Business Integrity Commission

ANNUAL REPORT 2012

MESSAGE FROM THE COMMISSIONER AND CHAIR, SHARI C. HYMAN

Shari C. Hyman
Commissioner and Chair

I am pleased to introduce the first-ever Business Integrity Commission Annual Report. My goal is to increase understanding of the important work the Business Integrity Commission does through a reflective look at the wide array of policy and investigative matters that have been handled by the Commission in 2012.

The Business Integrity Commission was established in 2001 via City Charter to license and regulate the commercial carting industry, the City's wholesale public markets and any shipboard gambling operations.[1] The mission of the Commission- to ensure the companies we regulate engage in honest business practices, free from the influences of organized crime and corruption- helps maintain a level playing field for our regulated industries and allows a competitive marketplace to flourish.

This Report presents a detailed and informative look at the history and operations of the Commission and spotlights trends of Commission regulated industries. It also documents the many ways the Commission continues to achieve its mission and protects the interests of honest New York City businesses and their customers.

I am grateful to the dedicated staff at the Commission who are tireless in ensuring we succeed in our mission. I hope this report provides better insight into both their work and our mission.

[1]Currently there are no shipboard gambling companies operating in New York City.

OVERVIEW OF THE COMMISSION

In November 2001, a revision of the New York City Charter established the Business Integrity Commission ("the Commission") to consolidate regulatory authority over the City's private carting industry, public wholesale markets and shipboard gambling industries.

The Commission is both a law enforcement and regulatory agency with the authority to issue licenses and registrations to trade waste companies and registrations to wholesale market firms, investigate applicants and companies, establish standards for service, educate customers, enforce applicable laws and promulgate rules and regulations that govern the conduct of the businesses it oversees.

The Commissioner and Chair is responsible for the direction, management and operations of BIC. The Commission consists of the Chair, and the Commissioners of the New York Police Department, the New York City Department of Investigation, the New York City Department of Sanitation, the New York City Department of Consumer Affairs, and the New York City Department of Small Business Services.

Photo Credit: Nathan Siemers http://www.fiveprime.org/

COMMISSION MISSION

The mission of the Business Integrity Commission is to eliminate organized crime and other forms of corruption and criminality from the industries the Commission regulates. The Commission's goals are numerous: to ensure that the regulated businesses are able to compete fairly; to ensure that the marketplaces remain free from violence, fraud, rackets, and threats; to ensure that customers receive fair treatment; and to ensure that the businesses which are allowed to operate in these industries always conduct their affairs with honesty and integrity.

AGENCY PROFILE

LICENSING

Typically, the Licensing Unit is the first point of contact for regulated businesses. The Licensing Unit is responsible for processing all applications and issuing the appropriate license or registration once an application has been received by the Commission. The Commission issues Class 1 and Class 2-Exempt Registrations to self-hauling and construction and demolition firms respectively, and Licenses to putrescible waste haulers. Businesses operating in the wholesale markets are issued Registrations. Additionally, the Licensing Unit is responsible for maintaining the official records of the Commission, issuing Commission license plates to all trade waste registrants and licensees, processing payments in accordance with all fee schedules, and issuing photo identification cards to employees within the public wholesale markets. The Licensing Unit routinely responds to general public inquiries and provides daily assistance to licensees and registrants.

The Commission renewed 788 licenses and registrations and approved 187 new applications for licensees and registrants in calendar year 2012.

BACKGROUND INVESTIGATIONS

The process of screening companies who apply for a Commission license or registration ordinarily begins with a thorough and robust background check conducted by the Background Investigations Unit (BIU). BIU staff use a wide array of tools such as internal government databases and public record searches in order to gather information, which may be helpful to the Commission in its assessment of the honesty, integrity and good character of an applicant. BIU staff often work directly with applicants to ensure that all relevant information is obtained so that the application can move forward for final review and determination.

1,690 background investigations were completed in calendar year 2012.

