THE CITY OF NEW YORK
BUSINESS INTEGRITY COMMISSION
100 CHURCH STREET, 20TH FLOOR
NEW YORK, NEW YORK 10007

DECISION OF THE BUSINESS INTEGRITY COMMISSION TO DENY THE APPLICATION OF EMPIRE STATE RUBBISH REMOVAL DBA 1-800-GOT-JUNK? FOR A LICENSE TO OPERATE AS A TRADE WASTE BUSINESS

Empire State Rubbish Removal DBA 1-800-GOT-JUNK? ("Empire State" or the "Applicant") has applied to the New York City Business Integrity Commission, formerly known as the New York City Trade Waste Commission, ("Commission"), for renewal of its license to operate a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), §§16-505(a), 16-508. Local Law 42, which created the Commission to license and regulate the commercial carting industry in New York City, was enacted to address pervasive organized crime and other corruption in the industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

Local Law 42 authorizes the Commission to refuse to issue a license to any applicant, who it determines, in the exercise of its discretion, lacks good character, honesty, and integrity. See Admin. Code §16-509(a). The statute identifies a number of factors that, among others, the Commission may consider in making its determination. See id. §16-509(a)(i)-(x). These illustrative factors include the failure to provide truthful information to the Commission, certain civil or administrative findings of liability, and certain associations with organized crime figures.

Based upon the record, the Commission denies Empire State's Trade Waste License renewal application because the Applicant lacks good character, honesty and integrity for following reasons:

A. The Applicant has repeatedly failed to respond to Commission directives showing its disregard for the Commission's authority and the laws which govern the trade waste industry.

B. The Applicant failed to pay government obligations for which judgments have been entered.

I. BACKGROUND

The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. Beginning in the late 1950's, and until only recently, the commercial carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life":

> Like those dense stars found in the firmament, the cartel can not be seen and its existence can only be shown by its effect on the conduct of those falling within its ambit. Because of its strong gravitational field, no light escapes very far from a "black hole" before it is dragged back . . . [T]he record before us reveals that from the cartel's domination of the carting industry, no carter escapes.

Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) ("SRI") (citation omitted).

Extensive evidence presented at lengthy City Council hearings addressing the corruption that historically has plagued this industry revealed the nature of the cartel: an entrenched anticompetitive conspiracy carried out through customer-allocation agreements among carters, who sold to one another the exclusive right to service customers, and enforced by organized crime-connected racketeers, who mediated disputes among carters. See generally Peter Reuter, Racketeering in Legitimate Industries: A Study in the Economics of Intimidation (RAND Corp. 1987). After hearing the evidence, the City Council found:

(1) "that the carting industry has been corruptly influenced by organized crime for more than four decades";

(2) "that organized crime's corrupting influence over the industry has fostered and sustained a cartel in which carters do not compete for customers";

(3) that to ensure carting companies' continuing unlawful advantages, "customers are compelled to enter into long-term contracts with onerous terms, including 'evergreen' clauses";

(4) "that the anti-competitive effects of this cartel have resulted, with few exceptions, in the maximum [legal] rates . . . effectively being the only rate available to businesses";

(5) "that businesses often pay substantially higher amounts than allowed under the maximum rate because carters improperly charge or overcharge for more waste than they actually remove";

(6) "that organized crime's corrupting influence has resulted in numerous crimes and wrongful acts, including physical violence, threats of violence, and property damage to both customers and competing carting firms";

(7) "that recent indictments have disclosed the pervasive nature of the problem, the structure of the cartel, and the corruption it furthers through the activities of individual carters and trade associations";

(8) "that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct"; and

(9) "that a situation in which New York City businesses, both large and small, must pay a 'mob tax' in order to provide for removal of trade waste is harmful to the growth and prosperity of the local economy."

Local Law 42, § 1.

