Commission (the "Commission") for the renewal of its registration to operate a trade waste business pursuant to New York City Administrative Code ("Admin. Code") §16-505(a). Specifically, El Camino seeks an exemption from the licensing requirements and 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." Id.

On December 19, 2012, the staff issued and served the Applicant with a Notice of the Grounds to Recommend Denial of El Camino's Application (the "Recommendation"). The Applicant was granted 10 business days to respond, until January 4, 2013 and then, upon request, a short extension until the close of business on January 7, 2013. See Rules of the City of New York § 2-08(a). The Applicant timely submitted a verified response ("Response"). Based on the record as to the Applicant, the Commission now denies the registration renewal application of El Camino because El Camino lacks good character, honesty and integrity for the following independent reasons:

A. The Applicant has associated with persons identified by law enforcement as members and associates of the Gambino crime family when it knew or should have known of their organized crime associations;

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

C. The Applicant operated illegally for eight years before submitting an application to the Commission.

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 construction and demolition debris removal sector of the City's carting industry has also been the subject of significant successful racketeering prosecutions. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992); 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.); United States v. Caccio, et al., Nos. 94 Cr. 357,358, 359, 367.

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.

Pursuant to Local Law 42, a company "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation," commonly known as construction and demolition debris, or "C & D" removal, must apply to the Commission for an exemption from the licensing requirement. Id. If, upon review and investigation of an exemption application, the Commission grants the applicant an exemption from the licensing requirement, it issues the applicant a Class 2 registration. Id. Before issuing such registration, 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 or registration 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;

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.

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 private carting license (including construction and demolition) 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

On or about March 18, 2005, El Camino applied to the Commission for an exemption from the licensing requirement for the removal of construction and demolition debris. See El Camino's Application for Exemption from Licensing Requirement for Removal of Demolition Debris ("Registration Application"). The Applicant disclosed Peter Ammirati and Steven Kokolis as its principals. See id. at 22. On or about March 1, 2006, the Commission granted the Applicant a trade waste registration. See El Camino Registration Certificate. On March 8, 2006, Mr. Kokolis signed a Registration Order, thereby consenting to the terms and conditions therein. See Registration Order at 6. El Camino's registration was effective for two years, and expired on February 28, 2008. See id. On January 16, 2008 and January 15, 2010, the Applicant filed applications to renew its registration with the Commission. See El Camino's Renewal Application for License or Registration as a Trade Waste Business dated January 16, 2008 ("First Renewal Application"); El Camino's Renewal Application for License or Registration as a Trade Waste Business dated January 15, 2010 ("Second Renewal Application"). In both renewal applications, Ammirati and Kokolis were disclosed as the only principals of the Applicant. See First Renewal Application at 5; Second Renewal Application at 7. Ammirati and Kokolis certified that the information contained in the Registration Application, the First Renewal Application, and the Second Renewal Application was accurate and truthful. See Registration Application at 64;[1] First Renewal Application at 9, 11; Second Renewal Application at 13, 15.

On September 21, 2010, the staff issued an eleven-page recommendation that the El Camino Second Renewal Application be denied ("2010 Recommendation"). On September 21, 2010, the Commission sent that Recommendation to the Applicant's mailing address by regular mail. Pursuant to the Commission's rules, the Applicant had ten business days to submit a response. See 17 RCNY §2-08(a); see also 2010 Recommendation at 11. At the Applicant's request, on September 27, 2010, the Commission provided the Applicant with the non-public as well as public documents relied on by the Commission staff in the 2010 Recommendation. See Letter from Leigh Neren dated September 27, 2010. At the Applicant's request, on October 1, 2010, the Commission granted the Applicant an extension of time, until October 29, 2010, to

[1] Mr. Kokolis only certified the Registration Application.

submit a response to the 2010 Recommendation. See Letter from Leigh Neren dated October 1, 2010.

On October 29, 2010, the Applicant submitted a twenty-two page response with 11 letters of recommendation from persons acquainted with the Applicant's principals ("2010 Response"). In order to provide the Applicant a fuller opportunity to tell its view of the facts, Commission staff deposed the principals of El Camino on January 26, 2011.[2] Unfortunately, Mr. Ammirati's and Mr. Kokolis's testimony was evasive, self-serving, dishonest, vague, and crafted to minimize longstanding business relationships with people connected to organized crime. Mr. Ammirati has worked for or done business with firms connected to or credibly alleged to be connected to organized crime for almost his entire working life. These relationships – neither fleeting nor accidental - began with his first job in the industry and continued, with one relatively short hiatus in the early 1990's, to at least 2008, when several of the people with whom he had done business were indicted for racketeering and later convicted of extortion, fraud, and other crimes. Ammirati's testimony also conflicted with that of his business partner, Kokolis, at key points. Both claimed ignorance of the organized crime ties of those with whom they worked or did business. Because those claims are hard to believe as asserted, the Commission does not credit their protestations of ignorance and denies this application. Even if the Commission accepted their claims at face value it would also have to conclude that El Camino's principals are naïve and ignorant of the circumstances in which they conduct their business to a degree that makes them unfit. Their testimony affords the Commission no basis on which to expect anything other than that El Camino will do business with gangsters yet again, wittingly or unwittingly (if they are not already doing so). Ammirati and Kokolis are by their own admission and past behavior uninterested in attempting to distinguish mafiosi from reputable businesspersons despite, especially in Mr. Ammirati's case, many opportunities to learn how to do so.

