

ORGANIZED CRIME AND  
THE TRASH INDUSTRY  
IN NEW YORK CITY:  
1950's THROUGH 2000.

Submitted as a requirement for the Master of Arts, American  
Studies Degree Program, Graduate School of Arts & Sciences,  
Columbia University, New York.

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Submitted, June 2004.

# **ORGANIZED CRIME AND THE TRASH INDUSTRY IN NEW YORK CITY: 1950's THROUGH 2000.**

## **FOREWARD**

For the latter half of the 20th century, New York City's private trash collection industry was believed to be controlled by organized crime, or the Mafia. Major criminal indictments and industry reforms in the mid 1990's proved that the Mafia did indeed have influence over the industry. By 2000, criminal indictments and industry reforms had completely transformed the competitive climate and financial make up of this \$1.5 billion<sup>1</sup> dollar a year local industry.

Some argue the change has been for the better. Some argue it was for the worse because the old New York Mafia was replaced by what some now describe as a new global, white-collar Mafia: major multinational corporations. Meet the new boss, same as the old boss? Some wonder whether blue-collar criminals were simply replaced by white collar criminals.

This paper will address such questions, as well as summarize the history of the trash collection industry in New York from the 1950's through 2000, to assert the following:

1. The industry operated as a cartel and organized crime influenced the industry from the 1950's through the mid 1990's.

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<sup>1</sup> New York Times, 30 June 1995, p. 1.

2. Most owners of carting companies were victims of organized crime; nevertheless, they benefited from the cartel system, and it was passively accepted. At the same time, the owners who were both participants and victims of the cartel could not have challenged it without likely putting their safety or lives at risk.

3. The cartel had been broken by the late 1990's and organized crime was substantially routed from the industry as a result of:

- a. Investigations, indictments and convictions.
- b. Genuine competition entering the market.
- c. Industry reforms.
- d. Market-share consolidation
- e. Other market forces that affected the industry beginning in the early 1990's.

## **INTRODUCTION**

The first comprehensive report on how various Italian Mafia groups influenced or controlled private trash collection in New York, Long Island, Westchester, New Jersey and other areas of the country was published in 1988 by the domestic policy think-tank RAND.<sup>2</sup>

In its 1997 Annual Report, RAND described itself as "a non-profit institution that helps improve international policy and decision-making through research and analysis." RAND was founded in 1948 as an off-shoot of the Douglas Aircraft

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<sup>2</sup> Rand, Peter. *The Cartage Industry in New York*. RAND/RP-280. Santa Monica: RAND, 1994.

Company and became "an independent, non-profit organization dedicated to enhancing the security and well-being of the American people."<sup>3</sup> Since that time, it has published thousands of reports on matters relating to American economics, criminal justice, and national security.<sup>4</sup>

The author of the RAND report, Peter Rueter, is considered "one of the nation's foremost specialists in the economics of organized crime,"<sup>5</sup> including that of the trash collection industry in the United States. The report claims to clarify how organized crime interacted with, influenced or affected the private carting industry.

Organized crime did not "own" the industry, as was usually implied in the media. Instead, the Mafia influenced the industry, often at arms length, by installing its members (often Mafia captains)<sup>6</sup> in positions of power in several trade associations that operated in different boroughs or counties in New York City. These associations represented the owners of carting companies and of unions that represented the employees of carting companies.<sup>7</sup>

By way of these associations, the Mafia is alleged to have enforced a "property rights system" and various "bid-rigging" schemes that inflated prices and stifled competition. In the property rights system, once a carter began servicing a location, or "stop," the carter supposedly owned that stop. If one carter took a stop

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Waste News, 24 July 1995, p.9.

<sup>6</sup> James "Jimmy Brown" Failla was the head of the Greater New York Trade Waste Association from the 1960's through the mid 1990's and a captain in the Gambino Crime Family. Failla was one of the individuals waiting at Paul Castellano's table at Spark's the night Castellano was executed outside of the restaurant in December 1986.

<sup>7</sup> New York Times, 22 October 1997, p. B3.

from another carter, the former was required to pay the latter a certain amount that was equal to a multiple of the monthly revenues that were collected at the stop, or to exchange another customer of equal value.<sup>8</sup>

The concept of paying for stops is completely legal in situations where a contract between the carter and customer exists. Businesses are regularly valued based on a multiple of how many months of revenue exist on their contracts. Very often, an additional value is added based on customer "good-will." Good-will is the estimated value of contract renewals a business can expect after the contract is sold based on the previous relationship that existed between the business and the customer.

Law enforcement officials, justice officials, and politicians contended (mostly through the media) that contract cancellation dates were almost always irrelevant to carters because, when they expired and were put out to bid, larger carters conspired to stifle competition and keep prices high by rigging bids to allow the incumbent carting company to keep their stops. The carters are alleged to have agreed on the prices they would bid before submitting them to the customer or they would often all submit a bid offering to provide service to the customer at the maximum rate allowed by the New York City Department of Consumer Affairs,<sup>9</sup> a cartel-like practice to set a single price. Criminal convictions in the mid 1990's revealed that collusion and or

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<sup>8</sup> Rand, Peter. *The Cartage Industry in New York*. RAND/RP-280. Santa Monica: RAND, 1994

<sup>9</sup> The New York City Department of Consumer Affairs which was dissolved and replaced by the New York City Trade Waste Commission was the city agency responsible for overseeing the carting industry to prevent corruption and illegal pricing practices. They were also responsible for licensing carters and carting companies and setting a maximum rate that carters could charge to prevent overcharging.

cartel-like activity was a regular practice in the industry among the larger carters.<sup>10</sup>

If a customer contract expired, and it was put out to bid, and a carter failed to join a bid-rigging scheme and won the account, that carter was required to pay a multiple to the carter who lost the stop. If he did not, the carter risked being subjected to physical violence, and/or having his trucks set on fire or having his property damaged.<sup>11</sup> Acts of murder against such individuals were rare, but not unheard of.<sup>12</sup>

These two practices, the maintenance of property rights and bid-rigging, were the heart of the problem. If a carter actually competed, bid low, and won a stop, his price was inflated by the artificial expense of having to pay the multiple to the company that lost the stop. Ultimately, the consumer paid the bill. Law enforcement authorities claimed that the Mafia took a percentage, or "cut", of the multiple. In exchange, the Mafia, through various trade associations, acted as the arbitrator or the muscle between disputing parties as a way of keeping the industry "in line."<sup>13</sup> Criminal convictions and plea deals with several defendants in 1996 demonstrated that these allegations were, at least in some cases, true.

### **SUMMARY OF THE PRIVATE CARTING INDUSTRY** **IN NEW YORK CITY: 1950's - 2000**

The private trash collection industry in New York City began to earn its reputation for being controlled or influenced by organized crime in the mid 1950's.<sup>14</sup>

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<sup>10</sup> Daily News, 5 June 1996, p. 24.

<sup>11</sup> Daily News, 6 June 1996, p. 6.

<sup>12</sup> Newsday, 23 December 2001, p. 2.

<sup>13</sup> Waste News, 11 December 1995, p. 23.

This notoriety served many private carters well because it frequently intimidated customers into believing that they had little choice about which carting company they could choose, or that they could not get lower rates by switching carting companies. In the 1950's, the Italian Mafia was at its peak of power in New York and its various families tried to influence any industry it could, which included the private trashcollection industry.

In 1956, approximately 52,000 new commercial customer accounts were added to approximately 70,000 existing commercial customer accounts that were already being serviced by the private carting industry because the City of New York privatized services previously provided at no charge to businesses by the New York City Department of Sanitation. Therefore, all businesses in New York City beginning 1956 had to hire private carting companies to collect their trash.<sup>15</sup>

Before 1956, the private carting industry only picked up trash at free-standing commercial buildings such as hotels, factories, and office buildings. No references to organized crime controlling this market segment prior to 1956 were found in any mainstream periodicals or print news stories, although this does not mean that there was no influence on the industry prior to that time.

The New York City Department of Sanitation provided municipal trash collection services at no charge to small businesses that operated within residential buildings, usually at the street level, and included restaurants, bars, retail shops, barbers, delicatessens, etc. Their "municipal" trash collection services were paid for

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<sup>14</sup> New York Times, 3 January 1957, p. 4.

<sup>15</sup> New York Times, 8 February 1956, p. 35.

through city taxes. “For-profit” trash collection companies are usually referred to as “private carters” in New York City, although, throughout the rest of the country, the term “hauler” is more commonly used. When a municipality stops providing trash collection services and then requires businesses or residences to use commercial or private carters, this process is known as “privatization.” In this case, services for all commercial businesses in New York City were privatized in 1956. Today, nearly 250,000 businesses in New York City have their trash picked up by private carting companies.<sup>16</sup>

By the early 1990’s, New York’s private trash collection industry was estimated to be worth more than \$1.5 billion per year.<sup>17</sup> By the time the cartel began to disintegrate in 1994, industry experts believed that businesses throughout the New York City region were collectively being overcharged by as much as \$400 million per year by the private carting industry.<sup>18</sup>

There were apparently two primary reasons that led to the privatization of trash collection for commercial businesses in 1956. First, the City of New York was having problems with its municipal unions. During the 1950’s, there were frequent strikes or slowdowns that left garbage piling up on the curb. Secondly, by forcing business owners to pay carters directly, the City estimated that it would save \$14,000,000 per year.<sup>19</sup>

Today, the cost would be about \$89,046,772.18,<sup>20</sup> factoring for inflation.

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<sup>16</sup> New York Times, 23 June 1995, p. 1.

<sup>17</sup> Ibid.

<sup>18</sup> Richard Behar, “Talk About Tough Competition,” Fortune (15 January 1996).

<sup>19</sup> New York Times, 26 July 1954, p. 19.



Considering the local private trash industry has annual revenues of approximately \$1.5 billion per year, this would suggest that the City was wise to get out of collecting trash for private businesses when it did.

The private carting companies that served the 70,000 customer accounts before 1956 were poised to take advantage of the opportunity the 52,000 new customers provided. Organized crime was apparently there to take advantage of the opportunities as well.

### **HOW ORGANIZED CRIME FIRST ENTERED THE TRASH INDUSTRY IN NEW YORK CITY IN 1956**

Shortly after the City of New York completely privatized trash collection service for businesses in 1956, trade associations that represented the owners of carting companies became powerful forces in the industry. These trade associations may have been a powerful force in the industry prior to 1956, but there was no mention of such organizations in relation to the private trash industry prior to 1956 in major news bibliographies like the New York Times.

The purpose of these associations was to give owners of New York's carting companies a collective voice in the industry. The associations were supposed to represent the owners in union and contract negotiations as well as petition the City for rate increases. This is a common objective of most business associations in other industries. However, these trade waste associations were believed to be the

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<sup>20</sup> This figure is calculated using an on-line inflation calculator at <http://www.westegg.com/inflation/infl.cgi>.

vehicle or mechanism used by organized crime to set up and maintain a cartel system for nearly four decades.<sup>21</sup>

In 1956, three principal trade associations represented the owners of private carting companies in New York: The Kings County Trade Waste Association, The Queens County Trade Waste Association (which also covered Bronx county), and The Greater New York Trade Waste Association. The Greater New York Trade Waste Association was the largest, and covered Manhattan and Staten Island.

