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 EXEMPTION APPLICATION OF HI-TECH GENERAL CONSTRUCTION & MANAGEMENT SERVICES, INC. FOR A REGISTRATION TO OPERATE AS A TRADE WASTE BUSINESS

Hi-Tech General Construction & Management Services, Inc. ("Hi-Tech General") 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 March 11, 2010, Hi-Tech 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. 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);

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 this Applicant lacks good character, honesty, and integrity for the following reason:

- The Applicant failed to provide information and provided false and misleading information to the Commission on its application.

    1. Failure to disclose Adel Sageer's criminal record.

    2. Failure to disclose Abdul K. Sageer as a principal and the Applicant's connections to Hi- Tech Construction.

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.

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).

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 March 11, 2010, the Applicant applied to the Commission for an exemption from licensing and registration as a trade waste business that removes construction and demolition debris.[1] See Registration Application filed on March 11, 2010 ("Application"). The Application disclosed Adel Sageer as the "president" and Mohammad Shafiq as the "secretary/treasurer" of the company. See id. at 13. The Application also disclosed Mohammad as the sole vehicle operator. See id. at 18.

In response to Question 33 of the Application, the Applicant disclosed that Abdul K. Sageer is "the person who prepared or assisted in the preparation of this application." See id. at 12. Abdul K. Sageer is Adel Sageer's father and Mohammad Shafiq's brother. See August 31, 2010 Deposition Transcript of Adel Sageer ("August 31, 2010 Sageer Tr.") at 8-9. Abdul Sageer was the principal of another company with a name similar to this Applicant- Hi-Tech Construction & Management Services, Inc. ("Hi-Tech Construction"). See id. at 9-10. On or about November 1, 2005, the Commission issued a registration to Hi-Tech Construction. See Registration Order issued to Hi-Tech Construction. On or about February 28, 2003, Hi-Tech Construction's registration expired when it failed to file a renewal application with the Commission. See id.

The staff conducted an investigation of the Applicant and its principals, and in connection with that investigation, on August 31, 2010, the staff attempted to depose Adel Sageer. After having difficulty answering the most basic questions about the Applicant business and the connections between the Applicant business and Hi-Tech Construction, Adel Sageer requested that the deposition be adjourned so that he could retain an attorney. See August 31, 2010 Sageer Tr. at 26. The Commission's staff agreed to adjourn Adel Sageer's deposition to October 21, 2010. On October 21, 2010, Adel Sageer appeared at the Commission to resume his deposition with an attorney. See October 21, 2010 Deposition Transcript of Adel Sageer ("October 21, 2010 Sageer Tr.").

On June 27, 2011, the staff issued a 14-page recommendation that the application be denied. The Applicant was served with the recommendation on or about June 29, 2011. The Applicant was granted ten business days to respond (July 18, 2011). See 17

[1] By letter dated October 28, 2010, the Applicant's attorney requested that the Commission allow the Applicant to withdraw the instant application. See October 28, 2010 letter from Allan Bahn, Esq. The Commission received this letter after the Commission expended considerable resources in investigating the background of this Applicant and its principals, and only after it became clear to the Applicant that its application might be denied. The Commission responded to the Applicant's request to withdraw its application by letter dated November 4, 2010. In its response, the Commission advised the Applicant that its request to withdraw its application would not be considered. See November 4, 2010 letter from David Mandell to Allan Bahn, Esq.

RCNY §2-08(a). The Applicant failed to submit a response to the staff's recommendation.

The Commission has carefully considered the staff's recommendation and for the reason set forth below, the Commission finds that Hi-Tech General lacks good character, honesty, and integrity, and denies its registration application.

III. GROUNDS FOR DENIAL

A. The Applicant failed to provide information and provided false and misleading information to the Commission on its application.

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). In connection with the Registration Application, Adel signed a sworn certification under penalty of perjury that he "read and understood the questions contained in the attached application and its attachments" and "that to the best of [his] knowledge the information provided in response to each question and in the attachments is full, complete and truthful." Id. at 20. In addition, at his deposition on August 31, 2010, Adel testified that he signed the certification page of the application after he reviewed the application.[2] See August 31, 2010 Sageer Tr. at 16. Despite signing this certification, Adel later admitted at his October 21, 2010 deposition, that he provided the Commission with information that he knew was false and misleading. See October 21, 2010 Sageer Tr. at 6, 27, 29. Accordingly, the Commission cannot place any confidence in the application, finds it unreliable, and denies Hi-Tech General's Application.

