

**SUPREME COURT, STATE OF NEW YORK
COUNTY OF NEW YORK**

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In the Matter of an Article 78 Proceeding

**MR. T CARTING CORPORATION AND FRANK
COPPOLA,**

Petitioners,

-against-

**SHARI C. HYMAN, COMMISIONER AND CHAIR
OF THE NEW YORK CITY BUSINESS
INTEGRITY COMMISSION AND THE NEW YORK
CITY BUSINESS INTEGRITY COMMISSION,**

Respondents.
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Index No.

13100696

NOTICE OF PETITION

FILED

MAY 03 2013

**COUNTY CLERK'S OFFICE
NEW YORK**

PLEASE TAKE NOTICE that upon the annexed petition of MR. T CARTING CORPORATION ("MR. T") and FRANK COPPOLA ("COPPOLA"), verified the 30th day of April, 2013, and the 24th day of April, 2013, respectively, the annexed affidavit of COPPOLA, sworn to on the 30th day of April, 2013, the annexed affirmation of Thomas N. Toscano, Esq. and the Exhibits attached thereto, and on the return of proceedings herein to be filed by the Respondents, an application will be made to this Court at a Term, Part ___ thereof, to be held at the County Courthouse, 60 Centre Street, New York, New York on the _____ day _____, 2013, at _____ o'clock in the _____ noon, or as soon thereafter as counsel can be heard, for a judgment declaring that SHARI C. HYMAN, Commissioner and Chair of the New York City Business Integrity Commission and THE NEW YORK CITY BUSINESS INTEGRITY COMMISSION (collectively, "The Commission"), immediately render a formal determination of the pending Application of MR. T and COPPOLA, to add COPPOLA as a sales representative of MR. T.

PLEASE TAKE FURTHER NOTICE that a verified answer, and supporting affidavits, if any, must be served at least five (5) days before the return date of this application, and that pursuant to CPLR 7804, you are directed to file with the Clerk of the Court your Answer, and answering affidavits, etc., together with a certified transcript of the record of the proceedings to be considered herein.

PLEASE TAKE FURTHER NOTICE that the basis of venue of this action as set forth hereinabove is pursuant to the provisions contained in CPLR 7804.

Dated: April 24, 2013
New York, New York

Yours, etc.

WASSER & RUSS, LLP

By: 

Adam H. Russ, Esq.
Isaac Alony, Esq.
Counsel for Frank Coppola
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Tel: (212) 430-6040
Fax: (212) 430-6041

THOMAS N. TOSCANO & ASSOCIATES, PLLC

By: 

Thomas N. Toscano, Esq.
Counsel for Mr. T Carting Corp.
72-37 70th Avenue
Glendale, NY 11385
Tel: (516) 214-0473
Fax: (718) 381-0722

To: Shari C. Hyman
NYC Business Integrity Commission
100 Church Street, 20th Floor
New York, NY 10007

NYC Business Integrity Commission
100 Church Street, 20th Floor
New York, NY 10007

Corporation Counsel of the City of New York
New York City Law Department
100 Church Street
New York, NY 10007

STATE OF NEW YORK
SUPREME COURT, COUNTY OF NEW YORK

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In the Matter of an Article 78 Proceeding

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Index No.

VERIFIED PETITION

13100698

Petitioners, MR. T CARTING CORPORATION (“MR. T”) and FRANK COPPOLA (“COPPOLA”) (MR. T and COPPOLA are hereinafter collectively referred to as “Petitioners”), complaining of the Respondents, allege as follows:

1. On or about December 11, 2012, MR. T, a licensee regulated by Respondents (collectively, the “Commission”), submitted an Employee/Agent Disclosure Form to the Commission, notifying the Commission that MR. T hired or planned to hire COPPOLA as an employee salesperson (the “Application”). A true and correct copy of the Application is attached hereto as Exhibit A.
2. The Application was completed and certified by COPPOLA. See Exhibit A at Page 19 of 20.
3. The Application included a Release Authorization allowing the Commission to conduct an investigation into COPPOLA’s background and authorizing third parties to provide

information and documentation to the Commission in connection with its investigation. See Exhibit A at Page 20 of 20.

