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

**DECISION OF THE BUSINESS INTEGRITY COMMISSION DENYING THE APPLICATION OF G FORCE INDUSTRIES, LTD. TO OPERATE AS A TRADE WASTE BUSINESS**

G Force Industries, Ltd. ("G Force" or the "Applicant") has applied to the New York City Business Integrity Commission ("Commission"), formerly known as the New York City Trade Waste Commission, for an exemption from licensing requirements and a registration to operate a trade waste business pursuant to Local Law 42 of 1996. See Title 16-A of the New York City Administrative Code ("Admin. Code"), § 16-505(a). Local Law 42, which created the Commission to regulate the trade waste removal industry in New York City, was enacted to address pervasive organized crime and other corruption in the commercial carting industry, to protect businesses using private carting services, and to increase competition in the industry and thereby reduce prices.

On January 19, 2007, G Force applied to the Commission for an exemption from licensing requirements and for a registration enabling it to operate a trade waste business "solely engaged in the removal of waste materials resulting from building demolition, construction, alteration or excavation" – a type of waste commonly known as construction and demolition debris, or "c & d." Admin. Code § 16-505(a). Local Law 42 authorizes the Commission to review and determine such applications for exemptions.[1] See id. If, upon review and investigation of the exemption application, the Commission grants the applicant an exemption from licensing requirements applicable to businesses that remove other types of waste, the applicant will be issued a registration. See id.

In determining whether to grant an exemption from licensing requirements and a registration to operate a construction and demolition debris removal business, the Commission considers the same types of factors that are pertinent to the Commission's determination whether to issue a license to a business seeking to remove other types of waste. See, e.g., Admin Code § 16-504(a) (empowering Commission to issue and establish standards for issuance, suspension, and revocation of licenses and registrations);

[1] On or about May 15, 2007, the Applicant submitted an amended application to the Commission.

compare Title 17, Rules of the City of New York ("RCNY") §§ 1-06 & 2-02 (specifying information required to be submitted by license applicant) with id. §§ 1-06 & 2-03(b) (specifying information required to be submitted by registration applicant); see also Admin. Code §16-513(a)(i) (authorizing suspension or revocation of license or registration for violation of Local Law 42 or any rule promulgated pursuant thereto). Central to the Commission's investigation and determination of an exemption application is whether the applicant has business integrity. See 17 RCNY § 1-09 (prohibiting numerous types of conduct reflecting lack of business integrity, including violations of law, knowing association with organized crime figures, false or misleading statements to the Commission, and deceptive trade practices); Admin. Code § 16-509(a) (authorizing Commission to refuse to issue licenses to applicants lacking "good character, honesty and integrity"); Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008).

Based upon the record as to the Applicant, the Commission denies its registration application on the ground that it lacks good character, honesty, and integrity for the following independent reasons:

A. Principal Arthur Bordino was convicted of possession of stolen property and conspiracy, both connected to the trade waste industry.

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

## I. REGULATORY BACKGROUND

### A. The New York City Carting Industry

Virtually all of the more than 200,000 commercial business establishments in New York City contract with private carting companies to remove and dispose of their refuse. Historically, those services have been provided by several hundred companies. For the past four decades, and until only a few years ago, the private carting industry in the City was operated as an organized crime-controlled cartel engaging in a pervasive pattern of racketeering and anticompetitive practices. The United States Court of Appeals for the Second Circuit has described that cartel as "a 'black hole' in New York City's economic life." Sanitation & Recycling Industry, Inc. v. City of New York, 107 F.3d 985, 989 (2d Cir. 1997) ("SRI").

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

findings concerning organized crime's longstanding and corrupting influence over the City's carting industry and its effects, including the anticompetitive cartel, exorbitant carting rates, and rampant customer overcharging. More generally, the Council found "that unscrupulous businesses in the industry have taken advantage of the absence of an effective regulatory scheme to engage in fraudulent conduct." Local Law 42, § 1.