1. Failure to disclose Adel Sageer's criminal record.

The Registration Application filed by the Applicant asks in Question 27, "are there any criminal charges pending against the applicant business or any principal of the applicant business in any jurisdiction?" See Application at 6. The Applicant answered, "No." See id. The Applicant's answer to Question 27 is false and misleading because Adel Sageer, who is a principal of the company, was the subject of pending criminal charges when the application was submitted to the Commission on March 11, 2010. On September 21, 2009, Adel was arrested and charged with operating a motor vehicle under

[2] Adel Sageer testified that Abdul K. Sageer filled out the application with Adel's help. See August 31, 2010 Sageer Tr. at 16-17. Yet, at his October 21, 2010 deposition, Adel Sageer stated, "I would like to correct the record. The last time I said I read the application before I signed it. I never read it; in fact, I never read it before I came here. I was trying to protect my father, so I just signed it without really reading it." See October 21, 2010 Sageer Tr. at 6. Adel was initially evasive when he was asked from what he was trying to protect his father, but later answered, "basically anything." See id. at 7-8.

the influence of drugs or alcohol and operating a motor vehicle without insurance.[3] See Criminal History Record Search Printout. Thus, these criminal charges were pending at the time that the application was submitted to the Commission.[4] At his October 21, 2010 deposition, Adel Sageer confirmed that the Applicant submitted false and misleading information to the Commission in response to Question 27 of its application:

> Q.: I'm going back to the application that we discussed before. Question 27, are there any criminal charges pending against the applicant business or any principal of the applicant business in any jurisdiction? And I just want to show you that the answer is no. When this was submitted on March 11, 2010, would that answer be true or false?
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> A.: False.

See October 21, 2010 Sageer Tr. at 27.

The Applicant also initially attempted to conceal Adel Sageer's lengthy arrest record from the Commission by falsely answering other questions in the application. For instance, Question 31 (a) of the application asks the Applicant, "during the past ten (10) years, has the applicant business or any current or past principal of the applicant business been the subject or target of any investigation involving an alleged violation of criminal law?" See Application at 8. Again, the Applicant falsely answered, "No." See id. The Applicant's answer to Question 31 (a) is false and misleading because during the past ten years, Adel Sageer, who is a principal of the company, was the subject or target of numerous investigations involving alleged violations of criminal law. The first time that Adel Sageer was the subject or target of an investigation regarding an alleged violation of criminal law was in 1999 or 2000, when he was arrested for the sale of marijuana.[5] See October 21, 2010 Sageer Tr. at 16. Then, in July, 2005, Adel Sageer was the subject or target of another investigation regarding an alleged violation of criminal law when he was arrested in Virginia and charged with operating a motor vehicle without a driver's license, a misdemeanor.[6] See Administrative Office of the Virginia Courts Record. In 2006, Adel Sageer was the subject or target of another investigation regarding an alleged violation of criminal law when he was arrested for gang assault.[7] See October 21, 2010 Sageer Tr. at 17. Adel Sageer was also the subject or target of several other

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[3] On April 19, 2010, Adel Sageer pled guilty to operating a motor vehicle under the influence of drugs or alcohol, a misdemeanor. See Criminal History Record Search Printout. He was sentenced to three years probation. See October 21, 2010 Sageer Tr. at 20-21.

[4] Adel Sageer pled guilty to the charges and was sentenced to three years probation. See October 21, 2010 Sageer Tr. at 20-21.

[5] This case was adjourned in contemplation of dismissal and was ultimately dismissed. See October 21, 2010 Sageer Tr. at 16.

[6] On August 9, 2005, Adel Sageer was found guilty in absentia. See Administrative Office of the Virginia Courts Record.

[7] At his deposition on October 21, 2010, Adel Sageer claimed that he was arrested after he "got into a fight with another party, me and my brother and another friend." See October 21, 2010 Sageer Tr. at 18. However, Adel Sageer claimed that he did not remember what the fight was about. See October 21, 2010 Sageer Tr. at 18. This case against Adel Sageer was ultimately dismissed. See id.

investigations regarding alleged violations of criminal law in 2006 and 2007, when he was arrested between three and five different times for possession of marijuana.[8] See October 21, 2010 Sageer Tr. at 17. Then, in March 2009, Adel Sageer was the subject or target of another investigation regarding the alleged violation of criminal law when he was arrested and charged with possession of marijuana.[9] See October 21, 2010 Sageer Tr. at 19. As recently as May 2009, Adel Sageer was the subject or target of another investigation regarding an alleged violation of criminal law when he was arrested and charged with resisting arrest, disorderly conduct, and littering.[10] See October 21, 2010 Sageer Tr. at 18-19. Finally, as discussed above, on September 21, 2009, Adel Sageer was the subject or target of another investigation regarding the alleged violation of criminal law when he was arrested and charged with operating a motor vehicle under the influence of drugs or alcohol. See Criminal History Record Search Printout. At his October 21, 2010 deposition, Adel Sageer admitted that the Applicant submitted false and misleading information to the Commission in response to Question 31 (a). See October 21, 2010 Sageer Tr. at 27.