4. On December 19, 2012 the Commission acknowledged receipt of the Application and advised MR. T in writing that COPPOLA's employment by MR. T "may have a result inimical to the purposes of Local Law 42" and demanded that COPPOLA's employment by MR. T, therefore be suspended pending the Commission's review of the matter (the "Notice").

Attached hereto as Exhibit B is a true and correct copy of the Commission's December 19, 2012 Notice.

5. COPPOLA has not been employed by MR. T in any capacity since December 19, 2012 in light of the Commission's Notice.

6. Title 16-A of the Administrative Code of the City of New York § 16-510(a) provides in pertinent part:

Notwithstanding any other provision of this chapter, a licensee shall provide the commission with notice of at least ten business days of the proposed addition to the business of the licensee of any person subject to the provisions of this subdivision. The commission may waive or shorten such ten day period upon a showing that there exists a bona fide business requirement therefor. Except where the commission determines within such period, based on information available to it, that the addition of such new person may have a result inimical to the purposes of this chapter, the licensee may add such person pending the completion of an investigation by the commission. ***The licensee shall be afforded an opportunity to demonstrate to the commission that the addition of such new person pending completion of the investigation would not have a result inimical to the purposes of this chapter.*** If upon the completion of such investigation, the commission makes a final determination that such person lacks good character, honesty and integrity, the license shall cease to be valid unless the employment of such person in the business of such licensee is discontinued within the time period prescribed by the commission. (***emphasis added***). New York City, N.Y., Code § 16-510(a)(ii).

7. On information and belief, to date the Commission has not afforded Petitioners an opportunity to demonstrate that the addition of COPPOLA as a salesperson of Mr. T pending completion of the investigation would not have a result inimical to the purpose of Local Law 42.

8. To date the Commission has failed and refused to explain how the employment of COPPOLA by MR. T would have a result inimical to the Purposes of Local Law 42.

9. The Notice and the Commission's demand that MR. T suspend COPPOLA's employment pending its review of the matter without affording Petitioners an opportunity to demonstrate that the addition of COPPOLA as a salesman for MR. T will not have a result inimical to the purposes of Local Law 42 is arbitrary and capricious.

10. Petitioners have fully cooperated with the Commission's investigation in connection with the Application and provided all information requested by the Commission.

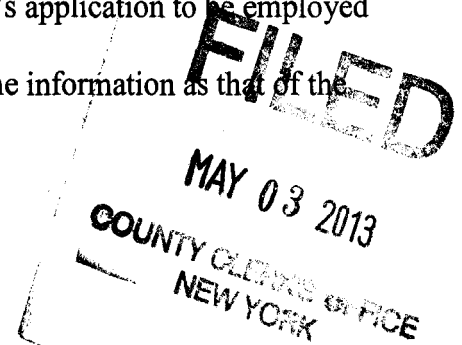
11. On January 18, 2013, in furtherance of the Application, COPPOLA voluntarily appeared before the Commission for a deposition without counsel. At said deposition numerous representatives of the Commission questioned COPPOLA in connection with its application.

12. The Commission denied COPPOLA the right to attend the deposition with the original counsel of his choice.

13. To date, the Commission has failed and refused to provide Petitioners with a copy of the transcript from its January 18, 2013 deposition of COPPOLA despite due demand.

14. To date, the Commission has failed to render a formal/final determination on the Application and/or otherwise explain or specify how COPPOLA's employment by MR. T "may have a result inimical to the purposes of Local Law 42."

15. In or about 2010 the Commission approved an application to hire COPPOLA as a salesperson (the same position MR. T wishes to hire COPPOLA for in the Application) for another licensee, Metropolitan Recycling Corporation. COPPOLA's application to be employed by Metropolitan Recycling Corporation contained virtually the same information as that of the current Application.



16. COPPOLA's employment at Metropolitan Recycling Corporation was without incident, and, upon information and belief, COPPOLA was never investigated by the Commission during his time as a salesperson employed by Metropolitan Recycling Corporation.

17. Since December 19, 2012 to the date hereof, Petitioners have tried to obtain from the Commission a date certain for a formal determination of the Application.