As a preliminary matter it should be noted that the Applicant objected to the Recommendation because it did "not report that neither Mr. Ammirati nor Mr. Kokolis have ever been described as *associates of anyone affiliated with organized crime* by prosecutors, agents or anyone else." *Response* at 4 (emphasis added). Elsewhere the Applicant makes a similar point when it takes the Commission to task for failing to produce direct evidence that Mr. Ammirati or Mr. Kokolis are "organized crime associates." *Id.* at 6. The Applicant's formulations blur the applicable standard. The Recommendation says – and only needs to say – that the applicant's principals associated with members or associates of organized crime when they knew or should have known of those persons' organized crime associations. That is distinct from calling them associates of organized crime. Generally speaking, an associate of organized crime is someone who is "on record" with a particular crime family and is spoken for and responsible to a specific member of organized crime, who is in turn answerable for the associate's actions in matters of concern to that crime family. We do not assert that Mssrs. Kokolis and Ammirati are associates in this sense, nor do we need to. *See* N.Y.C. Admin Code 16-509 (Refusal to Issue a License

[2] *See* Response at 8: "If the BIC staff more thoroughly investigates Kokolis and Ammirati, the work they do, and the people they associate with, it will find that they are honest, credible, reliable, and conscientious men who would do nothing to jeopardize El Camino's BIC registration."

(a)(vi) "association with any member or associate of an organized crime group . . . when the applicant knew or should have known of the organized crime associations of such person.").

Ammirati began working as a mechanic in the late 1980s for Berlin Wrecking Ltd., a company run by demolition contractor Philip Schwab[3] and Ammirati's father Patrick. (Tr. at 22). Berlin went out of business in the early 1990s after Patrick Ammirati and another Berlin executive were prosecuted for and pleaded guilty to crimes connected to Berlin's illegal dumping of 5.5 tons of hazardous waste in Hunters Point, Queens.[4] A contemporaneous press account, citing law enforcement sources, described Berlin as "a Port Authority contractor with links to organized crime."[5] On his first job, therefore, Ammirati had the opportunity to learn that the bad acts of his colleagues – one of whom was his father and some of whom law enforcement reputedly considered to be associated with organized crime – could cost him his job and result in prosecution.

In its response, the Applicant refers repeatedly and derisively to the Commission's citation to newspaper articles. It should be clear that we cite such materials not so much to establish the truth of the underlying events but to show notice to the Applicant of certain issues and to assess the reasonableness of Kokolis's and Ammirati's denials that they have ever heard anything about the possible organized crime ties of anyone they ever did business with until, for example, it is safe for them to do as in the case of Gambino soldier Joseph Francolino (*see infra* at 8), or undeniable as in the case of Gambino soldier William Scotto (*infra.* at 13-14). Again the standard is what Ammirati and Kokolis knew or should have known. In that context and without making too much of the point, it is not unreasonable to believe that Mr. Ammirati's very first job in the industry should have made a big impression on him. It ended after a relatively short time with his father's criminal conviction and the dissolution of the company after it was caught illegally dumping hazardous waste, amid allegations in the public record, admittedly by anonymous law enforcement sources, that the company had links to organized crime. The Applicant's response mocks the citation of a recent article discussing the reputation of

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[3] Schwab was profiled in "The Checkered Career of Philip Schwab, Demolition Man," by William Rashbaum and Charles Bagli, *New York Times*, 31 July 2009 (noting, among others things, Schwab's "multiple bankruptcies, myriad lawsuits, and five criminal cases," as well as his "aversion to publicity and "public records.").

[4] *Cf.* the claim in the 2010 Response (at 8) that Ammirati was raised by his family to believe that "if you work hard . . . and always play by the rules, then life would go in a good way for you." Although it could be a case of do as I say not as I do, Ammirati's father's conduct in this instance at any rate suggests that "always play by the rules" may not have been as big a part of the lesson as the Response claims.

In its Response, the Applicant accuses the Commission of taking a "cheap shot" at Ammirati's father (*Response* at 7 fn.2) for this statement, but neglects that El Camino opened the door on the issue by making the reference to the probity of Mr. Ammirati's upbringing without mentioning his father's criminal conviction for illegally dumping hazardous waste. It is a minor point but should not go unaddressed. The Applicant could have initially written what he now seems to contend - that his father used his conviction to teach by negative example. Instead they opted to remain silent about it, left it to the Commission to complete the record and now complain without justification about our doing so.

[5] "Toxic Dumping: City Removes Tons of Waste from PA Site," by Michael Moss and Joseph W. Queen, *Newsday*, 30 Aug. 1992 ("Investigators have linked officials of Berlin Wrecking to organized-crime families in New York and Nevada.").

Ammirati's father's business partner, but omits any mention of the contemporaneous account that mentions the organized crime allegations and thus misses the point. The question is notice to Mr. Ammirati and the reasonableness of his claims of ignorance.