The City Council's findings of extensive corruption in the commercial carting industry have been validated by the successful prosecution of many of the leading figures and companies in the industry. In 1995 and 1996, the Manhattan District Attorney obtained racketeering indictments against more than sixty individuals and firms connected to the City's waste removal industry, including powerful mob figures such as Genovese organized crime family capo Alphonse Malangone and Gambino soldier Joseph Francolino. Simply put, the industry's entire modus operandi, the cartel, was indicted as a criminal enterprise. Since then, all of the defendants have either pleaded guilty or been found guilty of felonies; many have been sentenced to lengthy prison terms, and many millions of dollars in fines and forfeitures have been imposed.

The Commission's regulatory and law-enforcement investigations have confirmed that organized crime has long infiltrated the construction and demolition debris removal sector of the carting industry as well as the garbage hauling sector that was the focus of the Manhattan District Attorney's prosecution. In light of the close nexus between the c & d sector of the carting industry and the construction industry, mob influence in the former should come as no surprise. The construction industry in New York City has been corrupted by organized crime for decades. See, e.g., James B. Jacobs, Gotham Unbound: How New York City Was Liberated from the Grip of Organized Crime 96-115 (1999) (detailing La Cosa Nostra's influence and criminal activity in the concrete, masonry, drywall, carpentry, painting, trucking, and other sectors of the City's construction industry).

Moreover, the c & d sector of the carting industry has been a subject of significant federal prosecutions over the past decade. In 1990, Anthony Vulpis, an associate of both the Gambino and the Genovese organized crime families, Angelo Paccione, and six waste hauling companies owned or controlled by them were convicted of multiple counts of racketeering and mail fraud in connection with their operation of a massive illegal landfill on Staten Island. See United States v. Paccione, 949 F.2d 1183, 1186-88 (2d Cir. 1991), cert. denied, 505 U.S. 1220 (1992). Many c & d haulers dumped their loads at this illegal landfill, which accumulated 550,000 cubic yards of refuse over a mere four-month period in 1988; during that period, "the City experienced a sharp decline in the tonnage of construction waste deposited" at its Fresh Kills landfill, as well as "a concomitant decline in revenue" from the fees that would have been charged for dumping at a legal landfill. 949 F.2d at 1188. The trial judge described this scheme as "one of the largest and most serious frauds involving environmental crimes ever prosecuted in the United States." United States v. Paccione, 751 F. Supp. 368, 371 (S.D.N.Y. 1990).

Another illegal waste disposal scheme also prominently featured haulers of construction and demolition debris. This scheme involved certain "cover" programs

instituted by the City of New York at Fresh Kills, under which the City obtained materials needed to cover the garbage and other waste dumped at the landfill. Under the "free cover" program, transfer stations and carting companies could dispose of "clean fill" (i.e., soil uncontaminated by debris) at Fresh Kills free of charge. Under the "paid cover" program, the City contracted with and paid carting companies to bring clean fill to Fresh Kills. Numerous transfer stations and carters, however, abetted by corrupt City sanitation workers, dumped non-qualifying materials (including c & d) at Fresh Kills under the guise of clean fill. This was done by "cocktailing" the refuse: Refuse was placed beneath, and hidden by, a layer of dirt on top of a truckload. When the trucks arrived at Fresh Kills, they appeared to contain nothing but clean fill, which could be dumped free of charge.

In 1994, twenty-eight individuals, including numerous owners of transfer stations and carting and trucking companies, were indicted in connection with this scheme, which deprived the City of approximately $10 million in disposal fees. The indictments charged that from January 1988 through April 1992, the defendants participated in a racketeering conspiracy and engaged in bribery and mail fraud in connection with the operation of the City's "cover" programs. The various hauling companies, from Brooklyn, Queens, and Staten Island, were charged with paying hundreds of thousands of dollars in bribes to Department of Sanitation employees to allow them to dump non-qualifying materials at Fresh Kills without paying the City's tipping fees. See United States v. Cafra, et al., No. 94 Cr. 380 (S.D.N.Y.); United States v. Barbieri, et al., No. 94 Cr. 518 (S.D.N.Y.); see also United States v. Caccio, et al., Nos. 94 Cr. 357,358, 359, 367 (four felony informations). Twenty-seven defendants pleaded guilty in 1994 and 1995, and the remaining defendant was found guilty in 1996 after trial.