18. Since December 19, 2012 COPPOLA has been unable to work for MR. T due to the Commission's mandated suspension set forth in the Notice.

19. The Commission's mandated suspension of COPPOLA's employment by MR. T since December 19, 2012 has substantially prejudiced and negatively impacted COPPOLA's ability to earn a living and MR T's ability to conduct its business.

20. Petitioners have has taken all reasonable and necessary steps in accordance with the administrative procedures set forth in Title 16-A of the Administrative Code of the City of New York § 16-510(a) for the Commission to render a formal decision on the Application.

WHEREFORE, Petitioners respectfully demand that a judgment be entered against the Respondents requiring them to render a formal decision on the Application, together with such other and further relief as to the Court may seem just and proper, together with costs and disbursements of this proceeding.

Dated: April 24, 2013
New York, New York

Yours, etc.

WASSER & RUSS, LLP

THOMAS N. TOSCANO & ASSOCIATES, PLLC

By: 

Adam H. Russ, Esq.
Isaac Alony, Esq.
Counsel for Frank Coppola
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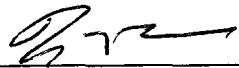
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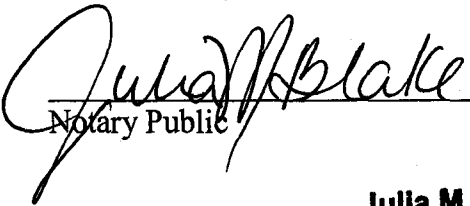
Corporation Counsel of the City of New York
New York City Law Department
100 Church Street
New York, NY 10007

VERIFICATION

I, Thomas N. Toscano, am the Chief Financial Officer of MR. T CARTING CORPORATION, a New York corporation, one of the Petitioners in the in the above-entitled action. I have read the foregoing Verified Petition and know the contents thereof. The contents are true on my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.



Subscribed and Sworn to before me on
24 day of April, 2013

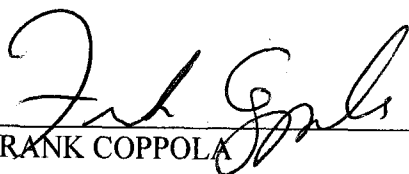


Notary Public

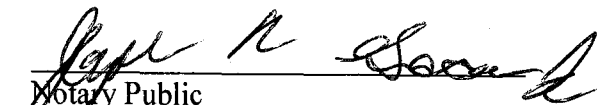
Julia M. Blake
Notary Public State of New York
Reg # 01BL6025843
Qualified in Queens County
Expires on 06/01/2015

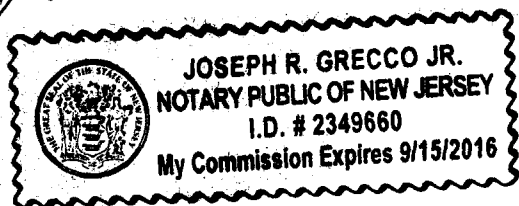
VERIFICATION

I, Frank Coppola, am the Petitioner in the above-entitled action. I have read the foregoing Verified Petition and know the contents thereof. The contents are true on my own knowledge except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.


FRANK COPPOLA

Subscribed and Sworn to before me on
20 day of April, 2013


Notary Public



Index No.

Year 20

STATE OF NEW YORK
SUPREME COURT, COUNTY OF NEW YORK

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COMMISSION,
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NOTICE OF PETITION
VERIFIED PETITION
AFFIDAVIT OF FRANK COPPOLA
AFFIRMATION OF THOMAS N. TOSCANO, ESQ.

WASSER & RUSS, LLP
ATTORNEYS AT LAW

Attorneys for Petitioner

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FAX: (212) 430-6041

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: Signature

Print Signer's Name.....

Service of a copy of the within is hereby admitted.

Dated:

.....
Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

NOTICE OF
ENTRY

that the within is a (certified) true copy of a
entered in the office of the clerk of the within-named Court on

20

NOTICE OF
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the
Hon., one of the judges of the within-named Court,
at
on 20, at M.

Dated:

WASSER & RUSS, LLP
ATTORNEYS AT LAW