LEGAL

The Legal Unit provides legal counsel to the Commission and its staff about various issues that arise in connection with the Commission's work of ensuring that the regulated industries are free from crime and corruption. One of the Legal Unit's primary roles is to review intelligence compiled by the BIU and the Investigations Unit, as well as information obtained by the Legal Unit itself, in order to provide the Commissioner with a legal recommendation as to whether a license or registration application should be approved or denied.

In 2012, the Commission brought its first ever nuisance abatement action to permanently shutter a previously denied company.

AUDIT

The Audit Unit conducts audits of licensees and registrants in the trade waste industry and registrants in the public markets to validate the financial integrity of these businesses. The Audit Unit reviews and analyzes financial as well as other documents to obtain an understanding of these business entities and the individuals who operate these entities. The Audit Unit also provides analytical assistance to enhance investigations and policy development and is responsible for gathering, reviewing, and analyzing financial statements of trade waste licensees.

The Audit unit issued 122 violations in calendar year 2012 for issues related to a company's financial record keeping. These violations settled for nearly $400,000.

INVESTIGATIONS

The Investigations Unit works directly with the NYPD and other local and state law enforcement agencies to conduct wide-ranging criminal investigations involving theft of materials, undisclosed principals and locations, illegal transfer stations and ties to organized crime.

The Commission received 1,465 complaints and customer service inquiries in calendar year 2012.

ENFORCEMENT

The Enforcement Unit is responsible for patrolling the markets and the five boroughs. All members of the Enforcement Unit are trained NY State Peace Officers and are authorized to conduct arrests and issue violations. Some of the agents focus on trade waste haulers and others on the public markets. Another responsibility of the agents is to investigate complaints, which come in from myriad sources including concerned residents, customers, or other licensees.

The Commission issued 3,124 violations in calendar year 2012.

BRIEF HISTORY OF THE WHOLESALE MARKETS AND TRADE WASTE INDUSTRIES

Historically, the city's private trade waste industry, wholesale markets and their associated unions were heavily subject to the influence of corruption and organized crime. Anti-competitive forces used a variety of tactics, some violent, to extort, control and drive out competition which ultimately left customers with an unfairly monopolized marketplace. For example, the trade waste industry was characterized by the "property rights" system, a mechanism for local county associations (typically run by a borough's dominant organized crime family) to dictate supply and demand. At the wholesale markets, businesses paid high "insurance" prices to mobsters, which inflated the prices customers had to pay for goods.

In 1996, the City Council passed Local Law 42, in response to a 114-count indictment by the Manhattan District Attorney of various members of the trade waste industry. Local Law 42 created the Trade Waste Commission to oversee and regulate the industry. In 2001 the Trade Waste Commission was combined with the Small Business Services wholesale markets division and Gambling Commission into the present day Business Integrity Commission.

Today, anti-competitive behavior still surfaces in these industries. While the Commission has prevented the wide-scale reemergence of organized crime and kept major mob-related individuals from dominating the industry, there is an ongoing need for investigation, enforcement and vigilance to prevent theft, fraud and general corruption in these industries.

What is trade waste?

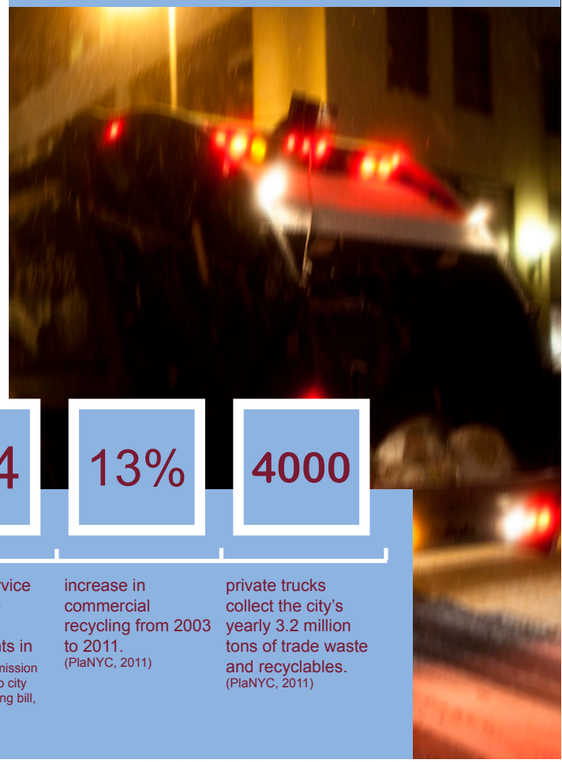
Trade waste comes from commercial businesses and must be disposed of or recycled by a licensed hauler. Types of waste can include garbage, medical waste, construction debris, and landscaping waste.