The criminal cartel operated through the industry's four leading New York City trade associations, the Association of Trade Waste Removers of Greater New York ("GNYTW"), the Greater New York Waste Paper Association ("WPA"), the Kings County Trade Waste Association ("KCTW"), and the Queens County Trade Waste Association ("QCTW"), all of which were controlled by organized crime figures for many years. See, e.g., Local Law 42, §1; United States v. International Brotherhood of Teamsters (Adelstein), 998 F.2d 120 (2d Cir. 1993). As the Second Circuit found, regardless of whatever limited legitimate purposes these trade associations might have served, they "operate[d] in illegal ways" by "enforc[ing] the cartel's anticompetitive dominance of the waste collection industry." SRI, 107 F.3d at 999.

In June 1995, all four trade associations, together with seventeen individuals and twenty-three carting companies, were indicted on enterprise corruption, criminal antitrust, and related charges as a result of a five-year investigation into the industry by the Manhattan District Attorney's Office and the New York Police Department. See People v. Ass'n of Trade Waste Removers of Greater New York Inc. et al., Indictment No. 5614/95 (Sup. Ct. N.Y. Cty.). The defendants included capos and soldiers in the Genovese and Gambino organized crime families who acted as "business agents" for the four trade associations, as well as carters closely associated with organized crime and the companies they operated. In essence, the carting industry's modus operandi, the cartel, was indicted as a criminal enterprise.

More carting industry indictments followed. In June 1996, both the Manhattan District Attorney and the United States Attorney for the Southern District of New York

obtained major indictments of New York metropolitan area carters. The state indictments, against thirteen individuals and eight companies, were (like their 1995 counterpart) based upon undercover operations, including electronic surveillance intercepts, which revealed a trade waste removal industry still rife with corruption and organized crime influence. The federal indictment, against seven individuals and fourteen companies associated with the Genovese and Gambino organized crime families (including the brother and nephew of Genovese boss Vincent "Chin" Gigante), included charges of racketeering, extortion, arson, and bribery. See United States v. Mario Gigante et al., No. 96 Cr. 466 (S.D.N.Y.). In November 1996, the Manhattan District Attorney announced a third round of indictments in his continuing investigation of the industry, bringing the total number of defendants in the state prosecution to thirty-four individuals, thirty-four companies, and four trade waste associations.

The accuracy of the sweeping charges in the indictments has been repeatedly confirmed by a series of guilty pleas and jury verdicts. On October 23, 1996, defendant John Vitale pleaded guilty to a state antitrust violation for his participation in the anticompetitive criminal cartel. In his allocution, Vitale, a principal of the carting company Vibro, Inc., acknowledged that he turned to the trade associations, and specifically to Genovese capo Alphonse Malangone and Gambino soldier Joseph Francolino, to obtain their assistance in preventing another carter from bidding on waste removal services for a "Vibro-owned" building in Manhattan.

On January 27, 1997, Angelo Ponte, a lead defendant in the state prosecution and the owner of one of the City's largest carting companies, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of two to six years and to pay $7.5 million in fines, restitution, and civil forfeitures. In his allocution, Ponte acknowledged the existence of a "property rights" system in the New York City carting industry, enforced by a cartel comprised of carters and their trade associations through customer allocation schemes, price fixing, bid rigging, and economic retaliation, for the purpose of restraining competition and driving up carting prices and carting company profits. His son, Vincent J. Ponte, pleaded guilty to paying a $10,000 bribe to obtain a carting contract to service an office building. Both defendants agreed to be permanently barred from the City's carting industry.

On January 28, 1997, Vincent Vigliotti became the fourth individual defendant to plead guilty to carting industry corruption charges. In addition, two carting companies and a transfer station run by Vigliotti's family under his auspices pleaded guilty to criminal antitrust violations. In his allocution, Vigliotti confirmed Ponte's admissions as to the scope of the criminal antitrust conspiracy in the City's carting industry, illustrated by trade association-enforced compensation payments for lost customers and concerted efforts to deter competitors from entering the market through threats and economic retaliation. Vigliotti agreed to serve a prison term of one to three years, to pay $2.1 million in fines, restitution, and civil forfeitures, and to be permanently barred from the City's carting industry.