Mr. Ammirati lost his job when Berlin went bankrupt and worked various jobs until 1996 when he went to work for Fast Container Service, Inc. (*Ammirati* Tr. at 20), a carting company which the Trade Waste Commission, this Commission's predecessor, publicly found (also in 1996) to be run by a Gambino crime family soldier (*see* below). Fast Container was nominally owned by Daniel and Joseph Francolino, Jr., but it was one of three companies, along with Staten Island Carting, Inc., and Quick Interior Corp., controlled by their father, Gambino crime family soldier Joseph Francolino Sr. Francolino, Sr. had been indicted in June 1995 in the organized crime case involving the New York City garbage carting industry that, among other things, led to the creation of this Commission. The indictment named 17 members and associates of organized crime, 23 garbage carting companies, and four trade associations representing garbage hauling companies, charging them with racketeering, enterprise corruption, restraint of trade, grand larceny, and arson. Francolino, Sr., and Alphonse Malangone, a Genovese capo, were the two main organized crime defendants in the case. This case and its aftermath received so much attention in the press and other media that it would be futile to try to cite or summarize it here.[6] It is no exaggeration to say that in 1996 when Ammirati went to work for Fast Container, Joseph Francolino was one of the most notorious members of organized crime in New York City, and his notoriety was founded specifically on his running the New York City waste hauling industry in which Mr. Ammirati worked as a mafia cartel.

The detailed and unrefuted factual findings establishing the criminality of the Francolinos' businesses are contained in the "Decision of the Trade Waste Commission[7] Denying the Applications of Staten Island Carting, Inc., Fast Container Services, Inc., and Quick Interior Corporation for Licenses to Operate as Trade Waste Businesses," dated October 23, 1998. An even earlier decision in 1996 by the Trade Waste Commission had already found that Francolino effectively controlled these entities, finding, for example, that Francolino guaranteed the financing of acquisitions and that Staten Island Carting was founded in June 1995, the same month Francolino was indicted, by simply transferring wholesale the assets of Francolino's carting company, Duffy Disposal Co., Inc. See "The Trade Waste Commission's Decision Regarding The Waiver Application of Staten Island Carting Co., Inc.," dated September 27, 1996, at 12-13. The main basis of both decisions was the close relationship between these three companies – Fast, Staten Island and Quick - and Francolino's companies: Duffy Disposal Co., Inc. and Duffy Waste & Recycling. The Trade Waste Commission found that the three companies had engaged in enterprise corruption and criminal restraint of trade and competition in the trade waste industry, and that Francolino was a principal of all three. See License Denial at 2 and 11-35.

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[6] Prior to 1995, Francolino, Sr., had also been the subject of testimony in the racketeering trial of Gambino capo Pasquale Conte. *United States v. Pasquale Conte*, 93-cr-0085 (EDNY)(ILG).

[7] This agency's predecessor agency.

Even though he worked there for two years, Ammirati claims not to have heard anything about the organized crime ties of Fast Container, its affiliated companies or its notorious principals until late 1998 when the businesses were sold to IESI. *Ammirati* Tr. at 19-22 (Ammirati heard Joe Francolino had organized crime ties when they sold the business in 1998 but isn't sure what or how he heard). Thus, Mr. Ammirati was hired by Joe Francolino's company in 1996 a year after Francolino had already been under indictment for a year in the carting cartel case, an indictment Ammirati remained ignorant about for another 2 years. Ammirati continued to work for the Francolinos at Fast Container (1) when the City passed Local Law 42 (in June 1996) creating the Trade Waste Commission to rid the industry of organized crime corruption, (2) when the Commission described the organized crime connections of Fast Container in a September 1996 decision, (3) when the Manhattan DA indicted a second large group of carters in November 1996 for running a vast bid-rigging conspiracy involving public buildings and landmarks, (4) when most of the indicted carters pleaded guilty in February 1997 (the same month Mr. Ammirati started El Camino), and (5) when Francolino himself went to trial with a handful of remaining defendants later in 1997 and (6) was convicted later that year. All of these events were apparently lost on Ammirati, who only admits to hearing something vague about his employer's organized crime ties when Francolino sold Fast Container to IESI in November 1998 and is no longer his employer. Ammirati Dep. at 20-21. It is self-serving, to put it mildly, and preposterous that Ammirati would have been unaware - at any level, even rumor - of Francolino's indictment and allegations about his organized crime ties until the company was sold.[8] Even if one were inclined to credit Ammirati's testimony that he was unaware of the criminal activities and associations of his employers, that would give the Commission a sound basis upon which to expect Mr. Ammirati to remain similarly studiously ignorant of the organized crime ties of anyone, particularly his business colleagues, he comes into contact with.

The issues raised by Mr. Ammirati's employment with Fast Container are whether Mr. Ammirati derived his income from a company owned and operated by a soldier in the Gambino crime family (he did), whether Mr. Ammirati should have known of Joseph Francolino's organized crime associations prior to Francolino selling the company in 1998, and whether Ammirati's testimony was truthful.