The trade waste industry supports an invisible economic sector of the city, unseen by the average person. The city's 150,000 commercial businesses use licensed or registered haulers to dispose of their waste.[1] These haulers service all types of businesses across the five boroughs. The industry operates 24 hours a day, 7 days a week, 365 days a year, to keep the city clean.

Altogether, there are over 2,000 companies involved in commercial waste collection. The industry is composed of a few types of haulers, because each type of waste requires a different means of disposal. Commercial waste haulers, brokers, construction and demolition (C&D), landscapers, and self-haulers are issued registrations by the Commission. Haulers who collect putrescible and recyclable waste are licensed by the Commission. The Commission also establishes the maximum rates that carters can charge for certain types of waste removal service.

[1]Commission letter of support to city council for recycling bill, 6/24/12

REGULATED INDUSTRY: TRADE WASTE



TRADE WASTE FACTS

25% of the city's waste is from commercial businesses. (PlaNYC, 2011)

3.2 million tons of waste and recyclables generated by offices, factories, stores, restaurants, and construction sites. (PlaNYC, 2011)

234 licensees service over 150,000 commercial establishments in the city. (Commission letter of support to city council for recycling bill, 6/24/12)

13% increase in commercial recycling from 2003 to 2011. (PlaNYC, 2011)

4000 private trucks collect the city's yearly 3.2 million tons of trade waste and recyclables. (PlaNYC, 2011)

Photo Credit: Steven Vance http://www.stevevance.net/

Hunts Point Produce Market
* Registered companies: 79
* Largest produce market in the nation
* Yearly revenues of approx. $2 billion
* Employs over 3,000 workers
* Occupies 105 acres