In sum, the need to root organized crime and other forms of corruption out of the City's waste removal industry applies with equal force to the garbage hauling and the c & d sectors of the industry. Local Law 42 recognizes this fact in requiring c & d haulers to obtain registrations from the Commission in order to operate in the City. See Attonito v. Maldonado, 2 A.D.3d 415, 771 N.Y.S.2d 97 (1st Dept. 2004).

### B. Local Law 42

Upon the enactment of Local Law 42, the Commission assumed regulatory authority from the Department of Consumer Affairs ("DCA") for the licensing and registration of businesses that remove, collect, or dispose of trade waste. See Admin. Code § 16-503. "Trade waste" is broadly defined and specifically includes "construction and demolition debris." Id. § 16-501(f)(1). The carting industry quickly challenged the new law, but the courts have consistently upheld Local Law 42 against repeated constitutional challenges (both facial and as applied) by New York City carters. See, e.g., Sanitation & Recycling Industry, Inc. v. City of New York, 928 F. Supp. 407 (S.D.N.Y. 1996), aff'd, 107 F.3d 985 (2d Cir. 1997); Universal Sanitation Corp. v. Trade Waste Comm'n, No. 96 Civ. 6581 (S.D.N.Y. Oct. 16, 1996); Vigliotti Bros. Carting Co. v. Trade Waste Comm'n, No. 115993/96 (Sup. Ct. N.Y. 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). The United States Court of Appeals has definitively ruled that an applicant for a trade waste removal license under Local Law 42 has no entitlement to and no property interest in a license, and the Commission is vested with broad discretion to grant or deny a license application. SRI, 107 F.3d at 995; see also Daxor Corp. v. New York Dep't of Health, 90 N.Y.2d 89, 98-100, 681 N.E.2d 356, 659 N.Y.S.2d 189 (1997); Attonito, 2 A.D.3d 415.

Local Law 42 specifically permits the Commission to refuse to issue a registration to an applicant "who has knowingly failed to provide the information and/or documentation required by the commission pursuant to [Title 16 of the Administrative Code or any rules promulgated thereto]" or "who has otherwise failed to demonstrate eligibility for such license." Admin. Code §16-509(b). Applicants who knowingly fail to provide information required by the Commission (whether they fail to provide the information altogether or they provide false and misleading information) fall under the first prong. In Attonito v. Maldonado, 3 A.D.3d 415 (1st Dept. 2004); *leave denied*, 2 N.Y.3d 705 (2004), the Appellate Division affirmed the authority of the Commission to "review" exemption applications, to fully investigate any matter within its jurisdiction and to deny such applications in those cases "where the applicant fails to provide the necessary information, or knowingly provides false information." It further affirmed the authority of the Commission to investigate the accuracy of the information provided in an application. Id.

Applicants who fail to demonstrate good character, honesty and integrity using the criteria by which license applicants are judged fall under the second prong of §16-509(b). While the Appellate Division in Attonito did not directly address the second prong, by affirming the Commission's authority to investigate matters within the trade waste industry, it necessarily follows that the Commission need not ignore the results of its investigation that bear on an applicant's good character, honesty and integrity. Id.; Accord Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008) (Commission denial based on a criminal conviction, identification as an organized crime associate and false and misleading statements not considered arbitrary and capricious). Accordingly, the Commission evaluates whether applicants meet the fitness standard using the same criteria upon which license applicants may be denied, including:

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

2. a pending indictment or criminal action against such applicant for a crime which under this subdivision would provide a basis for the refusal of such license, or a pending civil or administrative action to which such applicant is a party and which directly relates to the fitness to conduct the business or perform the work for which the license is sought, in which cases the commission may defer consideration of an application until a decision has

been reached by the court or administrative tribunal before which such action is pending;

3. conviction of such applicant for a crime which, considering the factors set forth in section seven hundred fifty-three of the correction law, would provide a basis under such law for the refusal of such license;

4. a finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought;

5. commission of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity, including but not limited to the offenses listed in subdivision one of section nineteen hundred sixty-one of the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. § 1961 et seq.) or of an offense listed in subdivision one of section 460.10 of the penal law, as such statutes may be amended from time to time, or the equivalent offense under the laws of any other jurisdiction;

6. association with any member or associate of an organized crime group as identified by a federal, state or city law enforcement or investigative agency when the applicant knew or should have known of the organized crime associations of such person;