On February 13, 1997, the KCTW pleaded guilty to criminal restraint of trade and agreed to pay a $1 million fine, and four individuals who were officers of or otherwise closely associated with the KCTW, as well as their affiliated carting companies, pleaded

guilty to corruption charges. The Brooklyn carters who were the KCTW's principal representatives -- president Frank Allocca and vice-president Daniel Todisco -- pleaded guilty to attempted enterprise corruption, as did Brooklyn carter Dominick Vulpis; each of their defendant companies pleaded guilty to criminal restraint of trade. Brooklyn carter and KCTW secretary Raymond Polidori also pleaded guilty to criminal restraint of trade, as did two related companies controlled by Polidori. These individual defendants agreed to pay fines ranging from $250,000 to $750,000, to serve sentences ranging from probation to 4½ years in prison, and to be permanently barred from the City's carting industry. The same day, Manhattan carters Henry Tamily and Joseph Virzi pleaded guilty to attempted enterprise corruption and agreed to similar sentences, fines, and prohibitions. All six defendants confirmed the existence of the criminal cartel and admitted to specific instances of their participation in it.

On February 24, 1997, defendants Michael D'Ambrosio, Robros Recycling Corp., and Vaparo, Inc. all pleaded guilty in allocutions before New York Supreme Court Justice Leslie Crocker Snyder. D'Ambrosio pleaded guilty to attempted enterprise corruption, and his companies pleaded to criminal antitrust violations.

On July 21, 1997, Philip Barretti, another lead defendant in the state prosecution and the former owner of the City's largest carting company, pleaded guilty to two counts of attempted enterprise corruption and agreed to a prison sentence of 4½ to 13½ years and to pay $6 million in fines, restitution, and civil forfeitures. Frank Giovinco, former head of the WPA, pleaded guilty to attempted enterprise corruption and agreed to a prison sentence of 3½ to 10½ years. Carters Paul Mongelli and Louis Mongelli also pleaded guilty to attempted enterprise corruption, and agreed to prison sentences of four to twelve and $3^1/_3$ to ten years, respectively. All four defendants agreed to be permanently barred from the City's carting industry. On the same day, Philip Barretti, Jr. and Mark Barretti pleaded guilty to an environmental felony and commercial bribery, respectively, and agreed to be sentenced to five years probation. The Barretti and Mongelli carting companies also pleaded guilty at the same time. A few days later, the WPA pleaded guilty to criminal restraint of trade.

In the federal case, on September 30, 1997, Thomas Milo, a Gambino family associate, and his company, Suburban Carting, among others, pleaded guilty to federal charges of conspiracy to defraud the United States and to make and file false and fraudulent tax returns, and, respectively, to defraud Westchester County in connection with a transfer station contract and to violate the Taft-Hartley Act by making unlawful payments to a union official. In their allocutions, Suburban and Milo admitted that one objective of the conspiracy was to conceal the distribution of cartel "property rights" profits by engaging in sham transactions.

The pleas of guilty to reduced charges by the state defendants took place in the context of an ongoing prosecution of the entire enterprise corruption conspiracy, in which testimony had begun in March 1997. The remaining defendants were the GNYTW, Gambino soldier Joseph Francolino and one of his carting companies, Genovese capo Alphonse Malangone, and two carting companies controlled by defendant Patrick Pecoraro (whose case, together with the case against the QCTW, had been severed due to the death of their attorney during the trial). On October 21, 1997, the jury returned guilty

verdicts on enterprise corruption charges – the most serious charges in the indictment – against all six of the remaining defendants, as well as guilty verdicts on a host of other criminal charges. On November 18, 1997, Francolino was sentenced to a prison term of ten to thirty years and fined $900,000, and the GNYTW was fined $9 million. On January 12, 1998, Malangone was sentenced to a prison term of five to fifteen years and fined $200,000.