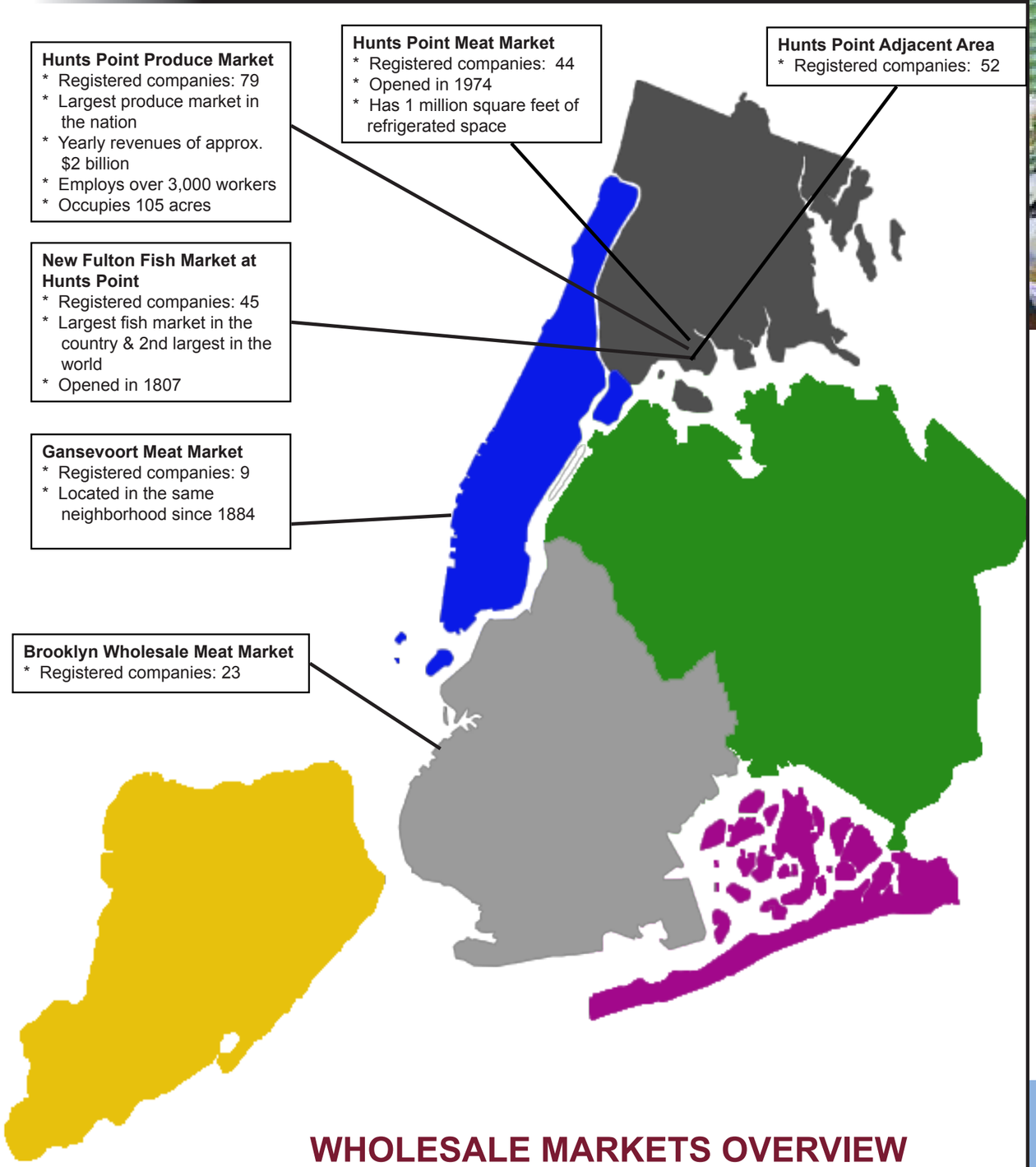
Hunts Point Meat Market
* Registered companies: 44
* Opened in 1974
* Has 1 million square feet of refrigerated space

Hunts Point Adjacent Area
* Registered companies: 52

New Fulton Fish Market at Hunts Point
* Registered companies: 45
* Largest fish market in the country & 2nd largest in the world
* Opened in 1807

Gansevoort Meat Market
* Registered companies: 9
* Located in the same neighborhood since 1884

Brooklyn Wholesale Meat Market
* Registered companies: 23



WHOLESALE MARKETS OVERVIEW

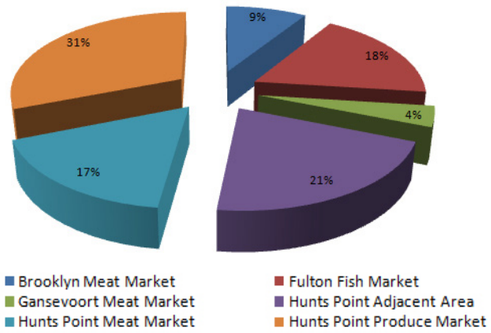
REGULATED INDUSTRY: WHOLESALE MARKETS

The Commission regulates five public wholesale markets in the city including the three Hunts Point markets (Hunts Point Meat Market, Hunts Point Produce Market, New Fulton Fish Market), along with the Gansevoort Meat Market and the Brooklyn Meat Market. The markets open Sunday night and continue operating throughout the week until closing on Friday with fresh products delivered daily from more than 55 countries.[1] NYC's markets are some of the biggest in the world and the Hunts Point Markets are the largest food distribution center in the nation. At 329 acres, the Hunts Point Markets employ 10,000 people and generate over $3 billion in sales a year.[2] There are approximately 225 wholesalers and market businesses in the Hunts Point markets and in the NY Metropolitan area.