7. having been a principal in a predecessor trade waste business as such term is defined in subdivision a of section 16-508 of this chapter where the commission would be authorized to deny a license to such predecessor business pursuant to this subdivision;

8. current membership in a trade association where such membership would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter unless the commission has determined, pursuant to such subdivision, that such association does not operate in a manner inconsistent with the purposes of this chapter;

9. the holding of a position in a trade association where membership or the holding of such position would be prohibited to a licensee pursuant to subdivision j of section 16-520 of this chapter;

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

Admin. Code § 16-509(a)(i)-(x). While the presence of one of the above factors in the record of a registration applicant would not necessarily require a denial as a matter of law, the Commission may consider such evidence as a factor in determining overall eligibility.

## II. DISCUSSION

On January 19, 2007, the Applicant applied to the Commission for an exemption from licensing and registration as a trade waste business that removes construction and demolition debris. See Registration Application filed on January 19, 2007 ("Application"). The staff has conducted an investigation of the Applicant and its principals. On October 30, 2008, the staff issued a 13-page recommendation that the application be denied. The Applicant was served with the recommendation on or about November 3, 2008 and was granted ten business days to respond (November 17, 2008). See 17 RCNY §2-08(a). The Applicant failed to submit a response to the staff's recommendation.

The Application disclosed Gina Bordino as the sole principal. See id. at 9. The Application also disclosed Gina Bordino as the sole vehicle operator. See id. at 14. The name of Gina Bordino's husband, Arthur Bordino, does not appear anywhere in the registration application. Gina Bordino certified that all of the information provided on the Application was true and accurate. See id. at 16. On April 5, 2007, Gina Bordino appeared at the Commission for a deposition. After having difficulty answering the most basic questions about the Applicant, she requested that the deposition be adjourned so that she could retain an attorney. See April 5, 2007 Gina Bordino deposition transcript at 9-11.

Only after it became clear to the Applicant that the Commission knew about Arthur Bordino's role in the company did the Applicant amend its application to add him as a principal (and the sole vehicle operator). See Amended Application filed on or about May 15, 2007 at 9, 14 (approximately one month following Gina Bordino's first deposition).

The Applicant intentionally failed to disclose Arthur Bordino in an effort to conceal his involvement with the company and his conviction of crimes related to the trade waste industry. See infra at 10-12. The staff's investigation into Bordino's background revealed that he was convicted on May 28, 2004, in Queens County Supreme Court of the felony crimes of possession of stolen property in the third degree and conspiracy in the fourth degree. See Certificate of Disposition of Arthur Bordino. In this case, Bordino, along with four other defendants, participated in running a garbage compactor and container theft ring. See Queens County District Attorney's Office Press Release dated January 9, 2004; see also Lindsay Faber, *Thieves Took Containers, Left Trash*, NEWSDAY, January 10, 2004; Eric Lenkowitz, *5 Busted in Dumpster Theft Ring*, NEW YORK POST, January 10, 2004.

The Commission has carefully considered the staff's recommendation and for the independently sufficient reasons set forth below, the Commission finds that G Force lacks good character, honesty, and integrity, and denies its registration application.

## III. GROUNDS FOR DENIAL

### A. Principal Arthur Bordino was convicted of possession of stolen property and conspiracy, both connected to the trade waste industry.

On January 9, 2004, Arthur Bordino, Adam Hyzdu, Donald Cleary, and Leonard Larosa, were indicted for running a heavy equipment theft ring involving the theft and sale of twelve garbage compactors and containers owned by ten competing trade waste companies located in Brooklyn, Queens, Staten Island, Long Island, and New Jersey. See Indictment No 2490/2003, Supreme Court of the State of New York, County of Queens; see also Queens County District Attorney Press Release, dated January 9, 2004. The sixteen-count indictment was the result of an eight-month investigation known as Operation Carted Away. Specifically, the defendants were charged with stealing nine containers and three compactors, obscuring all identifying markings on the containers and compactors, and then using unmarked roll-off garbage trucks to carry off the property. Following the thefts, the defendants sold the stolen property on the black market and divided the proceeds.

Bordino was charged with criminal possession of stolen property in the third degree, a class D felony, conspiracy in the fourth degree, a class E felony, and conspiracy in the fifth degree, a class A misdemeanor. See Indictment No 2490/2003, Supreme Court of the State of New York, County of Queens.