The Applicant contends that there is "absolutely no evidence that establishes that Mr. Ammirati had specific knowledge of Francolino's organized crime ties until 1998" but does not address whether Ammirati should have known of those associations. *Response* at 8. The Applicant claims that Ammirati denied nothing and actually deserves "points for his candor." *Id.* The Applicant then blames the Commission's staff for failing to question Mr. Ammirati in sufficient detail. This is the "candid" testimony to which the Applicant refers:

Q. When is the last time that you had any contact with [Joseph Francolino]?

[8] Although less spectacular in its claims of ignorance, Ammirati's testimony about the Francolinos tracks closely with his non-specific, self-serving testimony about William Scotto, Joseph Vollaro, and others who were indicted and implicated in the 2008 Gambino case.

A. When I worked for him twelve years ago.

Q. Did you ever hear or read that he had organized crime ties?

A. Heard about it when the business – when they sold the business.

Q. When was that?

A. When I went to work for IESI in 1998.

Q. What did you read or hear?

A. About what?

Q. About his crime connections?

A. I'm not sure what it was.

Q. You say you learned or heard?

A. I heard. That is the reason why they got out of the business and sold the business.

Q. Okay. Do you remember how you heard?

A. No. It is quite a few years ago. I really don't know.

Q. You heard that your boss was an organized crime figure or had organized crime ties. You might think that it stands out in your mind.

A. There were so many guys working there, drivers, talking, things like that. We heard so many different stories. I don't know.

Q. Do you remember reading it in the papers or just hearing about it among the other men.

A. I was working two or three jobs.

Ammirati Tr. at 20-22.

He isn't sure what he heard, he doesn't remember how he heard it, and whatever he heard he only heard it after Francolino was no longer his employer. There are many ways one could characterize this testimony but it is hard to see how it deserves "points for candor" as the Applicant contends. This is the bare minimum that someone in Ammirati's position could admit.

The one detail that could charitably be characterized as candid – that Fast was being forced to sell *because* of its owners' ties to organized crime – is telling. In 1998, when he says he learned this, Ammirati had already been operating El Camino illegally for almost two years, having failed to apply for permission to haul construction and demolition debris from this agency's predecessor, the Trade Waste Commission - the same agency that was forcing his employer Joe Francolino to sell his company. This was the second company Ammirati worked for that was forced out of business for engaging in criminal behavior. Among other things, one might expect someone in Ammirati's position and with his specific experience to be more – not less – attentive to government regulation than the average applicant when starting his own business. Mr. Ammirati's lack of curiosity – if that is what it is – his lack of effort to comply with the law, and failure to testify candidly when asked basic questions about his career all justify a finding that this Applicant is unfit.

Ammirati's testimony about the startup of El Camino is similarly vague. He testifies that in February 1997, while still working for Fast Container, he bought a truck and started El Camino simply because "I always had a dream to do it since I was a kid . . . I always wanted trucks." *Ammirati* Tr. at 23-24, 25. In its Response, the Applicant contends that the Commission has no one but its staff to blame if it finds Mr. Ammirati's account of the formation of El Camnio inadequate. "[T]he answer to why Mr. Ammirati gave no reason for deciding to pursue his dream is simple: Senior Special Counsel Neren did not ask him for a reason" (*Response* at 9). To the contrary, Ammirati was specifically asked "What made you form El Camino Trucking?" (*Ammirati* Tr. at 23), which elicited the non-specific answer about dreams and trucks. The time in question was one of great tumult in the carting industry because of the 1995 criminal case in which Ammirati's boss was a lead organized crime defendant and its aftermath, including the creation of the Trade Waste Commission, and the relicensing of the entire industry with many carters of all sizes and capacities entering and leaving the industry. Indeed, Ammirati started El Camino in February 1997 just weeks or days after carting company defendants in the criminal case pled out and prepared to leave the industry.[9] That in the midst of this, Ammirati just wanted to realize a childhood interest in trucks is difficult to credit. The Commission simply does not believe he is telling the truth. It is not necessary to attribute a motive to him, but it is not unreasonable to think that Ammirati chose not to testify candidly because to do so would have entailed some discussion of the government agency to which he failed to submit an application or his awareness of the degree of organized crime involvement in the industry, both proven and rumored, a subject on which he seemed determined to avoiding giving anything but the most elusive and cursory answers, as we have seen.

While a bit less vague, Kokolis's testimony about the startup of El Camino is peculiar in other ways. According to Kokolis, he was working at Goldman Sachs when Ammirati, his cousin and childhood friend who was knowledgeable about trucks, came to him and said he

[9] Angelo Ponte and his son Vincent pled on January 27, 1997, Vincent Vigliotti, Sr., on January 28, Michael D'Ambrosio in early February, followed on February 13 by Frank Allocca, Daniel Todisco, Dominick Vulpis, Henry Tamily and Joseph Virzi.

needed an "equity partner" to start El Camino.[10] Kokolis said he agreed to invest some money and buy a truck because he dreamt of managing his own business and not being bossed around by a partner at Goldman Sachs. So El Camino started as a one-truck operation in February 1997. Kokolis Dep. at 10-14. Despite his dream, Kokolis did not actually leave Goldman until June 2003 to work full-time for El Camino to, as he put it, "take this business to the next level." *Id.* at 13.[11]

Ammirati's association with companies connected to the Gambino crime family did not end with the creation of El Camino in 1997.[12] Apart from his continuing to work for Joe Francolino and Fast Container, and for about a year thereafter in 1997-98, El Camino's biggest

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[10] Ammirati testified that the investment consisted of the purchase of a 1973 Autocar for $7,000, with each of them paying half, plus a few thousand more for repairs. *Ammirati* Tr. at 23-25.