The Hunts Point Produce market sells 2.7 billion fruits and vegetables a year.[3] It brings in about 22 percent of the region's fruits and vegetables, and restaurants, supermarkets, hotels, country clubs, and butcher shops buy their goods there. It is also responsible for bringing in about 60 percent of the city's fruits and vegetables.[4] Anytime you buy a snack from a street vendor, eat in a restaurant or buy groceries, chances are high that the food passed through these markets first.

All wholesale businesses operating in these markets need to be issued registrations by the Business Integrity Commission. In addition, the Commission registers related market businesses such as the loaders, un-loaders and delivery companies. Beginning in 2010, the Commission began regulating wholesale businesses operating in the area adjacent to the markets in Hunts Point. The Commission also investigates complaints regarding market businesses.

Percentage of Companies in City's Wholesale Markets



[1]Bronx hunts point produce…", NY Daily News, 11/5/12
[2]PlaNYC Food Metrics Report, 10/2012
[3]NYC EDC Hunts Point Vision Plan, 2005
[4]"Missing the market in…", The New York World, 11/20/12

PUBLIC MARKET FACTS

1 million square feet of refrigerated space in the Hunts Point Meat Market. (plaNYC Food Metrics Report, 10/2012)

225 public and private wholesalers in the Hunts Point Distribution Center. (plaNYC Food Metrics Report, 10/2012)

2,773 daily truck volume at Hunts Point facilities. (plaNYC Food Metrics Report, 10/2012)

3 billion in annual sales at Hunts Point Distribution Center. (plaNYC Food Metrics Report, 10/2012)

329 acres of space in Hunts Point Distribution Center. (plaNYC Food Metrics Report, 10/2012)

INDUSTRY FOCUS

CARDBOARD

What's the big deal?

Cardboard has become a valuable commodity of late. In calendar year 2012, cardboard commanded as much as $100 a ton at recycling facilities. Illegal haulers cruise city streets at night gathering as much cardboard as their rented moving vans can carry. Licensed commercial waste haulers, who have scheduled pick-up times with businesses, are left empty-handed with no product to re-sell. These licensed haulers estimate they have lost between $8 million to $10 million each year due to illegal cardboard theft.[1]

In order to lawfully pick up recyclable cardboard in the city, haulers are required to obtain a license issued by the Commission. In June 2012, the City Council introduced an amendment to the administrative code that would create significantly increased criminal fines for any person who removes recyclable materials without the appropriate permit. The Commission issued a formal support letter and led a large-scale investigation this past year.

HURRICANE RESPONSE

In the aftermath of Hurricane Sandy, Commission Market Agents took to the streets in the hardest hit areas to work with the local business community and trade waste haulers to facilitate the timely removal of commercial waste along with demolition waste under trying circumstances. Commission Investigators also assisted the NYC Parks Department by wading through the flooded areas to identify and relay the location of trees that posed an imminent risk to the public.

SCRAP METAL

Not for the junk yard anymore…

Due to an increase in the worldwide demand for metal, NYC has experienced a substantial increase in the theft of scrap metal. The Commission has renewed its enforcement efforts through targeted operations and investigations. The Commission is actively working to license scrap haulers where appropriate.

GREASE

Why grease?

Grease carters, trade waste haulers specializing in the removal of cooking grease, are contracted by restaurants to properly dispose of used cooking oil from grease traps and fryers.

There are currently 29 licensed haulers that service approximately 17,000 commercial and institutional establishments. In 2011, nearly 10.1 million gallons of grease were collected by licensed haulers who are required to dispose of the waste product in conformity with environmental regulations. Improperly disposed of grease contributes to sewer line blockages and is a major burden on city infrastructure. [2]

Increasingly, yellow and brown grease have been used in the production of biodiesel fuels, making it an inexpensive, but valuable raw material. Barebones, unlicensed haulers have sprung up to capitalize on this market and are hurting the profits of legitimate haulers.