On January 21, 1998, Patrick Pecoraro pleaded guilty to attempted enterprise corruption and agreed to serve a prison sentence of one to three years, to pay a $1 million fine, and to be barred permanently from the City's carting industry. On the same day, the QCTW pleaded guilty to a criminal antitrust violation and agreed to forfeit all of its assets. Numerous other guilty pleas followed. On December 21, 1999, all of the guilty verdicts were affirmed on appeal. See People v. GNYTW, 701 N.Y.S.2d 12 (1st Dep't 1999).

In sum, it is far too late in the day for anyone to question the existence of a powerful criminal cartel in the New York City carting industry. Its existence has been proven beyond a reasonable doubt. The proof at trial also established conclusively that the cartel which controlled the carting industry for decades through a rigorously enforced customer-allocation system was itself controlled by organized crime, whose presence in the industry was so pervasive and entrenched – extending to and emanating from all of the industry's trade associations, which counted among their collective membership virtually every carter – that it could not have escaped the notice of any carter. These criminal convictions confirm the judgment of the Mayor and the City Council in enacting Local Law 42, and creating the Commission, to address this pervasive problem.

B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs (the "DCA") for the licensing of businesses that remove, collect, or dispose of trade waste. See Admin. Code § 16-503. The carting industry immediately challenged the new law, but the courts have consistently upheld Local Law 42 against repeated facial and as-applied constitutional challenges by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, 940 F. Supp. 656 (S.D.N.Y. 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. Cty. Dec. 4, 1996); Fava v. City of New York, No. CV-97-0179 (E.D.N.Y. May 12, 1997); Imperial Sanitation Corp. v. City of New York, No. 97 CV 682 (E.D.N.Y. June 23, 1997); PJC Sanitation Services, Inc. v. City of New York, No. 97-CV-364 (E.D.N.Y. July 7, 1997).

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). After providing a license applicant with notice and an opportunity to be heard, the Commission may "refuse to issue a license to an applicant who lacks good character, honesty and integrity." Id. §16-509(a). Although Local Law 42 became effective immediately,

carting licenses previously issued by the DCA remained valid pending decision by the Commission on timely filed license applications. See Local Law 42, §14(iii)(a).

As the United States Court of Appeals has definitively ruled, an applicant for a carting license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997). In determining whether to issue a license to an applicant, the Commission may consider, among other things, the following matters, if applicable:

(i) failure by such applicant to provide truthful information in connection with the application;

(ii) 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;

(iii) 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;

(iv) 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;

(v) 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;

(vi) 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;

(vii) 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;

(viii) 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;

(ix) 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;

(x) failure to pay any tax, fine, penalty, or fee related to the applicant's business for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction.

Admin. Code § 16-509(a)(i)-(x).

II. HISTORY OF THE APPLICANT

On October 15, 2007, Empire State ("Applicant") applied to the Commission for a license to operate a trade waste business. See Empire State's Application for a Trade Waste Removal License. The listed principal of this business was Karim Charles Collett. The Commission conducted a background investigation of the Applicant and on or about January 11, 2008, the Commission issued the Applicant a Trade Waste Removal License ("License"). This License was effective February 1, 2008 and valid for a period of two years. During this two year period that Applicant held a valid License, the following directives and violations were issued to the Applicant:

- On or about December 1, 2008, the Commission issued a directive to Empire State which ordered the submission of a proposed customer bill to the Commission, before January 1, 2009. See Trade Waste Violation ("TW") 3569. Empire State failed to respond to this Commission directive and on April 9, 2009 a violation was issued. Empire State failed to appear at the scheduled hearing and the New York City Department of Consumer Affairs Administrative Tribunal ("DCA") issued a Default Decision and Order ("judgment") in the amount of $10,000.00.

- On or about December 23, 2008, the Commission issued a violation to Empire State for failing to provide off street parking for vehicles used to transport waste in violation of Title 17 Rules of the City of New York ("RCNY") §5-08. See TW 3358. Empire State failed to appear at the

scheduled hearing and DCA issued a judgment in the amount of $10,000.00.