On May 28, 2004, Bordino pleaded guilty to criminal possession of stolen property in the third degree, a class D felony, and conspiracy in the fourth degree, a class E felony. On July 13, 2004, Judge Randall Eng sentenced Bordino to a conditional discharge. See Certificate of Conviction. This guilty plea by a principal of this Applicant constitutes an independent ground for denying the registration application of this Applicant.

When Bordino pleaded guilty before Judge Randall Eng in Supreme Court, Queens County, he stated that he was pleading guilty "freely and voluntarily." See Bordino Allocution Tr. at 6. During his allocution, Bordino admitted that a stolen container was taken to his place of business and that he painted it blue in an attempt to disguise the stolen container and to make it more marketable to a company that would purchase it, and that he knowingly engaged in a conspiracy to steal twenty to thirty garbage containers and garbage compactors. See Id. at 8-12, 14.

Although he pleaded guilty before Judge Randall Eng and acknowledged the crimes that he committed, more recently, Bordino has refused to accept responsibility. At his deposition before the Commission, Bordino testified that he only had "knowledge of what was going on," but "never had anything to do" with the criminal activity, and that

he "got pulled into the mix of the whole disaster." See Arthur Bordino Tr. at 12-13. Furthermore, Bordino testified that he was convicted of possession of stolen property, "which I never touched... I never picked it up and never had anything to do with it..." See Arthur Bordino Deposition transcript at 12. Bordino also stated that he "got railroaded into this [the criminal case]." See Id. In contradiction to his allocution, during his deposition, Bordino testified that his role in the scheme was to paint containers that he believed were legitimately purchased. See Id. Nevertheless, Bordino maintained that he pleaded guilty "against [his] will," and that he was "railroaded." See Id. at 24-25. When questioned at the deposition about his plea of guilty, Bordino acknowledged that he told Judge Eng that he was entering his guilty plea under his own free will and said that his plea was voluntary. Id. at 25.

In determining whether an applicant possesses good character, honesty, and integrity, the Commission may consider prior convictions of the Applicant (or any of its principals) for crimes which, in light of the factors set forth in section 753 of the Correction Law, would provide a basis under that statute for refusing to issue a license. See Admin. Code §16-509(a)(iii); see also Admin. Code §16-501(a). Those factors are:

(a) The public policy of this state, as expressed in [the Correction Law], to encourage the licensure . . . of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities necessarily related to the license . . . sought.

(c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties and responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) The age of the person at the time of occurrence of the criminal offense or offenses.

(f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency . . . in protecting property, and the safety and welfare of specific individuals or the general public.

N.Y. Correct. Law §753 (1).

Applying the above factors, the Commission finds that, notwithstanding the public policy of the State of New York to encourage licensure of persons convicted of crimes, the crimes committed by Arthur Bordino were serious felonies and are antithetical to the very purpose of Local Law 42, which is to root out organized crime and other corruption from the trade waste industry. The conviction is recent, is for activity directly related to the waste industry, and happened when Bordino was 37 years old. In addition, Bordino's deposition testimony establishes his lack of remorse and his blatant disregard for the law. Bordino was either untruthful during his allocution before Judge Eng or was untruthful in his testimony before the Commission. Either way, Bordino's failure to accept responsibility is apparent.

Finally, the public interest in eliminating the entrenched corruption that has plagued the New York City carting industry for decades is clear. Public confidence in the integrity of the carting industry would be undermined if those proven to have ignored the law received licenses or registrations from the Commission. The Applicant's principal's guilty plea to crimes involving the waste industry compels the conclusion that the Applicant lacks good character, honesty, and integrity. The Applicant did not dispute this point, leaving this ground uncontested. Accordingly, Commission denies the Applicant's registration application based on this independent ground.