While the Greater New York Trade Waste Association was frequently mentioned in newspapers from the late 1950's through the early 1990's as either being associated with, influenced by, or connected with organized crime, the associations that covered Brooklyn, Queens and Bronx County were only occasionally described in this context. One reason for this may have been that The Greater New York Trade Waste Association was the largest of the three. Another reason could have been that it represented the owners of carting companies that serviced very large properties in Manhattan.

During two different periods from the late 1950's through the early 1990's, two individuals who were linked to organized crime were in charge of the Greater New York Trade Waste Association. The first was Vincent Squillante. In the mid to late 1950's, Mr. Squillante headed the Greater New York Trade Waste Association before he was arrested for his role in controlling the trash industry in parts of New

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<sup>21</sup> Waste News, 7 April 1997, p. 1.

York City, Long Island and Westchester.<sup>22</sup> Though this was disputed in the media, Mr. Squillante was believed to be the godson of Albert Anastasia, a Mafia boss who was also known as the violent "Mad Hatter" and the head of "Murder, Inc." in the 1950's.<sup>23</sup> Mr. Squillante disappeared one day in the late 1950's, and it was assumed that he was executed, possibly because "he knew too much" and posed a risk of testifying in exchange for a reduced sentence. Others thought he was killed because of the way he handled his role as a major leader in the private trash industry on behalf of the Mafia.<sup>24</sup>

From the 1960's through the early 1990's, The Greater Trade Waste Association was controlled by James Failla. Failla, a captain or "capo" in the Gambino crime family,<sup>25</sup> was one of the people waiting at Paul Castellano's table at Spark's the night in December, 1986, when Castellano was executed outside the restaurant. He was the Godfather of the Mafia crime families in NYC when he was executed by gunmen sent by John Gotti.<sup>26</sup> The history of this period is covered in Sam Gravano's biography Under-Boss.<sup>27</sup> Sam Gravano worked as a soldier in John Gotti's "crew" when Castellano's execution was engineered. John Gotti was a captain in Paul Castellano's Gambino crime family.

Sam Gravano was promoted by John Gotti to the rank of "Underboss," or second in command, of the Gambino Crime Family under John Gotti immediately

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<sup>22</sup> New York Times, 12 November 1957, p. 1.

<sup>23</sup> New York Times, 16 November 1957, p. 1.

<sup>24</sup> [www.crimelibrary.com/gangsters2/Gambino/7.htm](http://www.crimelibrary.com/gangsters2/Gambino/7.htm)

<sup>25</sup> New York Post, 22 April 1997, p. 12.

<sup>26</sup> Ibid.

<sup>27</sup> Maas, Peter. Underboss: Sammy the Bull Gravano's Story of Life in the Mafia. HarperCollins, 1997.

after Paul Castellano was executed.

The head of each family has a boss. Each family also typically has an underboss. Under both the boss and underboss is a captain who oversees what is known as a “Crew”. Crew members were often called soldiers or associates, but they were not actually “made” members of the Mafia. To be “made,” a promotion, involves rituals and promises to the organization or family in exchange for authorization to exercise power and the right to protection.

The captains and their crews oversaw various criminal enterprises within the construction and trash removal industry, including drug dealing, loan sharking, and controlling unions.

### **ATTEMPTS TO BREAK THE CARTEL PRIOR TO THE 1990's**

As soon as the City of New York privatized trash collection services in 1956 for the 52,000 new business customers, the City immediately became concerned that carting companies that were members of the “associations” were setting up the “property rights system” throughout the New York area as described earlier.<sup>28</sup> Despite at least one high-profile Senate investigation in the 1950's,<sup>29</sup> several criminal investigations spanning the mid 1950's through the mid 1980's,<sup>30</sup> and numerous attempts at regulatory reform of the industry,<sup>31</sup> very little had changed in more than forty years.

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<sup>28</sup> New York Times, 12 November 1957, p. 1.

<sup>29</sup> Rand, Peter. *The Cartage Industry in New York*. RAND/RP-280. Santa Monica: RAND, 1994.

<sup>30</sup> Ibid.

<sup>31</sup> New York Times, 4 February 1969, p. 78.

The biggest law enforcement event to reform the industry between 1956 and 1995 was a series of sweeping indictments in Brooklyn in 1974.<sup>32</sup> The New York City Police Department had created a carting company two years earlier to infiltrate the industry and collect evidence to prove that it was maintaining a property rights system, engaging in bid rigging, and was otherwise anti-competitive. After this twoyear investigation, fifty-five carting companies and nine individuals were indicted for "restraint of trade." These indictments appeared to be one of the best chances the City had to clean up the industry and break the cartel, at least in Brooklyn. Unfortunately, all of the carters were given what amounted to a "slap on the wrist." Although they pleaded guilty to lesser convictions, none were barred from the industry, and they were fined at most \$500 per truck for their activities.<sup>33</sup> On the average, this was less than 1% of the revenues that each carter collected through its business activities.<sup>34</sup>

Another event that took place on February 25, 1985<sup>35</sup> that may have helped hasten the break-up of the cartel and the routing of organized crime from trash collection industry in New York was the indictment and subsequent conviction of most members of the "Commission."<sup>36</sup> Allegedly headed by Paul Castellano, the Commission included the heads of the five major New York crime Mafia families, including the Gambino, Genovese, Luchese, Bonnano and Columbo crime families. The turmoil following these convictions may have caused leadership to change hands and later may have led to the execution of Paul Castellano on December 16,

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<sup>32</sup> Rand, Peter. *The Cartage Industry in New York*. RAND/RP-280. Santa Monica: RAND, 1994.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Newsday, 9 July 1986, p. 2.

<sup>36</sup> Ibid.

1985.

One of the last failed attempts to bring competition into the marketplace before it finally happened in the mid 1990's was initiated by New York's Mayor Ed Koch in 1987.<sup>37</sup> Koch, in response to the report written by the RAND scholar Peter Rueter, announced that he would implement a plan wherein one carting company would be selected to service an entire area within Manhattan as a franchised district. Chinatown was to be the first section of Manhattan where this plan would be tested. Based on its knowledge of what it actually cost to collect and dispose of trash, the New York City Department of Sanitation was to bid on the contract as well. This was intended to force the private carting companies to bid competitively. Despite a great deal of media attention given to the plan, however, it was never implemented. In 1989, New York Mayor David Dinkins also claimed that he would put the plan into effect, but he never did.<sup>38</sup>

In a 1988 New York Times article titled "A 30 Year Reign; Mob Ruling An Empire of Garbage," reporter Ralph Blumenthal reported that, "despite 30 years of investigations and prosecutions, the \$1.5 billion a year private carting industry in the New York City area...remains controlled by organized crime."<sup>39</sup> With the exception of a few isolated indictments and convictions, including some on Long Island, not much significant activity took place in the New York carting industry between the years of 1988 and 1994. In some ways, it could be considered the "quiet before the storm."

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<sup>37</sup> Rand, Peter. *The Cartage Industry in New York*. RAND/RP-280. Santa Monica: RAND, 1994.

<sup>38</sup> Ibid.

<sup>39</sup> New York Times, 24 January 1988, Section 4, p. 6.

### **THE BEGINNING OF THE END: 1993**

The break-up of the cartel began in 1993 as a result of genuine competition entering the marketplace, industry reform and market-share consolidation as well as sweeping criminal indictments and convictions of members of organized crime and the owners of many of the carting companies that participated in the cartel.

It is important to make a distinction between the “cartel” and “organized crime” because, while they are very closely related, they are in fact two distinct aspects of the private carting industry in New York.

Organized crime controlled and/or influenced the trash industry while the cartel, a group of owners of trash companies, maintained an anti-competitive climate. Out of more than three hundred licensed carters, only a handful of companies and their owners would ultimately be indicted and convicted for their role in the cartel.<sup>40</sup> While on the other hand, the vast majority of owners who were never indicted or convicted were still barred from operating in the industry.

In the early 1990's, John Gotti was still the head of the crime families and Boss of the Gambino crime family. At that time, he was on trial for a whole range of racketeering indictments that actually had little to do with the private carting industry, including conspiring to kill Paul Castellano.<sup>41</sup> However, the legal problems that John Gotti faced, including his ultimate conviction in 1992,<sup>42</sup> surely must have had an

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<sup>40</sup> New York Times, 24 January 1988, Metro Section, p. 6.

<sup>41</sup> New York Post, 44 April 1997, p. 12.

<sup>42</sup> Ibid.

effect on organized crime's control or ability to influence the private carting industry. James Failla, the Gambino captain in charge of overseeing its interests in the private carting industry through the Greater New York Trade Waste Association, was still out on the street during the early 1990's, but he would soon be arrested and indicted.<sup>43</sup> Since his convictions were also not directly related to the private trash industry, it seems that Failla oversaw more than just the Gambino's interests in the private carting industry. However, his conviction was significant because it tied a captain of the Gambino crime family, the biggest in the nation, to the trash industry in New York City because of the position he held as the head of the Greater New York Trade Waste Association.<sup>44</sup> Subsequently, one or more of the soldiers in his crew were promoted or allowed to play a greater role in influencing the private carting industry and the Greater New York Trade Waste Association. These men were younger, more aggressive, and possibly less disciplined than Failla, and their carelessness may have let an undercover New York City detective right into the heart of the illegal activities taking place in the industry.

The convictions of John Gotti, James Failla, and many other individuals who were part of the Mafia and the private carting industry surely weakened control over the trash industry in New York City. Sam "The Bull" Gravano's testimony against John Gotti and dozens of other Mafia figures surely did not help either.<sup>45</sup> The consequences of so many investigations weakened Mafia families, also known as the Cosa Nostra, which shared control of different regions of the private carting industry in New York.<sup>46</sup>

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<sup>43</sup> Daily News, 6 April, 1994, p. 16.

<sup>44</sup> New York Times, 20 April 1993, p. B1.

<sup>45</sup> Ibid.



Some believe that these events did not have a crippling impact because the crime families are believed to have continued operating throughout this time period. However, the overall shock or disruption that these events had on the day-to-day functioning and culture of the crime families helped law enforcement in many ways, but, in spite of all of these convictions and the testimony by Sam Gravano that helped to win these convictions, most people did not think that Mafia influence in the carting industry was over or quickly coming to an end. No one seemed to believe that these convictions were the “death-knell” of organized crimes control of the industry;<sup>47</sup> no one knew whether these convictions meant the Mafia was finished, or whether it would make a comeback, as it had before. The organization could ensure a quick recovery by promptly promoting "soldiers" to "captains," and captains to the position of "boss" in each of the various families.