- On or about December 24, 2008, the Commission issued a directive to Empire State which ordered the submission of customer register data to the Commission for the period of July 1, 2008 to December 26, 2008, before January 30, 2009. See TW 3615. Empire State failed to respond to the Commission directive and failed to submit its customer register data. On February 25, 2009, a violation was issued. Empire State failed to appear at the scheduled hearing and DCA issued a judgment in the amount of $10,000.00.

- On or about March 12, 2009, the Commission issued a directive to Empire State which ordered that it respond to a semi-annual waste survey conducted by New York City Department of Sanitation before April 20, 2009. See TW 4460. Empire State failed to respond to this Commission directive and on September 10, 2009, a violation was issued. Empire State failed to appear at the scheduled hearing and DCA issued a judgment in the amount of $10,000.00.

- On or about June 1, 2009, the Commission issued a directive to Empire State which ordered the submission of its annual financial statement for the year 2008 to the Commission, before August 17, 2009. See TW 4762. Empire State failed to respond to this Commission directive and failed to file its 2008 Annual Financial Statement. On or about November 19, 2009, a violation was issued. Empire State failed to appear at the scheduled hearing and DCA issued a judgment in the amount of $10,000.00.

- On or about July 6, 2009, the Commission issued a directive to Empire State which ordered the submission of its customer register data to the Commission for the period of January 1, 2009 to June 30, 2009, before July 31, 2009. See TW 4605. Empire State failed to respond to the Commission directive and failed to submit its customer register data. On or about September 25, 2009, a violation was issued. Empire State failed to appear at the scheduled hearing and DCA issued a judgment in the amount of $20,000.00.

- On or about December 16, 2009, the Commission issued a directive to Empire State which ordered the submission of its customer register data to the Commission for the period of July 2009 to December 2009, before January 31, 2010. See TW 5235. Empire State failed to respond to the Commission directive and failed to submit its customer register data. On or about December 2, 2010, a violation was issued. Empire State failed to appear at the scheduled hearing and DCA issued a judgment in the amount of $20,000.00.

- On or about December 17, 2009, the Commission issued a directive to Empire State which ordered that it resolve the judgments by January 5, 2010.

On February 2, 2011, Empire State submitted an application to the Commission to renew its License. See Empire State's Renewal Application for a License or Registration as a Trade Waste Business ("Renewal Application"). The Commission's background investigation revealed the seven outstanding judgments, totaling $90,000.00. See supra at 8-10.

On or about February 23, 2011, a member of the Commission's Background Investigation Unit contacted Mr. Collett and advised him that the judgments must be resolved before Empire State's Renewal Application could be approved. Mr. Collett was granted time to resolve the judgments while the Commission's background investigation progressed. However, Mr. Collett did not resolve the judgments.

On or about June 22, 2011, a member of the Commission's staff again contacted Mr. Collett to advise him that he must resolve the outstanding judgments before Empire State's Renewal Application could be approved. Mr. Collett was advised that failing to resolve the outstanding judgments would result in the denial of his Renewal Application. After several additional telephone conversations and email correspondences, on or about June 30, 2011, Mr. Collett was granted until August 1, 2011 to resolve the outstanding judgments. See Commission Staff's email to Mr. Collett dated June 30, 2011 at 12:30 PM.

On August 1, 2011, Mr. Collett still had not resolved the judgments. Additional email correspondences and telephone conversations were exchanged with Mr. Collett and his accountant, regarding the outstanding judgments. However, Mr. Collett failed to resolve the judgments, despite the numerous opportunities.

On January 3, 2012, the Commission's Staff served Empire State with the Commission Staff's recommendation that Empire State's Renewal Application be denied. See Recommendation of the Staff that the Business Integrity Commission Deny the Application of Empire State Rubbish Removal DBA 1-800-GOT-JUNK? For a License to Operate as a Trade Waste Business ("Recommendation"). Empire State was given until January 20, 2012 to submit their response to the Recommendation.