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

**1. Failure to disclose Arthur Bordino.**

All Applicants must provide truthful and non-misleading information to the Commission. A knowing failure to do so is a ground for denial of the application. See Admin. Code §16-509(b); Attonito v. Maldonado, 3 A.D.3d 415 (1st Dept. 2004); *leave denied* 2 N.Y.3d 705 (2004); Breeze Carting Corp. v. The City of New York, 52 A.D.3d 424, 860 N.Y.S.2d 103 (1st Dept. 2008). The Applicant's principals admitted that they submitted an application to the Commission that contained false and misleading information. Accordingly, the Commission cannot place any confidence in the Applicant's amended application, finds it unreliable, and denies G Force's application.[2]

In connection with the registration application, Gina Bordino signed a sworn certification under penalty of perjury that she "read and understood the questions contained in the attached application and its attachments" and "that to the best of [her] knowledge the information provided in response to each question and in the attachments is full, complete and truthful." Id. at 16. Despite signing this certification, Gina Bordino provided the Commission with information that she knew was false and misleading.

The registration application filed by the Applicant asks in Question 12, "On Schedule A, identify all individuals who are principals of [the] applicant business." See

[2] Even if the Applicant initially submitted a complete and truthful application, the Commission would deny the application based on Arthur Bordino's criminal record and association with a person who has been publicly identified as an associate of organized crime.

registration application at 2. Schedule A disclosed only one principal – Gina Bordino, President of G Force. Further, Gina certified under oath that she owned 100% of the company's stock from November 24, 2004[3] until the date the application was filed (January 19, 2007). Id. at 9.

The Applicant's response to Question 12 and Schedule A was false, as Arthur Bordino is a principal of the company. Gina Bordino's own admissions at her deposition directly contradict the information that she provided in the registration application, i.e., that she was the sole principal of the business. According to her deposition testimony on November 28, 2007, Gina "put [the company] under [her] name because [Arthur Bordino] had some problems with the other company he had owned..." See November 28, 2007 Gina Bordino Deposition Transcript at 12. Gina Bordino later testified that she "put [the company in her] name because [she] didn't think [Arthur would] be able to get any permits in his name, having a felony. So we opened the business in my name." Id. at 12-13. Thus, Gina Bordino admitted that she and her husband provided the Commission with an application that contained false and misleading information.

The registration application further provided that Gina Bordino was the sole operator of the Applicant's vehicles. See Id. at 14. Again, the Applicant's later admissions directly contradict this sworn statement that she is the sole vehicle operator for the Applicant. See amended application at 14. At her November 28, 2007 deposition, Gina Bordino testified that she initially provided the Commission with false information about vehicle operators because she did not know the difference between an owner of a company and an operator of a vehicle. See Gina Bordino November 28, 2007 Tr. at 15. This explanation is implausible. It is more likely that, in reality, the Applicant did not want to place Arthur Bordino's name anywhere on the application.[4]

Before her first deposition started on April 5, 2007, Gina Bordino also provided responses to a written questionnaire ("deposition questionnaire").[5] At her deposition on November 28, 2007, she testified that she filled out the deposition questionnaire truthfully to the best of her ability "to the best [she] could because [she] didn't understand a lot of it." See Gina Tr. at 30. The responses that Gina Bordino provided in the deposition questionnaire establish that on April 5, 2007, as evidenced by her subsequent submissions and testimony to the contrary, Gina Bordino knowingly continued to submit false information and documents to the Commission.[6] For instance,

---

[3] G Force was incorporated on November 24, 2004, several months after Arthur Bordino was convicted for activities related to another trade waste company he owned, Advanced Container & Demolition Corp. As of July 15, 2008, Advanced Container & Demolition Corp. owed over $54,000 to the New York State Tax Commission and the Federal government. See Judgment and Lien printout.

[4] Throughout her November 28, 2007 deposition, Gina Bordino offered two different stories about why Arthur's name was omitted from the application and other submissions to the Commission: (1) that she and Arthur deliberately omitted Arthur's name from the application; and (2) that she did not understand some of the questions on the application. See, e.g., Dep. Tr. at 10 and 12, 13, 17-21.

[5] Gina Bordino did not sign this questionnaire because she ended her April 5, 2007 deposition early.

[6] At her November 28, 2007 deposition, Gina Bordino explained that she was actually conflicted about offering the Commission false and misleading information: "... I wanted to tell [the Commission's staff] the truth but I didn't know what to say. If I said something it might get me into trouble for telling the truth."