In fact, as of 1998, law enforcement officials believed that while the Cosa Nostra's power had been significantly curtailed over the past ten years in many "mainstream" industries like construction, carting, and its influence over unions, the various crime families still operated many "low level" criminal activities such as drug distribution, gambling, loan sharking, prostitution and a few isolated white-collar criminal operations in New York.<sup>48</sup>

### **COMPETITION FROM OUTSIDE OF NEW YORK CITY ENTERS THE MARKET TO COLLECT TRASH.**

Despite the fact that Browning Ferris Industries, a national, publicly traded

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<sup>46</sup> New York Post, 22 April 1997, p. 12.

<sup>47</sup> Crain's New York, 10 July 1995, p. 8.

<sup>48</sup> National Public Radio, "Morning Edition," 4 May 1998, Block, Melissa and Bob Edwards.

trash giant would begin offering its trash collection services in October of 1993, nobody in law enforcement, the business community or people who were familiar with the Mafia or the trash industry were yet convinced that the Mafia's influence was anywhere near over. In fact, even though James Failla was convicted and sentenced to seven years in April of 1994 (essentially a life sentence, considering that he was 74 years old), the New York State Bar Association declared that Failla's conviction was "generally insufficient to rid the carting business of racketeering mobsters" or Mafia influence and control.<sup>49</sup>

For several years during the early 1990's, New York politicians were clamoring to get large, publicly traded trash companies that did not operate in New York to enter the market. They knew that competition kills or, at least, scares cartels.

The two companies in particular who politicians courted were Browning Ferris Industries (BFI) and Waste Management, Inc. (WMI) Both were substantial multibillion dollar international companies that had avoided New York City, since the market was controlled by organized crime. When BFI made the leap of faith in 1993 by applying for and being granted a license by New York City to collect trash, it "quietly began offering garbage collection services to large businesses..."<sup>50</sup>

### **THE TRASH COLLECTION ASSOCIATIONS** **CALL THE KETTLE BLACK**

Martin McLaughlin, a spokesman for the New York City Council of Trade

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<sup>49</sup> Rand, Peter. *The Cartage Industry in New York*. RAND/RP-280. Santa Monica: RAND, 1994.

<sup>50</sup> Crain's New York, 4 August 1993, p. 8.

Waste Associations (which represented local carters), objected to BFI being granted a license in New York because the company had been cited numerous times across the country for environmental violations, price fixing and bribing public officials. According to New York City laws that governed issuing licenses to collect trash, no individual or company was allowed a license if they had prior criminal convictions. BFI had so many previous criminal convictions that McLaughlin stated that, "BFI is one of the biggest corporate criminals in the United States."<sup>51</sup>

The local industry claimed that once BFI entered the trash collection market, it would drive out all of the other carters by engaging in predatory pricing. Since BFI was a \$5 billion per year international conglomerate, operating in 47 states and 14 countries,<sup>52</sup> local carters claimed it could afford to underbid them and lose money for an extended period of time. BFI could put all of the local carters out of business and then have a monopoly. The NYC Association, in fact, cited a court case in which a former BFI employee in Vermont testified that he was ordered by an executive to drive out a local competitor. He quoted his boss as saying to "Squish him like a bug." BFI was forced to pay \$6 million dollars for its actions in this case.<sup>53</sup> Waste Management had also been cited frequently for anti-competitive practices.<sup>54</sup> But they would not enter the New York City marketplace until at least a year or two later.

Officials in New York City did not use the usual standards when they granted BFI its license. The regulatory agency at the time, the Department of Consumer Affairs, was not supposed to grant a license to any individual convicted of a major

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<sup>51</sup> Crain's of New York, 6 October 1993, p. 2.

<sup>52</sup> [www.BFI.com](http://www.BFI.com) 1994 Annual Report.

<sup>53</sup> Cumberland farms vs. BFI. U.S. District Court of Eastern PA, Master File 87-3717.

<sup>54</sup> [www.ebic.org/pubs/WMI.html](http://www.ebic.org/pubs/WMI.html)

misdemeanor or felony. BFI had been indicted for numerous crimes over a fifteen-year period and, although most of the indictments were settled before trial, some led to convictions. These notwithstanding, however, the Department of Consumer Affairs made an exception for BFI, which was allowed to create a new corporation with no criminal record called BFI of New York City, which technically was a new and “clean” corporation. Officials were obviously desperate to do anything to try to bring competition into the marketplace, including bending the city’s own rules.

When BFI first solicited potential customers, it encountered a somewhat chilly response. Even though some large companies switched to BFI as soon as they entered New York, many businesses seemed too afraid to consider doing so. They were further intimidated when the newspapers reported that a senior manager of BFI who had helped open the New York office woke up one day to find the severed head of a dog on his doorstep with a note in its mouth that read “Welcome to New York.”<sup>55</sup>

Much to the dismay of BFI, while most companies were not willing to switch, they were more than willing to use bids from BFI as a "hammer" to get their incumbent carter to drop their rates, since BFI had submitted bids for collection services to businesses for as much as 50% to 75% less than what they were then paying their incumbent carters at the time.<sup>56</sup> Instead of accepting BFI's low bid, businesses would often offer the incumbent carter the opportunity to "match" or "exceed" the bid. Consequently, hundreds of large New York businesses got rate reductions by as much as 50%, representing in a short period of time, hundreds of thousands of dollars each month, without having to drop their incumbent carter.

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<sup>55</sup> Houston Business Journal, 28 July 1995, p. 1.

<sup>56</sup> Richard Behar, “Talk About Tough Competition,” Fortune (15 January 1996).

The heads of these businesses may have had some fear of the consequences of switching to BFI based on the reputation of the local industry,<sup>57</sup> but many carters vigorously disputed these accusations of intimidation and claimed that they retained the account because the customer was very satisfied with the level of service he were receiving.<sup>58</sup> Few who understood the business believed them. Imagine that an office supplies company had been charging a New York business \$100 for a box of staples, and then suddenly a new company came along and offered to charge \$40 for the same product. People in the affected business would suspect that they had been overcharged, perhaps for years. If they were not afraid of the consequences of dropping the old supplier, it seems absurd that such a business, particularly in New York, would keep its old supplier.

BFI received a great deal of media coverage in 1993 and 1994 as a "knight in shining armor" for businesses that were supposedly being gouged by local carters. Every local newspaper published articles about how BFI was winning accounts or, through competitive bids, was helping businesses save tens or hundreds of thousands of dollars per year. The largest saved over one million dollars a year. Columbia Presbyterian Hospital secured a rate reduction of \$720,000 per year,<sup>59</sup> and 55 Water Street in lower Manhattan saw a reduction of \$1.05 million per year.<sup>60</sup> One of the biggest reductions by far was at the World Trade Center. This property got a rate reduction of \$2.4 million dollars a year even though BFI was not the winning bidder.<sup>61</sup>

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<sup>57</sup> New York Post, 22 July 1996, p. 20.

<sup>58</sup> Ibid.

<sup>59</sup> Richard Behar, "Talk About Tough Competition," Fortune (15 January 1996).

<sup>60</sup> Daily News, 5 June 1996, p. 4.

<sup>61</sup> New York Post, 22 July 1996, p. 20.

However, while many people credit BFI for being the first trash company to buck the cartel and actively compete for accounts in the city, it was a local carting company, Chambers Paper Fibers, Inc., that in fact had done it before BFI entered the market. In 1992, nearly a year before BFI began soliciting accounts, Chambers was fighting the system, a decision that nearly cost one of its truck drivers his life.<sup>62</sup> Chambers turned to law enforcement for assistance and cooperated in an undercover investigation that ultimately brought down several people at the top of the cartel who were also members of the Mafia. This undercover operation will be covered in greater detail later in this paper.

Another company claimed to have ignored the cartel system and competed for business at this time was ReSource, NE. While ReSource was never found to have engaged in any illegal activities after a series of sweeping indictments that were handed down as a result of the undercover investigation that Chambers was cooperating with, the head of the company was forced to resign several years later after WMI acquired ReSource, NE.

ReSource, NE was a collection of several large local companies that merged in the early to mid 1990's to form the largest trash company in New York City. The initial merger involved Allied Sanitation, Lehigh Carting, and Star Recycling. Several smaller companies were also acquired outright after ReSource, NE was formed. ReSource, NE was not a member of the various trade associations that represented the owners of the local carting companies that operated throughout the five boroughs.

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<sup>62</sup> Daily News, 5 June 1996, p. 24.

ReSource, NE had a unique problem with its industrial infrastructure that made it vulnerable to being accused of being part of the cartel. It owned major "transfer" stations around the New York City area where trucks dump trash or recyclables so that the material can be "reprocessed" and prepared for transportation to the city landfills, incinerators and recycling plants. ReSource NE's transfer stations served a substantial number of carters too small to own their transfer stations. Some of these were later indicted for participating in the cartel.<sup>63</sup> If some of these companies were participants in the cartel, that did not necessarily mean that ReSource was a participant as well; however, it did not mean it was not either.

Also, because ReSource collected a substantial portion of its revenues from small carters through its transfer stations, ReSource was faced with a dilemma that any company would want to avoid: that is, not "biting the hand" that fed it. If ReSource bid on an account or collected trash from a customer formerly serviced by one of the small carters that used its transfer stations, it risked losing the carter as a customer at its transfer stations if it won the account. ReSource might collect several million dollars a year from a carter, but only a few hundred dollars a month from an account it took away from the carter.

Although ReSource, NE, Chambers and BFI were all competing for accounts in the New York City marketplace, they were all doing it differently. ReSource, NE had to be careful not to be too aggressive in soliciting accounts that might endanger its transfer station revenues. Chambers was cooperating with an undercover

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<sup>63</sup> Crain's New York, 31 July 1995, p. 1.

investigation and was paying other carters "multiples" for the stops it was taking to prove that a cartel and a property-rights system existed in New York.<sup>64</sup> BFI, which did not have transfer stations in the city and was not paying other carters "multiples" for acquiring stops, was popularly considered the only truly independent carter operating in New York City. Most of the rest of the carters in New York City were sticking together.<sup>65</sup> Even though ReSource, NE and Chambers were competing for customers, albeit under different circumstances, BFI was the primary target of the local industry.

### **FIGHTING IT OUT THROUGH PUBLIC RELATIONS AND THE MEDIA**

An important market force that affected public opinion and raised the level of consciousness that the local private trash industry was on the defensive was played out through a dueling public relations campaign with BFI. In 1995, many of the local carting companies that were members of the various trade associations collectively funded a public relations campaign against BFI that used television and print ads to discredit the company.<sup>66</sup> One television ad showed a briefcase full of money with a voice-over saying that BFI had been fined for millions of dollars for engaging in bribery, anti-trust practices, predatory pricing, and price-fixing in six states.<sup>67</sup> The ad also cited toxic-waste law violations and health hazards involving BFI. A local radio ad boomed: "Keep your money in New York....Contact your local City Council Member. Tell them New York City doesn't need outsiders picking up our garbage."<sup>68</sup> A humorous television ad showed two BFI trash truck drivers, obviously out of town

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<sup>64</sup> New York Post, 22 July 1996, p. 20.