On January 4, 2012, Mr. Collett responded in an email message which did not assert any legal arguments or controvert the Recommendation's factual findings. See Mr. Collett's email to the Commission dated January 4, 2012 at 9:43 PM ("Response"). In the Response, Empire State claimed that it had ceased operations, and that it had notified the Commission. However, the Response failed to provide proof to support this assertion.[1] Notwithstanding Empire State's claims, the Commission remains empowered to make a finding as Empire State's Renewal Application is still pending.

[1] The Commission's records do not show that Empire State notified the Commission that it had ceased to operate. Rather, the records show that Empire State is still in possession of items required to operate a trade waste business: its trade waste registration plates and its License. Furthermore, as of January 23, 2012, the New York State Department of State's lists Empire State as an active corporate entity.

II. The Commission denies Empire State's Renewal Application because the Applicant lacks good character, honesty and integrity for following reasons:

A. The Applicant has repeatedly failed to respond to Commission directives showing its disregard for the Commission's authority and the laws which govern the trade waste industry.

"The Commission may refuse to issue a license or registration to an applicant... who has knowingly failed to provide the information and/or documentation required by the commission pursuant to... any rules promulgated pursuant hereto..." Admin. Code §16-509(b).[2]

Empire State has clearly demonstrated that it lacks good character, honesty and integrity as it has repeatedly failed to respond to and comply with the Commission's directives. See supra at 8-10. Over its short period of licensure, Empire States has failed to respond to seven Commission directives.[3] This shows a disregard for the Commission's authority and the laws which govern the trade waste industry.

Clearly, this conduct provides a sufficient independent ground to deny its Renewal Application. Admin. Code §16-509(b). Therefore, based upon this independently sufficient ground, the Commission denies Empire State's Renewal Application.

B. The Applicant Failed to Pay Government Obligations for Which Judgments Have Been Entered.

"[T]he failure to pay any tax, fine, penalty or fee related to the applicant's business for which ... judgment has been entered by a court or administrative tribunal of competent jurisdiction" may serve as a ground for refusing to issue a License. Admin. Code §16-509(a)(x). As of January 23, 2012, Empire State has failed to pay $90,000.00 in judgments which have been entered by DCA, an administrative tribunal of competent jurisdiction.

Empire State has clearly demonstrated that it lacks good character, honesty and integrity as the following judgments have been entered against it:

- Date: 04/28/2009 – Violation Number TW 3358, $10,000.00
- Date: 05/22/2009 – Violation Number TW 3569, $10,000.00
- Date: 05/21/2009 – Violation Number TW 3615, $10,000.00
- Date: 12/28/2009 – Violation Number TW 4460, $10,000.00
- Date: 03/09/2010 – Violation Number TW 4605, $20,000.00

[2] Title 17 RCNY §1-09 empowers the Commission to issues directives and requires that licensees comply with the Commission's orders. See 17 RCNY §1-09.

[3] Additionally, Empire State ignored the violations issued by the Commission and failed to appear at all of the scheduled hearing dates.

- Date: 01/20/2010 – Violation Number TW 4762, $10,000.00
- Date: 12/21/2010 – Violation Number TW 5235, $20,000.00

The Applicant's failure to satisfy these judgments provides a sufficient independent ground for denial of its Renewal Application. Admin. Code §16-509(a)(x). Therefore, the Commission that Empire State's Renewal Application.

III. CONCLUSION

Based upon the Empire State's repeated failure to comply with Commission directives and failure to resolve outstanding judgments, the Commission finds that the Applicant lacks good character, honesty, and integrity and denies its Renewal Application.

This denial is effective immediately. Empire State may not operate a trade waste business in the City of New York

Dated: February 7, 2012

THE BUSINESS INTEGRITY COMMISSION

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Commissioner/Chair

John Doherty, Commissioner
Department of Sanitation by Proxy

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

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