Question 12 of the questionnaire asks, "Is your spouse currently employed?" Gina Bordino answered, "No." See Questionnaire at 3. Gina Bordino's response to Question 12 of the questionnaire is false, as Arthur Bordino was indeed employed by the Applicant.

**2. Failure to disclose Arthur Bordino's criminal record.**

Question 26 of the application asks the applicant to disclose all felony and misdemeanor convictions of any current principal of the company. See registration application at 5 ("Has the applicant business, or any current principal, ... ever been convicted of any misdemeanor or felony in any jurisdiction?"). G Force's failure to disclose Arthur Bordino as a principal of the company was an unsuccessful attempt to conceal his industry related felony conviction. Nondisclosure of Arthur Bordino's connection to the Applicant was intended to allow Gina Bordino to avoid answering this question in the application. Again, the Applicant's answer to Question 26 on the registration application is false and misleading because Arthur Bordino, who is a principal of the company, was convicted of two trade waste industry connected felonies in 2004.

**3. The Applicant submitted a certification for temporary permission to operate that contained false and misleading information.**

On or about January 19, 2007, the Applicant submitted a completed Certification for Temporary Permission to Operate Pending Decision on Application ("Temporary Permission Certification"). Gina Bordino certified that she "read and understood the questions... and that to the best of [her] knowledge the information given in response to each question is full, complete, and truthful." See Temporary Permission Certification at 2. Question 1 of the Temporary Permission Certification asks," Has the applicant business or any past or current principal of the applicant business, been convicted of any misdemeanor or felony in any jurisdiction during the past 15 years? Include misdemeanor charges, felony charges, and all non-traffic violations (including DWIs)." The Applicant falsely answered question 1, "No." See Id. at 1. As discussed above, Arthur Bordino is and was a principal of the applicant and he was convicted of felonies in 2004.

Question 3 of the Temporary Permission Certification asks, "Have you ever had any contact or dealings with persons or entities you believed or subsequently learned to be connected to organized crime?" The Applicant falsely answered question 3, "No." See Temporary Permission Certification at 2. At his deposition on November 28, 2007, Arthur Bordino identified Adam Hyzdu as his "friend." See Arthur Bordino Tr. at 12, 19. At her deposition on November 28, 2007, Gina admitted that she "heard" that Hyzdu was

---

Q: How would telling the truth get you into trouble?

A: I don't know. Because I've never been through this before.

See Gina Bordino Deposition Tr. at 32-33.

an associate of the Genovese organized crime family. See Gina Tr. at 26. Gina learned of Hyzdu's organized crime status when she saw him on the news when he and Arthur were arrested in 2004. See Id. at 27. Arthur also first heard allegations that Hyzdu was involved with organized crime when he and Hyzdu were arrested together. See Id. at 21. Despite hearing about Hyzdu's association with the Genovese crime family, Gina and Arthur still socialize with Hyzdu.[7] See Gina Tr. at 28; Arthur Tr. at 26-27. Moreover, the Applicant affirmatively denied such an association and failed to disclose it to the Commission as required.

The failure of the Applicant to provide truthful and non-misleading information to the Commission is evidence that the Applicant lacks good character, honesty and integrity. The Applicant did not dispute this point, leaving this ground uncontested. Based on this independently sufficient ground, this application is denied.

[7] Arthur offered conflicting testimony about his relationship with Hyzdu. Although he visited Hyzdu at Hyzdu's office two weeks before the deposition, Arthur testified that he does not "hang out and go to dinner" with Hyzdu like he did before the criminal case. See Arthur Bordino Tr. at 27.

## III. CONCLUSION

The Commission is vested with broad discretion to refuse to issue a license or registration to any applicant that it determines lacks good character, honesty, and integrity. The evidence recounted above demonstrates convincingly that G Force falls far short of that standard. Based upon the above independently sufficient reasons, the Commission denies G Force's exemption application and registration.

This exemption/registration denial is effective immediately. G Force Industries, Ltd. may not operate as a trade waste business in the City of New York.

Dated: April 14, 2009

THE BUSINESS INTEGRITY COMMISSION

Michael J. Mansfield
Commissioner/Chair

John Doherty, Commissioner
Department of Sanitation

Jonathan Mintz, Commissioner
Department of Consumer Affairs

Jayme Naberezny, Inspector General (designee)
Department of Investigation

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

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