[11] For an example of how Kokolis has taken the business to the next level, his description of how El Camino gets customers is instructive. According to Kokolis, El Camino gets business from the "free advertising" of having their name on the door of their trucks as required by BIC regulation. Kokolis doesn't do anything affirmatively to solicit business, and neither he nor Ammirati go out to construction sites unless they are called. Kokolis Dep. at 17-19. "Taking it to the next level" then apparently consists of sitting in the office waiting for potential customers to notice the name on your trucks and call. One suspects that this is not the whole story about how El Camino gets business, especially from its biggest customers, Interstate and Dumpmasters.

In its Response the Applicant objects to this characterization as unfairly belittling Mr. Kokolis's entrepreneurial aspirations. *Response* at 9. The testimony on which the supposedly unfair characterization is based is worth quoting in full. After establishing that no one other than Mr. Ammirati or Mr. Kokolis solicited business for El Camino, the questioning continued:

> Q. How do you solicit business?
> A. It is free advertisements. [The Business Integrity Commission] requires us to put our name on the door. We have gotten a couple of clients from guys we knew in the business, contractors that we knew. Phone calls that we got when customers have seen our trucks on the road.
> Q. Do you do anything affirmatively or proactively to solicit business?
> A. No.
> Q. Nothing?
> A. No.
> Q. Ever?
> A. Restate that question again.
> Q. Has the company, have you or Mr. Ammirati, ever solicited business more proactively than what you just said?
> A. Proactively, yes. I got a phone call from ABC Contracting that says: Hey, I have seen your truck on the road, I have a project on Broadway and Tenth Avenue, can you come and take a look at it? I can come and take a look at it. I would like to establish that relationship, build that relationship, meet them at the job site. Just what any salesman would do, engage in that relationship.
> Q. Before you get contacted though, would you ever go out to construction sites?
> A. No, I never did that.
> Q. Did Peter, or has Peter?
> A. Not that I'm aware of. No, not that I'm aware of.

Kokolis Tr. at 17-19. *Cf. Ammirati* Tr at 27 (Q: Did you proactively solicit business, ever? A. Sure. Q. How? A. Just going and seeing builders that were starting a new project . . ."). Thus, "sitting in the office waiting for potential customers to notice the name on your trucks and call" is a fair characterization of Kokolis's testimony and the Commission stands by it.

[12] By its own admission, El Camino operated without a license for approximately its first eight years, from its incorporation in early 1997 to the filing of its initial application in March 2005. *See infra* at 17.

customer was Interstate Materials (*Kokolis* Tr. at 22-23), a company that was then being investigated by the Trade Waste Commission for its ties to soldier Edward Garafola, Michael DiLeonardo, and other members of the Gambino crime family.[13] Interstate was replaced as El Camino's biggest customer by then-Gambino associate Joseph Vollaro and his company Dumpmasters (*Ammirati* Tr. at 26 and 31-32).[14] Ammirati and Kokolis each give the other credit for obtaining and maintaining Dumpmasters as a customer. Kokolis testified that he didn't know who owned Dumpmasters, never had contact with anyone there, and that it was Ammirati who had the contacts with Dumpmasters, mainly Joe Vollaro and Joe Spinnato.[15] According to Kokolis, it was Ammirati who "booked the trucks" on the Dumpmasters jobs, starting in about 1998, after Dumpmasters "reached out to Peter and Peter built the relationship" until it ended sometime in 2005 or 2006. *Kokolis* Tr. at 31.[16] For his part, Ammirati testified that his role was much more modest. El Camino started working for Dumpmasters, according to Ammirati, after Joe Vollaro or his dispatchers just cold-called El Camino from seeing the telephone numbers on the doors of El Camino trucks, and it was Kokolis who got most of those calls. *Ammirati* Tr. at 26-27. Ammirati was clear that his dealings with Joe Vollaro were practically non-existent: he never met Vollaro, never socialized with him, and never talked to him about what was going on in his business (*id.* at 29, 70, and 71-72). On the specific subject of the debt however, Ammirati is less clear: he both did and did not speak to Vollaro about Dumpmasters owing El Camino money (*id.* at 29 and 68). At another point, he says he "might have" spoken to him about it (*id.* at 67). Whether he did or he didn't however, he was clear that it was Kokolis who called about the debt most of the time (*id.* at 30). Not surprisingly, Kokolis contended that it was actually Ammirati who was "trying more" to collect the debt, because "that was his relationship." *Kokolis* Tr. at 30.