<sup>65</sup> Crain's New York, 1 March 1995, p. 1.

<sup>66</sup> New York Post, May 1995, p. 6.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.



cowboys, who are lost trying to read an upside down map of New York City looking for Third Street and Seventy Fifth Avenue in Manhattan.<sup>69</sup> Of course, no such intersection exists in New York City. The ad implied that BFI, a Houston, Texas, based company, wouldn't know its way around a big metropolis like New York.

In July of 1995, two months after several of the largest trash companies and their owners were indicted for controlling the city's trash cartel, business owners were still reluctant to switch to BFI. It seemed that businesses were not going to start switching until the men who were indicted for allegedly controlling the city's private trash industry were convicted and gone. Indictments can be thrown out. Juries can return "not guilty" verdicts. John Gotti had, in fact, paid jurors not to convict him in previous trials.<sup>70</sup> Some businesses did not want to kick out a carter if, a year later, he might not be convicted, would be back out on the streets, and would be very angry with that business owner.

Two local newspapers published editorials about the reluctance of New York's businesses to switch to BFI, despite major industry-wide indictments. One editor urged the District Attorney's Office to "probe why businesses continue to stay with cartel,"<sup>71</sup> suggesting that owners had not been offered enough protection against retribution. A New York Times editorial acknowledged that, under the circumstances, BFI "is repeatedly finding its low bids rejected because customers are still too terrified to switch."<sup>72</sup>

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<sup>69</sup> New York Times, 30 July 1995, p. 1.

<sup>70</sup> Daily News, 10 January 1992, p. 2.

<sup>71</sup> Crain's New York, 10 July 1995m p. 7.

<sup>72</sup> Ibid.

Nevertheless, BFI launched a public relations campaign of its own. Its advertisements featured pictures of large buildings that had contracted for services with BFI One ad showed a picture of 55 Water Street, a large office tower. The text declared: "55 Water Street is now saving over \$1 million dollars per year by switching to BFI."<sup>73</sup> Another ad showed a copy of a letter that the Council of Trade Waste Associations had distributed to its members. The language suggested that the carting company owners were operating as a cartel. The top of the ad read: "And Now A Word From Our Competition." Dated March 25, 1995, on Council of Trade Waste Associations, Inc. stationary, the letter reads:

Dear Member:

The Sanitation and Recycling Industry is working diligently to protect your business from outside public companies that operate in an unseemly fashion. It is very difficult, however, to be effective when we are not kept abreast of what is occurring each day.

It is imperative that this office be notified each time a customer is lost or a price is reduced because of outside competition.

We cannot hope to protect your business unless you cooperate.

Indicate on the attached sheet how many customers you have lost and how many customers' costs were reduced.

Please help us help you! Keep us informed on a regular basis.

Sincerely,

**Maryann McAleer**  
**Managing Director**

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<sup>73</sup> Crain's New York, 30 January 1995, back cover.

Oddly enough, this was the only trade association not indicted by the time that Chamber's investigation had been concluded. Since the letter seems to cry out that the carters in this association were sharing intimate industry data with each other, it could have been used to lend credibility to the claim that they operated as a cartel.

However, the association claimed that this letter was actually sent out by McAleer to collect data against BFI's predatory pricing practices<sup>74</sup> because it intended to file suit against BFI. It claimed that the data it was asking for from its members would be used to demonstrate that BFI was bidding for accounts "below cost," and thus attempting to break into the industry by driving small New York carters out of business, as it was accused of having done in other states and cities across the country.<sup>75</sup>

BFI also tried to match wits with an answer to the carters' "lost cowboys" ad. It published a full-page ad showing twelve identical headshots of a rather congenial Italian-looking man, smiling smugly. The top of the ad read: "Up until now, your choices were somewhat limited." At the bottom it read: "BFI the real choice."<sup>76</sup>

Such exchanges in the media campaign between BFI and the local industry were a "market force" affecting public opinion. People were becoming aware that a conflict was brewing that might finally free businesses from the cartel and the influence of organized crime in the private trash collection industry.

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<sup>74</sup> New York Times, 3 April 1995, Metro Section, p. 1.

<sup>75</sup> Ibid.

<sup>76</sup> Wall Street Journal, 30 July 1995, p. 11.

During the early 1990's, at the same time that New York's trash hauling industry first began to witness significant changes, another new but small market force or industry was emerging that, along with competition, indictments, reforms and market consolidation, served as yet a further strain on the local carting industry. "Waste consulting" is a service provided by individuals or companies that help, most often, large businesses in measuring their trash volume, which in many cases includes setting up recycling programs. Waste consultants in New York advised the owners of large buildings and hotels on how to measure the amount of trash their properties were generating which resulted in helping many of them to collectively save millions of dollars each year by proving that local carters were over-assessing the volume of trash that each generated.

One of the biggest problems businesses faced before BFI entered the New York market was the widespread practice of some carters, particularly larger one, to "inflate" the amount of trash they hauled. Many businesses were faced with two problems when this happened. First, they did not know how to accurately measure their trash. Secondly, many were too intimidated to confront their carter if they suspected that they were generating less trash than they were being billed for.

Yet another problem stemmed from building managers and engineers who were too cozy with the carters. Such individuals were only too happy to accept the "envelope" at Christmas time from the carter who was servicing the building. Businesses were resigned to the fact that high trash-removal costs were just "the cost of doing business" in New York.

## **WASTE CONSULTANTS & WASTE CONSULTING FIRMS**

Waste consulting firms helped businesses reduce costs by helping building and business owners measure their trash to prevent trash companies from exaggerating the volume of trash that it was collecting. The reason this was important was the New York City had a law that had a maximum rate that could be charged per cubic yard of trash collected. Of course, the more trash collected, the more the trash companies could charge. Waste consulting firms in New York City started off very slowly. For the same reasons that most businesses were reluctant to switch to BFI, they were also reluctant to hire waste consultants. However, just as there were a few buildings willing to switch to BFI, there were also building managers and owners who were willing to hire consultants. The concept of managing waste in a cost effective way did not originate in New York City. In fact, a few national waste consulting firms started during the 1980's, but they did little business in New York. While waste consulting firms in New York brought about substantial cost reductions for businesses (primarily from large carters) amounting to millions of dollars, their impact on the industry was limited. They did not play a major role in "bringing down the industry," although such claims, often made by friends and family of waste consultants to news reporters, appeared in stories about brave entrepreneurs who took on New York's tough carting industry.<sup>77</sup>

Nevertheless, the interactions that took place between the consultants and the carters show how difficult or intransigent some of the carters were in their transactions with their customers and the consultants, and how others were quite decent and cooperative. My experience as a waste consultant offers first hand

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<sup>77</sup> This is the opinion of the writer of this paper, James H. Fitzgerald who is a waste consultant and founder of Envirotron, Ltd. later referenced in this paper.

evidence of how the industry evolved; opinions expressed below are based on personal observation and experience.

The first commercial waste consulting firm based in New York City started offering its services during the early 1990's. Great Forest, Inc., primarily serviced office buildings and hotels and, in addition to conducting waste audits, it focused heavily on setting up recycling programs. Great Forest was the largest and most aggressive waste consulting firm in New York during the early to mid 1990's.

Great Forest was founded by Richard Fuller, an Australian who worked for I.B.M. before moving to New York in the late 1980's. Within a few years, Great Forest employed between a dozen to twenty employees during peak periods. Perhaps it was because Fuller did not grow up in New York, where he would have been "conditioned" by the notion that you don't mess with people in the carting business, that he was emboldened to take on as much business as he could.

Fuller had a reputation for being tough. But some questioned whether he and his company practices were fair. He also had a reputation for hiring good people, though many found him to be arrogant. The local carters particularly disliked him, but Fuller never seemed to mind this. If the trash carters liked Fuller, then perhaps clients might suggest that he was not serving their interests as aggressively as he should.

One of the more memorable bad experiences Fuller likely had with the local carting industry was when he spoke about recycling at an Earth Day educational

event to owners and managers of office buildings and hotels. Several owners and representatives of local carting companies also attended. At this event, he allegedly claimed that his company could "cut their trash bill" by somewhere between thirty and fifty percent.<sup>78</sup> Upon hearing this, one carter in the audience became enraged that Fuller would make such a commercially oriented comment at what was supposed to be an educational event. The carter left his seat, approached Fuller at the podium and began taking pictures of him from several different angles. He clearly intended to intimidate Fuller, who became concerned about his safety.<sup>79</sup>

During a telephone conversation that I had with Richard Fuller soon after the Earth Day event, Fuller told me about his concern. Despite the fact that we were competitors, Fuller and I used to share information about our experiences about carters and the industry in general. In his crisp Australian accent, he said: "The carters are drinking whiskey in meeting halls and plotting to get us!" He said that he had installed a security system at his office. I thought his characterization of scheming, whiskey-drinking carters was a bit bizarre, but perhaps not entirely untrue. Although he meant to warn me for my own sake, I was not particularly worried my own safety. I had dealt with the same carter on behalf of one of my own clients, and we did not have any problems that made me concerned for my own safety.

This event may have affected the way Fuller conducted business with carters thereafter. His fiery temperament notwithstanding, he built a very successful

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<sup>78</sup> This is based on oral hear-say that the writer of this paper, James H. Fitzgerald was told of what occurred by at least three people who had attended the event.

<sup>79</sup> Ibid.

company, the biggest waste consulting company servicing the New York City market during that time. Although some called him arrogant and unnecessarily difficult with the carters, others called him courageous because his reputedly disagreeable and perhaps uncompromising style put him at risk. I thought for certain that Richard Fuller was going to get "whacked," a term which the Mafia uses when it kills people. After the brief period when we shared information about the industry, I chose not to have any further contact with Fuller. I did not like his personality, and I believed that something bad was surely going to happen to him. I simply did not want to be associated with him purely for reasons of self-preservation. However, after considerable time had passed, nothing ever happened to Fuller except that Great Forest very likely helped make him a substantial amount of money.

The second company to offer waste consulting services in New York City was Envirotron, Ltd, the company I started in November of 1991. At about the same time Great Forest was founded, I was the Assistant to the Vice President and General Manager at the Penta Hotel in New York. Among my other responsibilities, I was assigned to create an "environmental program" in May of 1990, to reduce energy and water consumption as well to as reduce waste generation at the hotel. The hotel was paying \$700,000 a year for trash removal, and, merely by eliminating unnecessary pick-ups, I reduced the hotel's trash costs by \$400,000 a year.

This was an act that seemed eerily too easy to implement as I, the chief executive and some other executives I worked for in the hotel could not help but wonder why other executives responsible for that area of the hotels expenses did not do it earlier. We did not know whether this failure was the result of



incompetence or collusion of the part of some on the hotel executive staff. We did not know whom we could trust.

At the same time, there was considerable concern based on Mafia activities over the years that my actions would bring unwanted Mafia attention to the hotel. The director of security at the hotel, who was a retired detective from the New York City Police Department, was furious at me for the steps I took, supposedly "putting people's lives in danger." He insisted that my efforts would bring union troubles, which he claimed to be sure would all be Mafia instigated, to the hotel. He also warned me that I was likely to face physical harm. This executive was not considered to be one who may have colluded with the hotel's carting company.