The Commission has responded to this problem by partnering with the Department of Environmental Protection and the Mayor's Office of Analytics to create a joint task force that analyzes grease disposal and sewer backup data and proactively dispatches enforcement agents to those problematic areas with high concentrations of grease-producing businesses.

HUNTS POINT PRODUCE MARKET
trucked 4,000 pounds of fruit and vegetables to Hurricane Sandy victims. [3]

[1]"Inside the surprisingly lucrative…, Atlantic Cities, 7/31/12
[2]Commission press release, 10/18/12
[3]"Bronx Hunt's Point Produce"… ,NY Daily News, 11/5/12

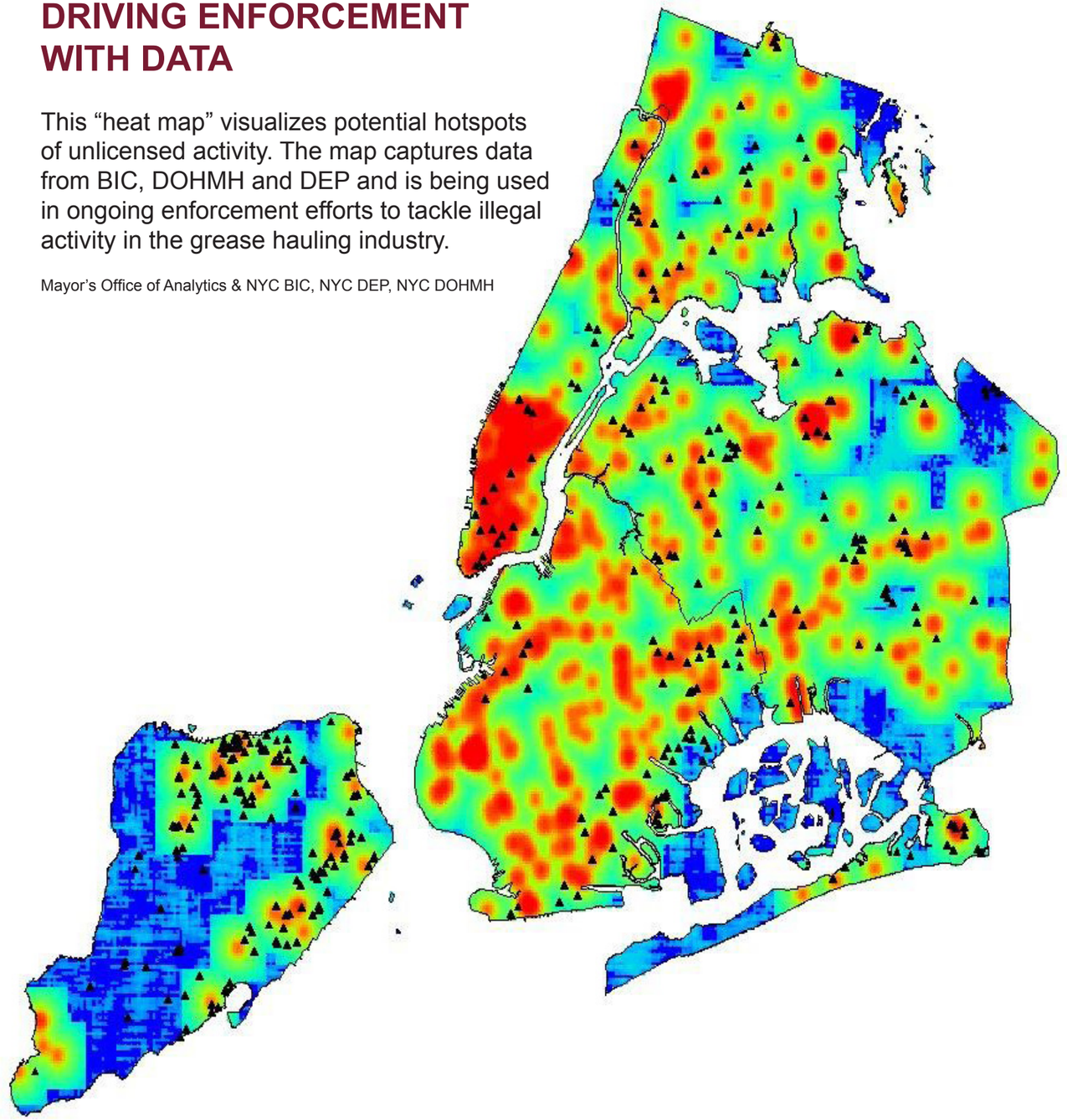
AGENCY FACTS

71	7	1,465	80%	20%
EMPLOYEES make up the agency's workforce.	MILLION BIC's yearly revenue budget. The City's total budget is 70 billion.	COMPLAINTS investigated in 2012 by BIC Enforcement Staff.	INDUSTRY GROWTH in trade waste firms since 2005.	INDUSTRY GROWTH in market businesses since 2006.

DRIVING ENFORCEMENT WITH DATA

This "heat map" visualizes potential hotspots of unlicensed activity. The map captures data from BIC, DOHMH and DEP and is being used in ongoing enforcement efforts to tackle illegal activity in the grease hauling industry.

Mayor's Office of Analytics & NYC BIC, NYC DEP, NYC DOHMH



IN THE MEDIA: 2012

Applicants with questionable integrity regularly come to the attention of the Commission and their less than admirable behavior has been the subject of media attention. Here are a few notable Commission actions from 2012:

Affirmative Litigation

In September 2012, the Commission launched its first affirmative litigation effort to shut down the operations of **Jaraq Produce**, a wholesale produce company illegally operating in an area of the Bronx regulated by the Commission. Using an action known as "nuisance abatement", the Commission succeeded in its efforts and obtained a shut-down order for the premises. The Commission also seized Jaraq Produce's trucks after evidence revealed that Jaraq was likely a front for two other market companies, **C&S Wholesale Produce, Inc.