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[13] The Department of Sanitation later denied Interstate's permit for a transfer station because of those ties on the recommendation of the Trade Waste Commission. The City suspended the Staten Island Fresh Kills cover contract with Interstate in 2000 in order to investigate allegations of involvement with organized crime. Although the Applicant is correct that the Commission lacks direct evidence that the Applicant had specific knowledge of the organized crime allegations, it remains true that yet again, the El Camino then operating illegally, derived most of its income from a company, then under active investigation by the Trade Waste Commission, that was connected to the Gambino family. Although the Applicant denies any knowledge of anything to do with organized crime and Interstate, it self-servingly claims to have been aware that Interstate hired a former Commissioner of the Department of consumer Affairs in 1998 and that it relied on that fact in reaching the determination that Interstate was a law-abiding company.

[14] Vollaro's long relationship with the Gambino crime family and his status as an associate beginning after his arrest and incarceration for drug possession in 1987 is described in detail in the Government's August 3, 2008 Sentencing Memo in *United States v. Agate*, 08-cr-76 (EDNY)(JBW) ("Government's Sentencing Memo"). Vollaro, who became a cooperating witness, is not named but appears in the memo throughout as John Doe #4. Although prosecutors did not name Vollaro, this Commission participated in the case and knew his identity. The Commission also had Dumpmasters' application on file in which Vollaro is disclosed as a driver and his mother Catherine Vollaro, the sole principal. In addition, Vollaro's identity was widely discussed in the press at the time.

[15] Joseph Spinnato is a Gambino family associate who pleaded guilty to mail fraud conspiracy in *United States v. Agate*, 08-cr-0076 (EDNY) (KBW) and was sentenced to 4 months in prison.

[16] In 2011, Ammirati testified that the relationship with Dumpmasters ended around "5 or 6 years ago," which would place the end of the relationship in 2006. *Ammirati* Tr. at 32. Elsewhere Ammriati testifies that El Camino stopped working for Dumpmasters 4 or 5 years before the February 2008 indictment in *U.S. v. Agate*, which is inconsistent with both Kokolis's testimony and his own elsewhere and seems to be a misstatement, perhaps out of an over-eagerness to distance El Camino from Dumpmasters.

One result of this incoherent testimony is that the Commission does not have a credible account from the principals on the key points of how El Camino's relationship with Dumpmasters began and how it was conducted. The testimony impedes rather than furthers the Commission's investigation, and suggests that truthful testimony would likely be damning.

The principals at least agree that at some point Dumpmasters owed El Camino money and as a result El Camino ceased working for Dumpmasters, probably sometime in 2005 or 2006. Around the same time, in early June 2005, Gambino soldier William Scotto approached Joseph Vollaro to collect the debt Dumpmasters owed to El Camino. *United States v. William Scotto*, 08-cr-0076 (EDNY), 29 May 2008 Transcript of Plea Allocution at 10 and 23.[17] It is obviously unacceptable for a soldier in the Gambino crime family to collect El Camino's commercial debts through extortion. Whether Scotto intended to just keep whatever money he got from Vollaro or was going to leverage his debt collection efforts to extort El Camino does not change the identity of the collector or the means he employed to attempt to collect El Camino's debt. If El Camino's principals knew about Scotto's collection efforts and did nothing, they are obviously unfit. And if they were so out of touch with their own business that they were unaware of Scotto's extortion of Dumpmasters for another two and a half years and even then are content to simply rely on their attorneys to provide them with information about what happened, they are similarly unfit for their lack of control over their business and extreme lack of diligence in attempting to find out what happened at any point along the way.

On this crucial point, again, the testimony of El Camino's principals impedes rather than furthers the Commission's efforts to find out what happened. Despite the fact that Scotto was attempting to collect a debt owed to their company, Ammirati and Kokolis, predictably, deny any knowledge of Scotto's actions and claim that they first learned about them along with Scotto's organized crime ties from their attorneys after Scotto was indicted in February 2008. According to Ammirati, "a friend" called him and told him El Camino was mentioned in the indictment. *Ammirati* Tr.. at 53-54. *Kokolis* Tr. at 38-41. Both Kokolis and Ammirati knew who Scotto was and had met him a few times at the premises of Firehawk Enterprises, a company El Camino admittedly did business with that was run by Gambino soldier Anthony Licata. Ammirati met Scotto there once and talked to him about some trucks that needed repair. *Ammirati* Tr. at 40-45. Kokolis also met Scotto at Firehawk 3 or 4 times and spoke with him there. *Kokolis* Tr. at 38-41. El Camino worked with Firehawk until the end of 2006, about the same time Scotto was indicted for racketeering and other crimes in *United States v. Gammarano*, 06-cr-0072 (EDNY), an event

[17] It is worth noting that this is exactly how Dumpmasters itself became an asset of the Gambino family. *See* Government's Sentencing Memo, at 3 (After Vollaro was released from prison in December 1999, he began working to grow Dumpmasters, which he had started prior to his incarceration, with Joseph Spinatto, a Gambino associate under Thomas Cacciopoli, a Gambino family captain. While Vollaro was incarcerated, Cacciopoli had collected a debt for Dumpmasters and, as such, the business was now "with" Cacciopoli. This meant that among other things, each month Vollaro and his partner paid Cacciopoli protection money).

that was well covered in the media.[18] Ammirati and Kokolis claimed not to know how Scotto found out about the debt Dumpmasters owed to El Camino. Both denied telling him themselves. *Ammirati* Tr. at 51, *Kokolis* Tr. at 41, 44. They speculated that Scotto may have learned about it from small talk among drivers. *Kokolis* Tr. at 55-56. *Ammirati* Tr. at 51-52, 72-73. As to what Scotto intended to do with the money if he got it, Kokolis speculated that he was just going to keep it or try to extort El Camino. *Kokolis* Tr. at 54-55.