The program did not, however, bring union troubles to the hotel, and, after months of tiresome wrangling with the carting company, I permanently reduced the hotel's \$700,000 per year bill by more than 55%. This was done by proving, as all waste consultants do; that the carting company was making unnecessary pick ups at the hotel. The carter, who was picking up trash containers that were not full, was legally allowed to charge for each container as if it were full.

No one could ever prove if the over-serving of trash pick ups at the hotel was the result of the carter not notifying the hotel that it was being over-serviced, or to what extent the carter knew it was over-servicing the hotel. Or whether it was the result of both the carter and the executives responsible for trash removal at the hotel allowing the over-servicing to occur possibly in exchange for gratuities or pay-offs.

Soon after the program was fully implemented, the hotel's management company changed and my position was terminated as I worked for the senior executive of the hotel whose position was also terminated. I had a six-month severance package in place and this began my career as a waste consultant began. It was also the beginning Envirotron, Ltd.

Envirotron focused on the New York hotel market as a result of my experience at the Penta. The first year got off to a slow start, primarily as a result of my apprehension about the reputation of the New York carting industry. As a New Yorker, I knew the reputation of organized crime, but I also knew that things were changing. Competition from trash companies outside of New York was knocking at the door.

During its first two years, Envirotron, and I the only employee, implemented programs at over twenty hotels. Envirotron signed its first client, a midtown luxury hotel, in November of 1991. This was almost two years before James Failla was arrested and BFI entered the New York market. Soon after contracting the client, I had to meet the carter who serviced the hotel. I was immediately concerned after meeting this carter because he was surprisingly cordial and cooperative. I was concerned because I had been told that I should be more concerned about anyone I met who seemed agreeable, as strange as that may seem. I recalled a saying that if and when I ever had to deal with anyone allegedly in the Mafia where there was a possibility I would be cutting revenues from them: "Don't be afraid of those who yell, be very afraid of those who don't." I was concerned that the carter at this hotel seemed too agreeable and I did in fact wonder if his pleasant disposition was a sign

that I would encounter problems with this individual and that my physical well-being might be in jeopardy. Within thirty days, I had completed the waste survey program and reduced the hotel's \$130,000 annual expense by 50%.

A few weeks thereafter, the carter from this same hotel called to ask me for a private meeting. I expected the meeting was going to include a "warning" that I should cease my business activities or suffer serious consequences. At our meeting, I kept a tape recorder in my breast pocket which was held, as I had requested, in the lobby of the hotel. I was surprised that the carter so easily agreed to meet in the lobby and wondered if this man was so emboldened, that he did not care where he delivered his message to me.

At the meeting, I was dumbfounded when he thanked me for "being fair and not making [him] look like a 'bad guy' in front of the client." The carter said that members of his family had been servicing the hotel for forty years or so, and that he considered it an important account. He said, "I know you guys are the wave of the future [possibly referring to Fuller as well], and as long as you're fair, I'll cooperate the best I can." He then added, "Look, if you ever think you're in any trouble, or if anybody gives you a hard time, just give me a call." I could not help but wonder then if this man had some sort of Mafia clout in the industry. A few years later, after many companies and individuals had been indicted and scores of trash companies had had their trash licenses suspended, the owner of this company was granted a license to continue to collect trash in the city. Since he underwent a very rigorous personal background investigation, which included a look at his relationships with members of the carters' associations and members of organized crime families, it

would support that this man was not a member or associated anyway with organized crime. I state this because many owners of carting companies who had even the most remote possible association with organized crime or for having remotely participated in the cartel were denied licenses to operate in the industry.

At Envirotron's second client meeting, only weeks after this man offered to help me if I encountered any problems with any other carters in the future, I met the carter servicing my second hotel client. This carter looked like someone right out of "Goodfellas." He was young, well dressed, and very overbearing. At a meeting with this carter and the general manager for the hotel, he berated the general manager and referred to me as a "young know-it-all snot nosed college kid." He stated openly that he would see to it that the hotel would have big problems with its union workers, and he warned us that that we could do "whatever we wanted to do, the hotel was not going to save any money. In fact, after it was all over, the hotel might end up paying more."<sup>80</sup>

After the meeting, however, he confronted me in the lobby and asked, "How can you and I fix this problem?" He seemed to be offering me a pay-off. I told him that the hotel was going forward with the waste audit program with or without me and there was nothing more to discuss. We had to move forward with the program.

He then tried another form of intimidation. He said, "You know, every carter in New York City is asking each other, 'Who is James Fitzgerald?' Now, I'm a nice guy. But there are a lot of not very nice people out there. I just would hate to see you end

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<sup>80</sup> This was based on a meeting I personally attended with the general manager of my second hotel client and the carter servicing that hotel.

up in the back of a garbage truck, ya know what I mean?"

Because I did not know whether or not to believe he could act on this statement or possible threat, I called the carter who, just a few days earlier, had offered to help if I thought I was "in any trouble, or was if anyone was giving me a hard time." He asked, "Did he really say that? Don't exaggerate now. Did he?" I swore that he had. Before the conversation was over, the carter told me that I would be getting a phone call soon either from himself or the carter who had tried to intimidate me. The next day, the second carter called, sounding exasperated. He asked, "Hey, what the hell is going on here!?!? What are you telling people I'm threatening you?" I answered, "Look, I took your comments as a threat. Call them what you will. They were a threat to me." He replied, "Oh, no!!! No!! I wasn't threatening you. You misunderstood. You and I don't have any problems! No way! Whatever you want to do over at that hotel is fine with me. No problem!"

The program at that hotel went smoothly and the hotel saved over \$200,000 per year. After that encounter, I never seemed to have another problem in the carting industry again.

The third significant waste consulting company formed in New York City was EcoSav, Inc. This was the last local waste consulting company to be formed in New York by 1998. EcoSav was started in 1993 by Elana Amsterdam, who had previously worked for Great Forest, but had decided to go out on her own. EcoSav made quick inroads with many "private clubs" such as The 21 Club and The Princeton Club. In a few years, EcoSav moved into the hotel and office building

market and, to a limited extent, the retail market.

Amsterdam had a reputation for being tough, almost as tough as Fuller. Being a woman may have sometimes worked against her; some carters felt more emboldened to challenge her. Amsterdam told me that one carter with whom she was negotiating was told by another carter that he was going to "Rip that cunt's lips off!". This vulgar reference is made to demonstrate the extent to which some carters were willing to express their displeasure. The man who made the reference was a real "dinosaur," who was way behind the times, even by the standards of most carters. I knew this because I had to negotiate with him at a hotel myself. Nothing ever happened to Amsterdam, and she may have benefited significantly because as a woman, she was given significant media coverage. She was a woman taking on garbage men in New York, a very appealing and newsworthy angle. In 1999, Amsterdam started a family and entered into an agreement to have Envirotron USA manage her accounts, an agreement still in place today.

The carting industry ultimately did not move against waste consultants in any way that caused anyone harm. This restraint may have been because the industry was in a state of complete turmoil or because some carters thought that the waste consultants were possibly a "front" for law enforcement, meant to lure carters into activities that would have led to their arrest. After a carting company created by the New York City Police Department in the 1970's helped bring about the sweeping indictments of more than fifty-five companies in Brooklyn, carters may have thought, "Maybe the waste consultants are being used the same way."

A few local carting companies tried to offer waste consulting services as a "front" or a ploy to get more business for their companies, and to protect their own accounts or revenues. They created companies that on the surface seemed independent, but they were not. It was essentially like the fox offering to guard the hen house. None of these companies managed to take root, grow or endure. One such company, National Recycling Management, Inc., was managed or owned by an executive of one of New York's largest local trash companies (though it was based in New Jersey.<sup>81</sup>), V. Ponte & Sons. The President of National Recycling Management was also the Vice President of Marketing for V. Ponte & Sons. The trash company and its owner were ultimately indicted and convicted as a result of the Chambers undercover investigation.<sup>82</sup>

BFI, supposedly one of the few non-cartel trash companies operating in New York City also did not like waste consultants. BFI and the other major national trash collection companies, such as WMI, often saw their revenues slashed across the country by the national waste consulting companies such as M.G.M. Services, Refuse & Environmental and Jefferson Smurfit. One way BFI was hoping to compete against waste consultant and get new business in New York City was to offer free waste audits to businesses that were still using local carters. To do this, BFI launched a brief advertising campaign that took an indirect swipe at waste consultants. One full page ad read: "To some trash haulers, this is a full dumpster."<sup>83</sup> It showed an overhead picture of an empty two-yard trash dumpster with nothing in it but an empty coffee cup. They were right; carters could legally call

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<sup>81</sup> New York Post, 22 July 1996, p. 20.

<sup>82</sup> Ibid.

<sup>83</sup> Daily News, 25 March 1997, p. 11.

this a full container. The way businesses were supposed to end such wasteful practices was to either ask for a smaller dumpster, or to have their existing dumpster picked up less frequently. In the past, some carters seemed unhappy when they were asked to reduce pick ups and would often warn that they would not pick up any trash that overflowed out of the container. Another clever BFI ad offering free waste audits was published on April 15, tax day. The ad read: "Relax. You're getting audited... today is a perfect day for an audit. A waste audit."<sup>84</sup> While these ads were indeed clever and may have drawn some interest, businessmen apparently were wise enough to know that even though BFI's reputation was better than that of the local carters, waste consultants probably performed waste audits best.

By 1998, Great Forest, Envirotron, Ltd. (which later changed its trade name to Envirotron, USA), and EcoSav all did very well financially as a result of the circumstances that were at play while both the Mafia's control over the private trash collection industry and the cartel was disintegrating.

### **INDICTMENTS, COMPETITION & MARKETSHARE CONSOLIDATION**

In 1995, the walls truly began to tumble down on organized crime and the trash cartel. Three dynamics that had the most important effect on cracking the cartel and substantially routing organized crime from the industry occurred almost simultaneously.

Before competition exploded in the New York marketplace after BFI started

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<sup>84</sup> New York Post, 15 April 1997, p. 33.



picking up trash, New York State prosecutors announced on June 23, 1995 the indictment of 17 individuals and 23 companies for racketeering and restraint of trade in connection with New York's trash hauling industry.<sup>85</sup> Many of these individuals were alleged to be members or associates of the Genovese and Gambino crime families.<sup>86</sup> According to prosecutors, the connection between organized crime and the trash industry was revealed following the arrest of two of the seventeen individuals who separately headed the Trade Waste Removers of Greater New York, The Queens County Trade Association, The Kings County Trade Waste Association, and the Greater New York Waste Paper Association. Joseph Francolino, Sr., whom prosecutors claimed was a senior member in the Gambino crime family and the apparent heir to James Failla, was also supposed to have controlled the Trade Waste Removers of Greater New York and the Queens County Trade Waste Association. Alphonse Malagone, whom prosecutors claimed was a captain in the Genovese crime family, was also reputed to control the Kings County Trade Waste Association and the Greater New York Waste Paper Association.