** and **Dutchie Enterprises, LLC**. The wholesale applications of C&S Produce and Dutchie Enterprises had been previously denied by the Commission because of the principals' well-documented associations with members of the Genevose crime family. The Commission's actions against Jaraq Produce not only permanently shuttered the unlawful business, but a penalty of $120,000 was also imposed. Notably, a new and properly registered wholesale business has replaced Jaraq Produce, creating a more competitive marketplace.[1]

"It's a complicated scenario, but the crime itself was pretty simple," said Shari C. Hyman, Commissioner of New York City's Business Integrity Commission, which began the investigation. "They cooked the books and stole from the union." [2]

Union Fraud Uncovered

In the summer of 2012, the Commission concluded a three-year, multi-agency investigation into the operations of the owners of **Greenwood 2 Inc**, **Rainbow Transportation Corp**, **Nicholas J. LLC**, and **Marky OG LLC** hauling companies. The Commission-led investigation uncovered a $5 million payroll scam where Greenwood 2 charged union rates on a variety of projects and subcontracted out the work to their non-unionized affiliates in order to pocket the difference in wage rates. This scheme is commonly referred to as "double-breasting." The US Attorney's Office of the Eastern District of New York indicted the perpetrators in March of 2012.[3]

[1]"Investigators shutter Bronx produce…", Wall St. Journal, 9/25/12; Commission Budget Testimony to City Council, 3/6/13
[2]"Trucking company workers are…", NY Times, 3/8/12
[3]Commission denial decision, 1/14/13; "Trucking company workers are…", NY Times, 3/8/12; Commission Budget Testimony to City Council, 3/12/12