Similarly, Question 31 (b) of the application asks the applicant, "during the past ten (10) years, has the applicant business or any current or past principal of the applicant business been charged with any criminal offense in any jurisdiction?" See Application at 8. Again, the Applicant falsely answered, "No." See id. The Applicant's answer to Question 31 (b) is false and misleading because, as discussed above, during the past ten years, Adel Sageer, who is a principal of the company, has been charged with numerous criminal offenses. At his October 21, 2010 deposition, Adel Sageer admitted that the Applicant submitted false and misleading information to the Commission in response to this question. See October 21, 2010 Sageer Tr. at 28-29.

Finally, Question 31 (g) of the application asks the applicant, "during the past ten (10) years, has the applicant business or any current or past principal of the applicant business entered a plea of nolo contendere or been granted an adjournment in contemplation of dismissal or the equivalent to any felony or misdemeanor charge?" See Application at 8. Yet again, the Applicant falsely answered, "No." See id. The Applicant's answer to Question 31 (g) is false and misleading because, as discussed above, during the past ten years, Adel Sageer, who is a principal of the applicant company, has been granted adjournments in contemplation of dismissal for several criminal cases.

The failure of the Applicant to provide truthful and non-misleading information to the Commission about Adel Sageer's criminal history is evidence that the Applicant lacks good character, honesty and integrity. The Applicant did not dispute this point, leaving this ground uncontested. Accordingly, in the exercise of its discretion, the Commission

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[8] Adel Sageer testified that between 2006 and 2007, he was arrested between three and five different times for possession of marijuana. See October 21, 2010 Sageer Tr. at 17. Each of these cases was adjourned in contemplation of dismissal and was ultimately dismissed. See October 21, 2010 Sageer Tr. at 17.

[9] This case was adjourned in contemplation of dismissal and was ultimately dismissed. See October 21, 2010 Sageer Tr. at 20.

[10] Adel pled guilty to littering. The resisting arrest and disorderly conduct charges were dismissed.

concludes that, by reason of his failure to disclose his criminal history, Sageer lacks good character, honesty, and integrity and denies Hi-Tech General's application on this ground. See Admin. Code §§16-509(b); 16-509(a)(i).

2. Failure to disclose Abdul K. Sageer as a principal and the Applicant's connections to Hi- Tech Construction.

Hi-Tech General's application was false in that Adel Sageer and Mohammad Shafiq were disclosed as the only principals of the company, when, in fact, Abdul K. Sageer was also a principal of the Applicant. Under Local Law 42, the definition of "principal" (which is included in the instructions section for the Application) includes corporate officers and directors, all stockholders holding ten percent or more of the outstanding shares of the corporation and *"all other persons participating directly or indirectly in the control of such business entity"* (emphasis added). See Admin. Code §16-501(d).[11]

Question 12 of the application asks, "On Schedule A, identify all individuals who are principals of [the] applicant business..." See Application at 3. The application disclosed only two principals – Adel Sageer, President of Hi-Tech General, and Mohammad Shafiq, Secretary/Treasurer of Hi-Tech General. See id. at 13. The Applicant's response to Question 12 and Schedule A were false, as the weight of available evidence indicates that the Applicant company is virtually indistinguishable from Abdul K. Sageer's company, Hi-Tech Construction, and that Abdul K. Sageer is the controlling force behind the Applicant company.