Given that both of El Camino's principals had had personal dealings with Scotto in the course of their business and given Scotto's notoriety in 2006, it is hard to believe that neither of them knew of Scotto's status as an organized crime figure until February 2008, when Scotto was indicted again. Even then, at that late date, neither of them does anything other than call their attorneys and ask them to find out what happened, despite working in the industry that is at the center of the indictment and personally knowing and doing business both with the Government's cooperating witness in the case and with many of those charged.[19] The Commission cannot credit this self-serving and dishonest testimony of El Camino's principals, though even if it did so, the substance of their testimony renders them unfit and El Camino unworthy of registration as a trade waste business.

In addition to Interstate, Firehawk, and Dumpmasters, El Camino also did business with two other companies that were connected to the Gambino crime family. Although Ammirati denied it, Kokolis conceded that El Camino did business with Jo-Tap Equipment & Leasing in 2004 or 2005. *Ammirati* Tr. at 83-84, *Kokolis* Tr. at 63-67 and 74-75. Jo-Tap was owned by Mario Cassarino, a soldier in the Gambino crime family who pleaded guilty to 2 counts of conspiracy to commit extortion *United States v. Agate*, 08-cr-0076 (EDNY) (JBW) and was sentenced to 27 months in prison. Likewise, Kokolis concedes that, in 2005, El Camino did "projects" together with Gino Cracolici (Kokolis Dep. at 63-67), a Gambino associate who pleaded guilty to conspiracy to commit extortion in *United States v. Agate*, 08-cr-0076 (EDNY) (JBW) and was sentenced to 3 years supervised release.

Both Ammirati and Kokolis deny hearing about, let alone actual knowledge of, the organized crime ties of any of these business associates or anyone else, until informed about them by their attorneys in February 2008. Kokolis claimed that he relied exclusively on the information provided to him by his lawyers and did not even read anything about the indictment because he had no interest in it. Kokolis Dep. at 29 ("It isn't an interest of mine. It's not what I'm about. It doesn't interest me. It doesn't.") and 47 (" I did not [read about William Scotto]. It is not an

[18] See, e.g., "Gotti Case Spawns Fraud Charges Against Pair," by Anthony M. DeStefano, *Newsday*, December 12, 2006, and "2 Alleged Mobsters Face Racketeering Rap," by Jeff Harrell, *Staten Island Advance*, December 13, 2006.

[19] The Applicant's charge that the Commission is somehow suggesting that it is "improper for El Camino to work with its legal counsel to get information about the 2008 indictment" or protect their rights is misplaced (*Response* at 12). The Commission makes no such contention. Rather, it questions the veracity of the principals' testimony that apart from speaking to their attorneys, and with only inconsequential exceptions, they spoke to no one else and heard nothing from any other source about anything connected with the 2008 case, Scotto's 2006 case or any other case or anything to do with organized crime at any time. *See*, e.g. *Ammirati.* Tr at 64 .

interest of mine. It is not. I don't read about it. I never did read about it. It is not my makeup."). Ammirati was similarly disinterested. He was concerned about El Camino's name being mentioned in the indictment, but that was the extent of his concern. Ammirati Dep. at 57 ("the El Camino name was in there, and the other names I wasn't really concerned about."). Even that concern was minimal as Ammirati never discussed the indictment with anyone other than his attorneys. *Id.* at 62.

Basis for Denial

For the reasons set forth below, the Commission denies El Camino's Registration Application:

A. The Applicant has associated with persons identified by law enforcement as members and associates of the Gambino crime family when it knew or should have known of their organized crime status.

The Commission is expressly authorized to deny the license application of a carting company if its principals have had business dealings with known organized crime figures. *See* NYC Admin code §16-509(a)(vi); SRI, 107 F. 3d at 998. The Commission may consider this factor in determining an applicant's eligibility for an exemption from licensing and a trade waste registration. *See supra* at 5-6. Here, the Applicant, and its principals, has from its inception done business with members and associates of organized crime when it knew or should have known of their organized crime status. Moreover, one of El Camino's principals has a long history of such associations under circumstances which belie his claims of ignorance.