Cardboard Theft Ring Unpacked

In the summer of 2012, the Commission led the breakup of a large-scale recycling theft ring in the NY Metropolitan area. The Commission conducted an investigation into ***Metro Paper***, a shell company that was run by a convicted racketeer and Commission-denied principal and a current trade waste applicant. Metro targeted big box stores in New Jersey and stole 900 tons of cardboard (valued at $100,000) over a 4-month period. The three individuals operating Metro Paper were indicted on charges of theft, fencing stolen property and conspiracy, and the Commission denied their company's application.[1]

"Licensed haulers need to operate in a market where they can deliver safe and reliable disposal services to city businesses", said Commissioner and Chair Hyman.[2]

Arson Investigation Leads to Homicide Arrest

A 2009 routine investigation into the arson of trucks at Coney Island Container Co. Inc. on Staten Island developed into a long-term investigation by the Commission, the NYPD, and the US Attorney for the Eastern District of New York. After the arrest of several Bonnano crime family associates on federal racketeering charges related to the investigation, one of the men under investigation was murdered. After arrests were made in connection with the homicide, one of the men arrested agreed to cooperate with investigators and gave up evidence on several Bonnano crime family members, including his own father-in-law. [3]

"We look at every loose thread that needs to be pulled," said agency Commissioner Shari Hyman. "And you can see what can unravel when you do these kinds of investigations." [4]

[1]Commission press release, 7/24/12; "Inside the surprisingly lucrative…", Atlantic Cities, 7/31/12; Commission Budget Testimony to City Council, 3/6/13
[2]\Commission press release, 9/26/12
[3]"Probe's thread turned extraordinary…", Wall St. Journal, 7/26/12; Commission Budget Testimony to City Council, 3/6/13
[4] "Probe's thread turned extraordinary…", Wall St. Journal, 7/26/12

PROTECTING INTEGRITY

The Commission works towards establishing a level playing field for companies in the trade waste and wholesale market industries. The goal is for all businesses to conduct their affairs with honesty and integrity. The Commission conducts thorough and comprehensive examinations into every company that applies to work in its regulated industries to ensure NYC firms meet this standard. Companies found to be operating in accordance with the laws are granted licenses or registrations. However, if the Commission uncovers information that reveals ties to organized crime, fraud, inaccurate business records or other transgressions, the Commission will seek to deny an application. Companies that are deemed to not have met the standards of "good character, honesty and integrity" are formally denied and permanently banned from operating in these industries.

Stallion Recycling Corporation

Stallion was denied a renewal license in 2012 after the Commission's investigation found the principals of the company allowed a convicted racketeer and member of the Gambino crime family to solicit business on behalf of the company. This individual had been previously convicted for spearheading a multimillion-dollar illegal dumping scheme in Staten Island that is considered one of the more egregious environmental disasters in the city's recent history. [1]

Dutchie Enterprises d/b/a ADJ Wholesale Produce

Dutchie was denied a registration in 2012 after the Commission found the company had significant ties to organized crime. The principals of the company were found to be strongly influenced by a convicted felon and associate in the Genovese crime family who had operated a gambling ring in Hunts Point Market. In addition, one of the principals had previously applied for and been denied a Commission registration in 2007. [2]

[1]Commission Denial Decision of Stallion Recycling Corp. licensing application, 6/5/12
[2]Commission Denial Decision Dutchie Enterprises d/b/a ADJ Corp. registration application, 2/7/12

Empire State Rubbish Removal d/b/a 1-800-Got-Junk?

After receiving a license, Empire played hide and seek with the Commission by ignoring multiple Commission directives to submit regulatory paperwork, leading to fines of nearly $100,000. Empire did not pay its fines or submit any required paperwork with the exception of an application for renewal of its license. Empire's refusal to follow the rules led the Commission to revoke their license. [1]

"Today's action highlights the need for continued oversight to ensure that those who refuse to play by the rules and erode a fair marketplace are held accountable," said Commissioner and Chair Hyman.[2]

[1]Commission Denial Decision of Empire State Rubbish Removal d/b/a 1-800-GOT-JUNK licensing application, 2/7/12
[2]Commission press release, 9/26/12
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