Adel Sageer initially gave nonsensical answers to simple questions regarding the formation and control of the Applicant business. When asked why he started a new company instead of taking over his father's business, he stated, "I would just as soon separate myself from his company." See August 31, 2010 Sageer Tr. at 13. When asked why he wanted to separate himself from his father's company, he testified that he wanted to "get [his] own start on things." See id. at 13. When asked why he did not choose a name more distinctive from the name of his father's company, he testified, "because I sort of- - I just wanted to go along with- - I mean, I just wanted to keep some form of attachment to the old company." See id. at 13. At his October 21, 2010 deposition, Adel Sageer testified that Abdul "wanted to keep some type of attachment to the old company." See id. at 14. The logical conclusion is that the Applicant is the successor

[11] In addition, an individual is considered to hold stock in a corporation where such stock is owned directly or indirectly by or for the children, grandchildren and parents of such individual. See Admin. Code §16-501(d). Thus, Abdul K. Sageer, as the father of Adel Sageer, would be deemed by Local Law 42 to be a principal of Hi-Tech General even if he did not participate in the control of Hi-Tech General. This broad definition of "principal" was adopted by the City Council to be read in conjunction with the legislation's §16-507 (requiring Applicants for registration to provide the Commission with information sufficient to enable the Commission to identify a business) and §16-508 (setting forth a detailed list of information Applicants for license would have to provide to the Commission). See Report of the Legal and Governmental Affairs Division of the City Council; Hearing on Int. No. 676-A Before the Committee on Consumer Affairs, May 10, 1996 at 11-12.

business to Hi-Tech Construction, that Abdul K. Sageer created the Applicant business, and that Abdul K. Sageer maintains complete control of the Applicant business.

Operationally, it is difficult to distinguish Hi-Tech General from Hi-Tech Construction. The applicant business plans to perform the same type of work as High Tech Construction did before it went out of business. Both companies have occupied the same office and garage, along with another company owned and controlled by Abdul, Ursum Realty.[12] See August 31, 2010 Sageer Tr. at 11. Hi-Tech General, Hi-Tech Construction, and Ursum Realty utilize the same telephone number ((718) 826-6701) and fax number ((718) 826-6704).[13] See October 21, 2010 Sageer Tr. at 13. In an effort to conceal Abdul K. Sageer's connection to the Applicant through companies that Abdul K. Sageer owns and controls, the Applicant also provided the Commission with a false answer to Question 11 of the application, which asks, "Does the applicant business share any office space, staff or equipment (including, but not limited to, telephone lines) with any other business or organization?" See Application at 2. The Applicant falsely answered, "no." See id. In reality, the property where the Applicant's main office is located is owned by Ursum Realty. See August 31, 2010 Sageer Tr. at 19. The yard where the Applicant parks its truck and stores other equipment is also owned by Ursum Realty.[1] See id. at 18-19. Ursum Realty is owned by Abdul K. Sageer. See id. at 19. The Applicant does not pay any rent for its office space. See id. Abdul K. Sageer maintains a presence in the Applicant's office (the same office as Ursum Realty) everyday. See id. at 24-25. Finally, the telephone number and fax numbers of the Applicant are the same telephone and fax numbers that Hi-Tech Construction uses. See id. at 27.

Adel Sageer's own testimony directly contradicts the information provided in the Registration Application, i.e., that Abdul K. Sageer is not a principal of the Applicant.[14] Abdul K. Sageer, the father of Adel Sageer, has played a prominent role in all three

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[12] The Applicant does not pay rent to utilize the office space, which is owned by Ursum Realty. See August 31, 2010 Sageer Tr. at 19. Although the application states that the main office and mailing address for the Applicant is "828 Coney Island Avenue, Brooklyn, NY 11218," and that the garage address is "824 Coney Island Avenue, Brooklyn, NY 11218," the Applicant moved its office to 830 Coney Island Avenue and added a second garage address at 814 Coney Island Avenue. See August 31, 2010 Sageer Tr. at 18-21. The Applicant violated 17 RCNY §2-05(b)(iii) by failing to amend its application within ten business days regarding this material change.

[13] In an effort to conceal Abdul K. Sageer's connection to the Applicant through companies that Abdul K. Sageer owns and controls, the Applicant also provided the Commission with a false answer to Question 11 of the application, which asks, "Does the applicant business share any office space, staff or equipment (including, but not limited to, telephone lines) with any other business or organization?" See Application at 2. The Applicant falsely answered, "no." See id. In reality, the property where the Applicant's main office is located is owned by Ursum Realty. See August 31, 2010 Sageer Tr. at 19. The yard where the Applicant parks its truck and stores other equipment is also owned by Ursum Realty.[13] See id. at 18-19. Ursum Realty is owned by Abdul. See id. at 19. The Applicant does not pay any rent for its office space. See id. Abdul K. Sageer maintains a presence in the Applicant's office (the same office as Ursum Realty) everyday. See id. at 24-25. Finally, the telephone number and fax numbers of the Applicant are the same telephone and fax numbers that Hi-Tech Construction uses. See id. at 27.