As described above, El Camino and its principals have done business with numerous organized crime members and associates. Prior to starting El Camino, Ammirati worked for a company owned by Joseph Francolino, Sr., a Gambino soldier notorious at the time for his influence in the carting industry. While continuing to work for Francolino, Ammirati, with Kokolis, starts El Camino in 1997. From the beginning, El Camino's largest customer was Interstate Materials, a company then under investigation and later denied a transfer station permit for ties to the Gambino crime family. In 1998, another Gambino-connected company, Dumpmasters, owned by longtime Gambino associate Joseph Vollaro, replaced Interstate as El Camino's largest customer and source of revenue and remained so until 2005 or 2006. Along the way, El Camino, did business with other businesses run by persons connected to the Gambino family and continued to do so until many were indicted in February 2008. El Camino's principals either did business with or had personal dealings in a business context with Joseph Vollaro, Joseph Licata, William Scotto, Gino Cracolici, and Mario Cassarino. The Applicant's claims of innocent and coincidental association might be marginally more worthy of belief if Ammirati and Kokolis were not determined to remain aggressively and willfully ignorant about the involvement of organized crime in their industry and particularly with the companies they do business with. It is not enough to say, as Kokolis does, that "it doesn't interest me."

Their claims of ignorance about William Scotto are particularly hard to credit. Scotto had been indicted for racketeering and identified by law enforcement as a Gambino soldier at least as early as December 2006. Ammirati and Kokolis had prior if not contemporaneous personal business dealings with him. The indictment was well-covered in the media. Even if Kokolis and Ammirati studiously ignored the media coverage, it is not likely everyone else in the industry who knew Scotto did so as well, and it is equally unlikely that no one spoke about it and no word of it ever reached Kokolis and Ammirati. Ammirati and Kokolis readily invoke industry scuttlebutt to explain – however improbably - how Scotto might have found out about Dumpmasters's debt to El Camino. But when it comes to Scotto's indictment for racketeering and identification as an organized crime figure, the Applicant invites us to believe that those same sources of rumor and industry chatter fall silent. They believe in rumor when it suits their purposes but not otherwise. El Camino cannot have it both ways.

Without some evidence of effort by the Applicant to discover and cease doing business with gangsters and racketeers, it is reasonable for the Commission to conclude that El Camino will continue to do business with them. The Commission therefore finds that El Camino lacks good character, honesty, and integrity, and on this independent ground, denies its renewal application.

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

The Commission may refuse to issue a registration to an applicant that has filed "to provide truthful information in connection with the application." *See* Admin. Code §16-509(a), (b); Attonito, 3 A.D.3d 415. *See also* Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept.).

As discussed above, El Camino's principals make a general claim of ignorance about the organized crime status of every organized crime figure with whom they come in contact without exception. As a general matter this is unlikely in the extreme. In particular, Ammirati's claims to have learned of the organized crime status of Joseph Francolino only in 1998 is preposterously self-serving and not worthy of belief. Ammirati and Kokolis's claims to be unaware of William Scotto's organized crime ties are also not credible. Similarly, their claims to have obtained whatever notice or knowledge they have about the organized crime status of their business associates solely from their attorneys only after February 2008 cannot be credited.

The two principals gave inconsistent accounts of the origins of El Camino's relationship with Dumpmasters, a matter of great interest to the Commission. *See supra* at 10. It is not incumbent upon the Commission to say which version is accurate or whether both are false. It is enough to say they cannot both be true and that at least one of the principals provided false information.

In addition to the false and misleading testimony about these matters, question 10 of El Camino's first renewal application asks if the applicant business or its principal has "knowingly

associated in any manner with any member or associate of organized crime." The Applicant answered "no." First Renewal App. at 4. The Commission finds that this assertion is false.[20]

The Commission therefore finds that El Camino has knowingly failed to provide information and has provided false and misleading information, and on this independent ground, denies its renewal application.

C. The Applicant Operated Illegally for Eight Years Before Submitting an Application.

The applicant does not deny that it started doing business in early 1997. Yet the Commission did not receive an application from El Camino until March 17, 2005. For approximately eight years then, El Camino operated illegally in New York City. The Applicant rightly points out that it has already paid a $5,000 fine in settlement for operating illegally prior to 2005, and goes on to argue that this should preclude the Commission from relying on the period of El Camino's illegal operation as a basis for denial (*Response* at 13-14). As a general matter and if the record had remained unchanged the point is well taken, but what we have subsequently discovered about El Camino's business during that period makes it appropriate to revisit the issue and question the appropriateness of that resolution. Given Ammirati's experience in the industry and the timing of the founding of El Camino, the failure to file was almost certainly willful. That the bulk of El Camino's income subsequently came from businesses connected to the Gambino crime family also justifies reopening this issue.

Accordingly, the Commission finds El Camino unfit on this independently sufficient ground and denies its application.

[20]The Applicant has also violated the condition of its Registration Order which prohibits it from "knowingly associat[ing] with any member or associate of organized crime or any racketeer in any manner." El Camino Registration Order at 3.

Business Integrity Commission

Conclusion

The Commission is vested with broad discretion to issue a license or refuse to grant an exemption from the license requirement and issue a registration in lieu of a license, to any applicant who it determines to be lacking in good character, honesty and integrity. The record as detailed above demonstrates that the Applicant falls short of that standard. Based on the above independently sufficient reasons, the Commission denies the Registration Renewal Application of El Camino Trucking Corporation.

This exemption/registration denial is effective immediately. The Applicant, El Camino Trucking Corporation, may not operate as a trade waste business in the City of New York.

Dated: January 14, 2013

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

Victor Olds, First Deputy Commissioner (designee)
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