The rest of the indictments were against individuals and the carting companies that they owned. Many of these were the largest trash companies operating in the New York area. The three largest were Vigiotti & Sons, Baretti Carting, V. Ponte & Sons, and Five Brothers Carting. The owner and the son of yet another company, Mongelli Carting, were indicted for severely beating one of Chambers' truck drivers two years earlier.<sup>87</sup> The indictments followed a two-year undercover operation with which the Chambers Paper Fibers company had

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<sup>85</sup> New York Times, 23 June 1995, p. 1.

<sup>86</sup> Ibid.

<sup>87</sup> NY County District Attorney Press Release, 22 June 1995.

cooperated. The details of the Chambers investigation were not made public until a year later, however, when several other carting company owners were arrested. These arrests will be documented later in this paper. At first, these indictments did not immediately boost BFI's market share in New York. Customers did not switch carters and actively solicit bids until January of 1996, when another national company, Waste Management, Inc, (WMI) entered the marketplace.

During the months between June of 1995 and January of 1996, considerable attention was given to other national trash collection companies that were hoping to enter the New York market. It seemed likely that if the indicted carters were convicted, they would be forced to either forfeit or sell their massive collection routes, which included numerous transfer stations, hundreds of trucks, and ten of thousands of customers. Because these assets were up for grabs because of forfeitures, Waste Management, Inc. (WMI), BFI's chief national rival and the largest trash company in the world, announced in July that it was considering entering the New York market by acquiring existing New York trash companies, many of which were not under indictment.<sup>88</sup>

Competition came to New York by way of what is referred to in business as market share or industry consolidation. The dominos began to fall in January of 1996 when USA Waste, a large publicly traded national waste company based in Dallas, purchased Baretta Carting. Baretta was one of the large local trash companies indicted in June of 1995, and its purchase had to be approved by the City of New York. The proceeds of the sale also had to be placed in escrow because the

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<sup>88</sup> Crain's New York, 3 July 1995, p. 1.

indictment against Baretta included a \$268 million lawsuit filed by the New York District Attorney's Office. The sale was ultimately approved a year later, though the sale price was not publicly disclosed.

The next major consolidation occurred in March of 1996, when Waste Management, Inc. ultimately acquired ReSource, NE. At the time of the transaction, ReSource NE as referenced earlier, was the largest local trash company in New York, and one of the few large companies that had not been indicted. ReSource NE had been preparing to go public on its own before it merged with WMI. At some point, however, the owners changed their strategy and decided that a merger with an existing public company would be more expeditious. According to Joseph Vecchio,<sup>89</sup> one of six principal partners who owned ReSource NE, the decision to go with WMI had to do with what at the time appeared to be their integrity and reliability at the time: "WMI kept their word, they didn't drag their feet, and they closed quickly. Other companies were courting us for months but they just didn't pony up." While the sale price was not disclosed, it was estimated by an industry trade publication to be at least \$200 million.<sup>90</sup> The owners of ReSource NE later filed suit against Waste Management, accusing it of fraud in overstating its financial position, which artificially inflated the value of the stock that Waste Management used to buy Resource NE.<sup>91</sup>

BFI, which had expanded into other markets across the country through acquisitions but had not yet done so in New York, reached an agreement to purchase Lostritto Carting six months later. Lostritto owned a sizable transfer station

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<sup>89</sup> I conducted a personal interview with Joseph Vecchio for his comments.

<sup>90</sup> Waste News, 1 September 1997, p. 1.

<sup>91</sup> Waste News, 1 September 1997, p. 1.

operation and materials recovery facility in Brooklyn. Lostritto was also one of the few larger companies in New York that had not been indicted, so its sale was approved without great difficulty. Lostritto also did not accept waste at their transfer station from smaller carters and did not need to worry about winning stops from smaller carters. Lostritto also had contracts with several large properties including Macy's at Herald Square, the St. Moritz Hotel and Rockefeller Center. These accounts now belonged to BFI, which finally had a sizable New York City customer base of its own.

After purchasing Barette Carting, USA Waste also acquired Viglitotti & Sons, V.Ponte & Sons, and Marangi Carting. All three were large companies and all three were part of the indicted group. The proceeds of the sale of these companies was put into escrow pending the outcomes of the criminal trials of their owners. Before Angelo Ponte, the owner of V. Ponte & Sons, sold his company to USA Waste, he first tried to sell it to a group of investors. However, local prosecutors viewed this transaction as a ploy by Ponte to maintain significant control of the company, and the sale was rejected. Other national trash companies, such as Eastern Environmental, would enter the New York market by acquiring local companies. In late 1996 or early 1997, Eastern purchased Waste Services, Inc. (not to be confused with Waste Management, Inc.,) which was based in southeast Queens and primarily served customers in that area.

Competition had finally arrived in New York City as a result of market consolidation, the process by which companies merge together. Phillip S. Angell, BFI's assistant to the chairman remarked: "This [consolidation] is happening so

much faster than anyone ever would have imagined."<sup>92</sup> Ironically, this process normally results in less competition in the long run, since it reduces the number of major players in the consolidated industry.

By 1996, newspapers finally began to declare the end of Mafia influence over New York's private trash industry, and the end of the cartel. Waste News reported, "Companies that used to pay through the nose to have their garbage hauled away are seeing prices plummet - an indication that the mob no longer rules the city's \$1.5 billion per year trash industry...."<sup>93</sup> Another weekly trade newspaper declared: "Manhattan madness - Salesmen pound the pavement to drum up deals,"<sup>94</sup> in one article, which also reported that, "Terry J. Dahl, a salesman for Dallas based USA Waste Services - like 'dozens' of other waste industry sales representatives all over town - wants to get a big piece of the trash business."<sup>95</sup> More indictments were issued throughout the course of the year.

In June of 1996, several more carting companies were charged as a result of the Chambers investigation.<sup>96</sup> Until then, the public was not aware that Chambers was the company that had been cooperating with the three-year investigation. The company had previously been identified in court as XYZ Corp.<sup>97</sup> What had also not been known was that BFI was participating in the investigation by allowing New York City detectives to pose as "acquisition specialists" for them while gathering evidence against local carters.<sup>98</sup> The most intriguing story behind the investigation was that of

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<sup>92</sup> Waste News, 8 July 1996, p. 1.

<sup>93</sup> New York Post, 22 July 1996, p. 20.

<sup>94</sup> Waste News, 9 September 1996, p. 1.

<sup>95</sup> Ibid.

<sup>96</sup> NY County District Attorney Press Release, 18 June 1996.

<sup>97</sup> Ibid.

a New York City detective who worked undercover as an employee of Chambers Paper Fibers, Inc.<sup>99</sup> Daniel Cowan fell into his role by accident when he was visiting Sal Benedetto, the owner of Chambers.<sup>100</sup> Benedetto had won a contract from another carter for a large office building on Wall Street by underbidding the incumbent carter. After Benedetto refused to give back the stop it had won or agreed to pay the “multiple” to the incumbent carter, Baretti & Sons, two of Chambers’ trucks were set on fire in May of 1992. Daniel Cowan was interviewing Benedetto when the two men who had set fire to the trucks arrived at the Chambers garage. When they asked Cowan who he was, Benedetto introduced him as his cousin Danny Benedetto who was working with him to help run the family business. This introduction started the investigation that eventually brought down a group of men who controlled a substantial portion of New York’s private carting industry. Several years later, they were convicted for controlling the carter and being connected to organized crime.

During the investigation, the detective paid other carters more than \$700,000 for stops he had taken<sup>101</sup>. He attended hundreds of hours of meetings with carters without raising suspicions, except once: while having dinner at the Water Club in Brooklyn during a meeting with a few carters, he asked if there was any meat in “bufala mozzarella,” revealing how little he knew about Italian food.

When the New York City Police Department decided to wrap up the investigation, the detective went into seclusion under the protection of the police.<sup>102</sup>

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<sup>98</sup> Houston Business Journal, 28 July 1995, p. 1.

<sup>99</sup> New York Post, 30 June 1996, p. 6.

<sup>100</sup> Ibid.

<sup>101</sup> New York Times, 23 June 1995, p. 1.

During a press conference, New York City Police Commissioner William Bratton stated: "I cannot emphasize enough that a lot of this was dependent upon this individual's incredible skill and quick thinking that allowed him to take advantage of an opportunity to get into this organization."<sup>103</sup> After the undercover investigation was concluded, Cowan was promoted to First Grade Detective,<sup>104</sup> the highest rank that a detective can rise to. There are fewer than 100 First Grade Detectives in a force of nearly 40,000 NYC police officers.

### **ATTEMPTS AT INDUSTRY REFORM FROM 1956-1990's**

Efforts to reform the industry and remove corrupt carters began in 1956 as soon as the City privatized all services for businesses in New York City. The first was to require all carters to be licensed by the City, and for all customers to complete surveys or questionnaires asking if they felt "threatened" or "intimidated" by their carter(s).<sup>105</sup> However, few customers complained, either because they were truly satisfied or because they were indeed afraid. We are unlikely to ever know for certain, but it was probably a combination of both. Only a small number of carters had their licenses revoked<sup>106</sup> at a time when much of the local industry was believed by law enforcement and politicians to be engaging in anti-competitive practices.<sup>107</sup>

Throughout the 1960's, 70's and 80's the principal regulatory agency of the

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<sup>102</sup> Newsday, 23 June 1996, p. 5.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> New York Times, 16 October 1956, p. 35.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

private carting industry in New York City was the Department of Consumer Affairs. This agency was supposed to maintain integrity in the industry by periodically auditing the records of licensed carters and maintaining contract information on customers. Every carter was supposed to provide the department with a "customer card" that would be kept on file indicating the length of the contract with the customer, the volume of trash it was generating, and the price it was being charged. This system apparently did not work well because the Department of Consumer Affairs was understaffed and did not have the time or resources to verify that the information on the customer cards was correct. Furthermore, if a carter did not submit a customer card, the Department of Consumer Affairs would not know that the customer even existed. If a customer filed a complaint, the carter would then be fined, but complaints were not very common.

Although politicians claimed over the years that the industry needed to be "cleaned up," it was the Department of Consumer Affairs that technically had the power to do so, and, through the 1980's it failed to curtail corruption. In the late 1980's, Mark Green, who was appointed Commissioner of the Department of Consumer Affairs by then Mayor David Dinkins, brought a great deal of local media attention to the problems facing the carting industry.