[14] On April 29, 2010, Adel Sageer provided sworn testimony related to a civil lawsuit. See Sageer v. The City of New York, et. al., Supreme Court of the State of New York, Kings County, 25224/09. Although he testified about his employment history, he failed to mention anything about the Applicant business.

companies. Abdul K. Sageer formed the applicant company. See August 31, 2010 Sageer Tr. at 8-9; see also October 21, 2010 Sageer Tr. at 9. Abdul K. Sageer decided to make Adel Sageer and Mohammad Shafiq the principals of the company on paper.[15] See October 21, 2010 Sageer Tr. at 8-9. Abdul K. Sageer filled out the Application that was later submitted to the Commission.[16] See August 31, 2010 Sageer Tr. at 16; see also October 21, 2010 Sageer Tr. at 11. Abdul K. Sageer explained to Adel Sageer that the business needed a trade waste license issued by the Commission in order to operate legally. See August 31, 2010 Sageer Tr. at 17; see also October 21, 2010 Sageer Tr. at 7. Abdul K. Sageer purchased a truck that was initially used by Hi-Tech Construction. See October 21, 2010 Sageer Tr. at 25. After Abdul K. Sageer formed the Applicant company, he transferred the truck to Hi-Tech General. See August 31, 2010 Sageer Tr. at 24-25. Around the time of his deposition on August 31, 2010, Abdul K. Sageer maintained a daily presence in the applicant's office while Adel Sageer maintained no presence in the applicant's office, garage, or jobsites because Adel Sageer was "doing an internship" with NYTA Design Constriction. See id. at 21, 23-24. Although Abdul K. Sageer clearly is the driving force behind the Applicant company, Adel Sageer maintained that Abdul K. Sageer is only an adviser to the Applicant company. See October 21, 2010 Sageer Tr. at 10. In addition, during his deposition testimony, Adel Sageer all but admitted that the Abdul K. Sageer is a principal of the Applicant company, and that the application contained false information by failing to disclose that Abdul K. Sageer was a principal: "sooner or later it's going to be transferred to me. Maybe – we had a general understanding of that. I was going to run the company."[17] See October 21, 2010 Sageer Tr. at 8-11. Thus, it is clear that on the date that the application was submitted to the Commission, Abdul K. Sageer was an undisclosed principal of the Applicant business.

Finally, on September 1, 2010, Abdul demonstrated his continued control of the Applicant business when he contacted the Commission's staff regarding Hi-Tech General's application. During this conversation, Abdul referred to "our application," and stated that "we are not mafia." See Affidavit by David Mandell.

The record thus abundantly establishes that Abdul K. Sageer participates directly or indirectly in the control of Hi-Tech General and is therefore a principal. See 16 NYC Code. §1-01 (definition "principal"). In addition, the record establishes that the applicant business is closely affiliated with other businesses that Abdul K. Sageer owns and controls. Thus, the statement on the Applicant's application that Adel Sageer and Mohammed Shafiq were the only principals of the company was false and misleading. Similarly, the statement on the Applicant's application that it does not share any office space, staff or equipment with any other business was false and misleading.

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[15] Adel Sageer was "made one of the principals" of the Applicant business but was "not too sure how it was decided that he would be president and Mohammad Shafiq would be vice president of the Applicant business." See August 31, 2010 Sageer Tr. at 9, 12.

[16] Adel initially testified that Abdul K. Sageer filled out the application with Adel Sageer's assistance. Adel Sageer then signed the certification page after reviewing the information provided on the application.

[17] Again, Adel Sageer all but admitted that Abdul K. Sageer is presently in control of the applicant company: "because he is planning to retire soon." See October 21, 2010 Sageer Tr. at 9.

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. The Commission denies Hi-Tech General's application on this ground.

IV. 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 Hi-Tech General falls far short of that standard. Based upon the above sufficient reason, the Commission denies Hi-Tech General Construction & Management Services, Inc. exemption application and registration.

This exemption/registration denial is effective immediately. Hi-Tech General Construction & Management Services, Inc. may not operate as a trade waste business in the City of New York.

Dated: August 2, 2011

THE BUSINESS INTEGRITY COMMISSION

Michael J. Mansfield
Commissioner/Chair

John Doherty, Commissioner
Department of Sanitation

Rose Gill Hearn, Commissioner
Department of Investigation

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

Andrew Schwartz, First Deputy Commissioner (designee)
Department of Small Business Services

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