Many of the carters were critical of Mark Green, however, because they felt he spent more time looking for media coverage about the problem than rolling up his sleeves and attacking organized crime. However, a poorly staffed agency may have been a mitigating factor in Green's ability to take on corruption in the carting industry during his tenure as Commissioner. It would not be until June of 1996 that the first



effective reforms would be implemented in New York City. This is when New York City Mayor Rudolph Giuliani created the New York City Trade Waste Commission,<sup>108</sup> which took control of the private carting industry away from the Department of Consumer Affairs. At that time, nearly three hundred carting companies, indicted as a result of the Chambers investigation, were still operating in the New York area. Most were small companies that were not believed to have controlled the local industry the way the larger indicted companies did. Mayor Giuliani, however, believed that many of these smaller carters benefited greatly from, or participated in, the cartel system, even though they had not been indicted. He argued that secrecy about the Chambers' investigation had not been maintained long enough to gather evidence to indict everyone. To punish carters who had not been indicted, but who had benefited from the cartel, the Giuliani administration used the Trade Waste Commission to enact widespread industry reform.

The Commission's primary goals were:

- 1). To re-license all of the carting companies operating in New York City that had not been not indicted.
- 2). To conduct background investigations on the owners and employees of all carting companies.
- 3). To limit new customer contracts to two years (they were often for five years and some were for as long as ten).
- 4). To void customer contracts with carters that failed to pass the background checks conducted by the Commission.

The Trade Waste Commission required all carting companies that had

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<sup>108</sup> Waste News, 24 June 1996, p. 21.

existing contracts with their customers beyond two years to apply for what was commonly known in the industry as a "two year waiver." Because of the background investigations, however, most of the carters were denied the "two year waiver" and the customer contracts that were held by the carting companies were voided.<sup>109</sup> Consequently, the value of these businesses dropped dramatically. This was one of the principal ways that the Trade Waste Commission punished local carters who they believed had engaged in anti-competitive practices by not challenging the cartel.

Many small or mid-sized carting companies that were denied licenses, or whose customer contracts were voided when they were denied the "two year waiver," claimed that the Trade Waste Commission's decisions were unfair, selectively enforced, capricious and based on circumstantial evidence.<sup>110</sup> They pointed out that New York's largest trash companies, almost all of which had been indicted, were allowed to sell out to large national publicly traded waste companies, primarily USA Waste for hundreds of millions of dollars.<sup>111</sup> What is more, even though all of the large companies that USA Waste bought had been indicted, Baretti, Ponte and Vigliotti in particular, USA Waste had been granted the "two year waiver" on all of its customer contracts.<sup>112</sup>

The inherent unfairness of this was that the City of New York was protecting the values of these companies for the buyers and for the government so it could collect substantial fines from sellers who had been convicted. If the City refused to grant

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<sup>109</sup> Waste News, 7 April 1997, p. 21.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid.

<sup>112</sup> Ibid.

two-year waivers for these companies, the buyers would not want the companies because they would not have any real client base they could depend on to start with. The City would also not be able to collect millions of dollars in fines that it had assessed against the convicted owners of the carting companies.

Many of the smaller carting companies that had not been indicted were not granted two-year waivers because the City did not have enough evidence to warrant an indictment. As a result, the City had no motivation to protect the assets of these owners so that it could assess fines to collect from the money generated from the sale of their companies. Most small companies that had been denied two-year waivers were ruined and forced to sell their companies for a fraction of what the bigger companies were sold for.

Despite the fact that Baretta, Ponte and Vigliotti were considered among the most notorious for overcharging their customers, USA Waste was allowed to lock in the rates they were collecting from the customers it bought from these carters because it was granted the two-year waiver. Therefore, it could be argued that USA Waste was benefiting from the old cartel arrangement. To redress this problem, the Trade Waste Commission instituted a 20% reduction in the price that most businesses were paying on their contracts with their carters, including USA Waste.<sup>113</sup> However, this punished companies that may not have been overcharging their customers, most notably WMI and BFI. These two companies claimed that as a result of the mandatory price reductions, they might have overpaid for the nonindicted companies that they acquired, such as ReSource NE and Lostritto, to get

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<sup>113</sup> Crain's New York, 20 January 1997, p. 21.

into the New York market.<sup>114</sup>

Most of the smaller carting companies whose contracts were voided also claimed that the large indicted companies were the actual culprits in the industry, and that the smaller companies were being punished for acts they had no control over.<sup>115</sup> These smaller companies also claimed that they could not help but operate alongside bigger companies that were indicted and that they had but to go along with the cartel. To do otherwise would have brought serious, perhaps even fatal, consequences. They pointed to the Chambers case as a prime example.

Some smaller carting companies claimed that they did not participate in the cartel at all and were being persecuted by the Mayor Giuliani's Trade Waste Association. An industry publication stated: "New York's situation was that no carter could do business without somehow coming into contact with the cartel. Recognition should be made of this extraordinary circumstance."<sup>116</sup> Some small carters in New York who declared that they were legitimate claimed that the Trade Waste Commission was engaging in a form of McCarthyism.<sup>117</sup> Mayor Giuliani and the Trade Waste Commission continued to assert that these smaller companies should have bucked the cartel system and because they failed to do so, they benefited from it and needed to suffer the consequences.

Interestingly enough, however, a handful of the smaller local companies that had operated in the New York area as far back as 1957 but were not indicted in

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<sup>114</sup> Waste News, 13 January 1997, p. 3.

<sup>115</sup> Waste News, 4 April 1997, p. 21.

<sup>116</sup> Waste News, 25 August 1997, p. 8.

<sup>117</sup> Waste News, 20 October 1997, p. 8.

1996 were granted two-year waivers and licenses by the Trade Waste Commission as a result of the re-licensing requirement.<sup>118</sup> This was considered a rare stamp of approval by the City. It also supported the notion that not every New York City carting company engaged in cartel practices, as law enforcement authorities had often alleged.

In addition to having to pass a character and integrity test conducted by the Trade Waste Commission, the owners of all of the companies that were granted licenses needed to demonstrate that they did not benefit from the cartel. This was difficult because the smaller companies that were granted licenses may have benefited for no other reason except that other carters more active in the cartel did not actively try to solicit their customers. So, ultimately, they did benefit. However, these benefits may have been received in such a passive manner that it was not held against the carters who were ultimately granted licenses.

Unfortunately, at least one small company (and likely others) granted a two year waiver on their contracts were virtually crushed by the giant national companies in the process. Some New York carters had claimed that this would happen, as it had happened elsewhere across the country. This story demonstrates that while reform was indeed necessary in the New York City private carting industry, some were innocent victims.

I paraphrase a telephone interview conducted with one small New York carter who received the rare two-year contract extension with his customers and was also

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<sup>118</sup> Waste News, 11 August 1997, p. 2.

granted a license by the New York City Trade Commission in 1997. The company is Alpha Carting. This company primarily served accounts in Manhattan. The owner, Arthur Maresca, said the following:

“My company remained relatively fixed in size for nearly twenty-five years. I thought it was ridiculous to pay 40 to 50 times monthly revenues to buy out accounts from other carters, so I just didn't do it. Finally, I never advertised. I was not listed in the Yellow Pages, so unless you saw one of my trucks in the middle of the night and noted my phone number, you simply couldn't find me. I just didn't want to get involved. There were occasions when I put in bids when I had the chance or when a new business opened, but it did not have any major impact on the growth of my company.”<sup>119</sup>

In spring of 1988, Mr. Maresca stated that there was no way he could remain in business and compete against USA, BFI, and WMI. He stated several times during conversations over a two-year period that he felt his company had been seriously infringed upon by USA, BFI and WMI. While most of the customers whose contracts were voided by the Commission were fair game for USA, WMI, BFI and anyone else, Alpha's accounts were supposed to be contractually protected. They had been granted the two year waiver which was supposed to prevent interference from USA, WMI, and BFI, but this did not turn out to be the case.<sup>120</sup>

On several occasions, USA, WMI or BFI had approached Alpha's customers and offered what Mr. Maresca described as "below or at cost" bids. The customers were offended that they were paying Alpha more than what these companies had bid, and they almost always demanded priced reductions. In late 1996, USA Waste submitted an unsolicited waste removal bid to a hotel that I represented as a waste consultant and that was serviced by Alpha Carting. USA Waste was told that the hotel was under contract with Alpha Carting, but its representative was not deterred.

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<sup>119</sup> I conducted a personal interview with Arthur Maresca for his comments.

<sup>120</sup> I conducted a personal interview with Arthur Maresca for this comment.

While the Trade Waste Commission quickly denied two-year waiver requests for many carters, approvals were slow for the ones that finally received them. When USA Waste submitted its proposal to Alpha's hotel client, Alpha had not yet received its two-year waiver.

Nonetheless, Alpha's contract with the hotel was still in force until a determination was made on its two-year waiver request, which was finally approved. The USA Waste representative, however, told an executive at the hotel and myself that Alpha was "not likely to get its waiver, and its contract was not worth the paper it was printed on."<sup>121</sup> The bid that was submitted by USA Waste to the hotel was for 25% less than what Alpha Carting was charging, but it was based on a seriously flawed survey conducted by USA Waste.<sup>122</sup> As a result, Mr. Maresca was forced to give the hotel the reduction even though he legally did not have to. According to Mr. Maresca, this happened with many of Alpha's accounts and cost the company a substantial amount of its annual revenues.

Mr. Maresca told me that he did not think he could stay in business. He was not sure if he would sell his route or join together with some Wall Street investors to create a new company with other small carters that had also been granted licenses by the New York City Trade Waste Commission. Smaller carting companies across the country had proven that they could compete against companies like USA, WMI, and BFI, but, these giant companies are formidable opponents make it very difficult for small companies to survive.

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<sup>121</sup> This was told to me by an executive at the hotel who I reported to when I was the waste consultant for that particular hotel.

<sup>122</sup> I personally reviewed the survey and it was my opinion that the survey was seriously flawed.

Small companies granted two-year waivers and licenses were not the only companies affected by industry reform. Two individuals who worked for large companies that were not indicted, and that were granted two-year waivers, were affected as well.

In July of 1997, the Trade Waste Commission forced two ReSource NE executives, Anthony Lomangino and Kevin Nolan, to resign from their positions in the local carting industry. Anthony Lomangino was the Chief Executive of ReSource, and Kevin Nolan was the General Manager of a division of that company before it was acquired by WMI. Shortly after WMI acquired ReSource NE, Nolan moved to USA Waste to take over the role of its New York City district manager.

Because WMI and USA Waste had previously been granted two-year waivers on its customer contracts, it appeared as if these companies were free of any controversy. However, the Commission apparently determined that while both companies might have been worthy of two-year waivers, it did not mean that all of the individuals who worked for those companies could continue to work in the local industry. The forced removal of Lomangino and Nolan from their positions at WMI and USA Waste was controversial because neither had been indicted for any wrongdoing in the industry. The decision seems to be based solely on the fact that ReSource RE was the largest trash company in New York at a time when the cartel was known to have existed.

Lomangino was a prominent figure in the local industry, and was apparently well liked by WMI. When the Trade Waste Commission demanded that Lomangino



resign before WMI would be granted a license, Lomangino refused and WMI stood behind him. However, Lomangino resigned shortly thereafter, perhaps to avoid a showdown with the Trade Waste Commission. How could someone who was neither indicted nor convicted of any wrongdoing be forced out of work? At face value, it appeared that the Trade Waste Commission was ignoring the fundamental foundation of American jurisprudence, that citizens are innocent until proven guilty and are entitled to due process.

On the other hand, Lomangino was a relatively wealthy man when he was forced to resign from WMI. He owned 1/6th of ReSource when it was sold to WMI. Industry experts estimated that he may have earned anywhere from \$30 to \$35 million as a result of the sale. One newspaper estimated his worth at \$200 million as a result of the sale.<sup>123</sup> But this was probably the entire sale price of ReSource NE, which, when divided between six partners, would be \$33 million. With this kind of wealth, and the legal resources at the disposal of WMI, he could easily have had access to the best legal representation available in the country. Nevertheless, he did not challenge the ruling. I knew Lomangino casually, and he did not strike me as someone who would have tolerated being treated unfairly by a heavy-handed government agency. If the Trade Waste Commission had violated his rights to due process and he truly had nothing to hide, my impression is that Lomangino would have vigorously challenged the decision of the Trade Waste Commission. The true reason why he was ousted is not known. They may have threatened to try to indict him. Legal blackmail? Whatever you call it, it was part of the reform process of the industry, and whether the Commission was right or wrong, they did it anyway.

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<sup>123</sup> Waste News, 1 September 1997, p. 1.

Kevin Nolan was not in a position to fight the Trade Waste Commission's demands either. He did not have the financial resources that Lomangino had. However, because he did not have great financial resources, if Nolan had been forced out of the industry and Lomangino had not, then the question of whether the Trade Waste Commission had violated Nolan's rights to due process would have been an even more controversial issue.

In other ways, the Trade Waste Commission went through great efforts to help businesses make sure they were not being overcharged. In April of 1997, the Trade Waste Commission required all businesses and carters to perform a joint waste survey.<sup>124</sup> Along with the survey, the Trade Waste Commission included a letter to the businesses that advised how to measure trash volume and explained in rather elaborate detail the ways that carters might over-inflate waste volume.<sup>125</sup> As of the spring of 1998, the Trade Waste Commission had not rendered all of its decisions as to which carters would be granted licenses. It also still housed a squad of forty full time New York City Detectives at its headquarters offices at 253 Broadway. The primary responsibility of these detectives was to continue researching the backgrounds of carters that applied for licenses with the Commission.

### **CONVICTIONS**

All but two of the carters who were indicted as a result of the Chamber's investigation agreed to plead guilty for racketeering, extortion and price fixing. The most prominent were:

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<sup>124</sup> This form was mailed to all business from the Trade Waste Commission, City of New York.

<sup>125</sup> Ibid.

Phillip Baretto of Baretto Carting, et. al.,  
Vincent Vigliotti of Vigliotti & Sons, et.al,  
Angelo Ponte of V. Ponte & Sons,  
Paul and Louis Mongelli of Mongelli Carting,  
Michael D'Ambrosio of 5 Brothers Carting,  
Dominick Vulpis of Rockaway Recycling Corporation,  
Daniel Todisco of Litod Paper Stock,  
Frank Allocca of V.A. Sanitation,  
Henry Tammy and Joseph Virzi of All Paper Service, Inc.,  
Ron Terrone of Empire Rubbish Removal,  
Michael Reali of Republic Carting,  
Anthony Gesuale of Baisley Park Carting,  
George and Joseph Rutigliano of Rutigliano Paper Stock,  
Raymond Polidori of Crest Carting and RJP Recycling,  
Patrick Peccoraro of Delmar Recycling,  
John Vitale, Vibro Carting,  
Adrienne Paccione and Frank Fiumfreddo of Yankee Carting,  
Frank Giovinco of the Waste Paper Assn. of Greater New York,  
A. Malangone of the Kings County Trade Waste and Greater NY Waste  
Paper Assn.  
Joseph Francolino, Trade Waste Removers of Greater New York.<sup>126</sup>

All except three of these men accepted plea bargains offered by the Manhattan District Attorney's office in exchange for reduced prison sentences. The most serious sentences, from 4 1/2 to 13 years in prison and fines from \$4 to \$6 million dollars, were meted out to carters like Baretto and Ponte.<sup>127</sup> Vigliotti and D'Ambrosio received the second most severe sentences and fines. Even after paying the heavy fines, most netted millions of dollars from the sale of their companies. This does not include any ill-gotten gains they acquired during the years before they were indicted. Others received sentences ranging from one and one half years to four and one half years and fines from \$375,000 to \$750,000. A few received probation and fines without prison sentences.<sup>128</sup>

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<sup>126</sup> Waste News, 22 December 1997, p. 14.

<sup>127</sup> Waste News, 22 December 1997, p. 14.

<sup>128</sup> Waste News, 22 December 1997, p. 14.

Convicted owners were forced to divest themselves of their interests in the New York private trash collection industry and were banned from the industry for life. Most of the assets of the larger companies, those owned by Baretti, Ponte, and Vigliotti were purchased by USA Waste. Other companies that did not go out of business altogether were purchased by other publicly traded trash collection companies entering the market from outside the New York area.

Almost all of the indicted individuals were offered (and wisely accepted) the plea deals offered by the Manhattan District Attorney's Office, thus saving the government the time and expense of what were expected to be lengthy criminal trials. The three individuals who rejected the plea deals forced the government to go to trial. Juries later convicted them of charges that cost them their freedom for the rest of their lives.

Two of the three men who refused to accept plea deals were Alphonse Malagone and Joseph Fanolino.<sup>129</sup> A jury found them each guilty, and they each got the maximum sentences of 30 years to life. Since both of them were nearly sixty years old, they were essentially issued death sentences. They gambled. They lost. One prosecutor who tried the case described their refusal to accept a plea deal "as an example of their utter arrogance." They believed they could convince a jury that they had done nothing wrong. However, evidence presented convinced the jury that these men were directly linked to John Gotti and other bosses and high ranking Mafia figures from other crime families."<sup>130</sup> A year later, Patrick Peccoraro, the third carter to plead not guilty, was also convicted and sentenced to 30 years to life.

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<sup>129</sup> Waste News, 27 October 1997, p. 41.

<sup>130</sup> New York Times, 22 October 1997, p. B3.

## AFTER THE DUST SETTLED

After 1998, industry experts and market analysts asserted that the local industry cartel that existed prior to the convictions of these individuals had indeed been broken. Market rates for trash and recycling collection services for businesses in New York City have, since then, plummeted by as much as 50% or more for many businesses. Finally free to compete, representatives of trash companies in New York City, both small and large, were clamoring to submit bids to any business that would accept them. According to a report released in 1997, the \$400 million a year in savings that businesses were realizing as a result of the industry reforms translated into the opportunity to provide over 12,000 jobs at \$35,000 per year.<sup>131</sup>

The raging price wars that took place in 1996 and 1997 cooled off over the next few years. New York City carters, most notably the big nationals such as WMI, USA and BFI, realized that they needed to start making money. The stock values of these companies were beginning to drop considerably toward the end of the 1990's.

Small "mom-and-pop" companies claimed that mega mergers like those between USA Waste and WMI were what they warned would happen and what was driving them out of business. As of the late 1990's, USA and WMI controlled nearly 70% of New York City's waste transfer station capacity.<sup>132</sup> The City forced Waste Management to sell off some of its transfer stations. Even so, they still owned an enormous amount of the total transfer station capacity.<sup>133</sup> However, the Trade

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<sup>131</sup> Crain's New York, 20 January 1997, p. 21.

<sup>132</sup> Waste News, 23 March 1998, p. 8.

<sup>133</sup> Ibid.

Waste Commission required that 25% of transfer station capacity at each location must be reserved for independent companies, usually the mom-and-pop companies.<sup>134</sup> Denying claims that small companies were being driven out of business or forced to sell out to companies like USA Waste, WMI and BFI, Edward T. Ferguson, Commission of the Trade Waste Commission stated:

"Most mom-and-pops are not selling or closing down.... The overwhelming number of companies that were sold or want to sell were non-competitive or knew that they could not get a license from us because they were part of the cartel or had other criminal histories."<sup>135</sup>

### **WHITE COLLAR OR CORPORATE CARTELS VS. CRIMINAL CARTELS**

Many local carters claimed that while one problem was being solved another problem was created. That is, the Mafia-controlled trash collection cartel was being broken only to be replaced by another cartel controlled by the multi-billion dollar public companies like USA Waste, WMI, and BFI. Which is better? Which is worse?

While the risk of a "white collar" cartel taking control of the trash industry in New York is certainly not desirable, some might argue that it is better than to have a Mafia in control that had used physical violence or threats to control or influence the industry. While companies like WMI and BFI have been brought up on anti-trust charges around the country, they have tried to avoid such overbearing market dominance in recent years. USA Waste, only a few years old, has not yet been brought up on any noteworthy charges. Even when big companies like WMI and BFI are brought up on anti-trust charges or other criminal charges, people don't fear for their lives in the same way some did from the trash cartel in New York. In fact, detectives like Dan Cowan were still under 24-hour protection in the late 1990's.

I'm sure Sal Benedetto is still looking over his shoulder as well.

I spoke to several people in the industry while writing this paper who, in different ways, told me to "just wait and see." They expect these big garbage companies to have

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<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

everyone, including politicians and judges, in their pockets because they are so powerful and so prosperous.

While we can never condone neither white collar nor Mafia crime, people can fight white-collar cartels through the courts, usually without any fear. Mafia controlled cartels, where they have existed, are harder to fight because many of their activities are in secret and the threat of personal physical or death makes those types of cartels of the utmost priority to confront, combat and eliminate.

### **CONCLUSION**

Today, the New York City trash industry may not be entirely ethical and competitive. Nor does this paper likely cover all of the issues and dynamics that affected it during the period covered in this paper. There is also likely or perhaps most certainly many things that happened “behind the scenes” that could not be covered in this paper due to a lack of primary sources.

However, the trash industry in New York City is in a better state in 2000 than it was prior to the mid 1990's and for forty years prior to that. Some legitimate owners claim this is not true but they are fooling themselves or perhaps think they can fool others. The industry was tough on the surface. Normal day to day people in New York were intimidated and they had a reason to be. While the overwhelming majority of trash company owners were not violent, some were. Most ordinary citizens had no desire to play a form of “Russian Roulette” to find out for sure if the owners or representatives of their trash company were good guys or only to find out too late after challenging them that they were bad guys.

Rates are still lower at the end of the early 2000's than they were before the reforms in the mid 1990's. Small independent carting companies continue to form as they have been doing so across the country despite WMI and BFI dominating the market.

The industry reforms now allow businesses to cancel most agreements within 30 days and customers do not hesitate whatsoever to complain if they are dissatisfied with their service. Competing carting companies now actively solicit commercial businesses. By the late 1990's, Industry analysts had estimated that businesses in New York had saved more than \$1 billion dollars since 1995.

New York's trash industry has gone through a long and interesting journey. So far the results are hopeful. In the same way that people could not imagine a substantial end to the cold war between the U.S. and the U.S.S.R in the 1990's, neither could most New York business owners imagine that organized crime would ever be routed from its influence over the trash industry in New York City.

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