



State of New Jersey
Commission of Investigation

DIRTY DIRT

**The Corrupt Recycling
of Contaminated
Soil and Debris**

March 2017

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March 2017

Governor Christopher J. Christie
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M, herewith submits its final report of findings and recommendations stemming from an investigation into corrupt recycling practices and the improper disposal of contaminated soil and debris.

Respectfully,

Joseph F. Scancarella
Chair

Robert J. Burzichelli
Commissioner

Frank M. Leanza
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Rosemary Iannacone
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Executive Summary

Since its inception more than four decades ago, the State Commission of Investigation has carried on a legacy of exposing and rooting out criminal intrusion into New Jersey's solid waste industry. Thanks to the Commission's findings and reform recommendations, and to the response of diligent legislators, policymakers and law enforcement authorities over the years, significant steps have been taken in an effort to eradicate organized crime and other unscrupulous elements from garbage hauling and related activity through background checks, licensing requirements and other forms of oversight and control.¹

Despite this progress, the industry remains vulnerable to subversion because key elements of a related commercial enterprise – recycling – were never included in the A-901 licensing and regulatory framework. This glaring discrepancy, the largest of a number of loopholes in that framework, has enabled convicted felons and other unsavory operators to gain a foothold without routine detection. Masquerading as seemingly legitimate recyclers, they are able to evade any form of background vetting and licensure simply because no such requirements exist for those engaged in the business they purportedly conduct.

Worse still, by exploiting this gap in oversight, they profit from a dangerous commerce in contaminated materials covertly dumped by the truckload into a chaos of inappropriate and unregulated venues that, as a consequence, have been rendered serious environmental and public-health threats.

¹ Specifically, as a direct result of SCI investigations, regulation of the solid waste industry in New Jersey begins with the A-901 law, N.J.S.A. 13:1E-126 et seq., which is designed to preclude the participation of persons with known criminal records, habits and/or associations.

As part of the most recent round of SCI inquiries in this arena, deficiencies in New Jersey's solid waste and recycling regulatory scheme were first reported by the Commission after an extensive investigation in 2011.² Among other things, that probe revealed how New Jersey had become a haven for criminally tainted garbage and recycling entrepreneurs who were kicked out of the business due to heightened vigilance and stronger rules elsewhere, most notably in neighboring New York. The Commission's findings were not anecdotal. Investigators explicitly identified more than 30 individuals of this sort who had been debarred by New York but who nonetheless were actively engaged in commercial solid waste and/or recycling in New Jersey.

Following the 2011 report, in an effort to underscore the need for reform, the Commission focused specifically on questionable and patently improper activity in the hauling, brokering, storage and disposal of construction/demolition debris and soil targeted for recycling. Once again, investigators discovered that the continuing absence of any meaningful regulatory bar or background check requirement for those operating in New Jersey's recycling industry had allowed criminal elements to thrive. Furthermore, the Commission found that, left unchecked, significant operations in this arena have resulted in the improper disposal of hundreds of tons of tainted dirt and debris at various locations around the State.

This document represents the final report of the Commission's investigation. It is based upon a comprehensive investigative record that includes interviews and sworn testimony from scores of individuals, eyewitness surveillances by SCI investigators to identify and verify inappropriate recycling activity and a thorough analysis of thousands of pages of evidence,

² See report entitled *INDUSTRIOUS SUBVERSION: Circumvention of Oversight in Solid Waste and Recycling in New Jersey*, issued December 2011.

including complex industry financial records. Overall, more than 300 subpoenas were issued and more than 40 individuals were called to testify under oath before the Commission.

Initial findings were presented during a public hearing on May 25, 2016, that revealed how rogue dirt brokers, truckers and recyclers orchestrated schemes in which demolition debris – often contaminated with known cancer-causing agents – was removed and hauled from sites out of state and dumped in New Jersey. According to sworn testimony and documentary evidence, the participants in this toxic trafficking included organized crime associates and convicted felons. The Commission’s investigation revealed that bulk amounts of tainted material wound up in locations subject to run-off into creeks and other waterways and quite possibly was passed off as properly recycled topsoil. In one extended case, it was dumped in a residential area along the edge of Raritan Bay in Middlesex County as purported replacement for a hillside decimated by Superstorm Sandy in 2012. In another instance, contaminated dirt and debris were piled high and wide at an unregulated recycling yard in Palmyra, Burlington County, that drains into the nearby Pennsauken Creek and then into the Delaware River. Those and other examples emblematic of the Commission’s overall findings are detailed in this report. Also attached to this written document is a digital transcript of the May 2016 public hearing.

Aside from the obvious environmental and public-health concerns arising from this activity, efforts to contain and/or remove this polluted material are fraught with difficult technical and logistical challenges, and carry substantial cost implications for taxpayers. Moreover, as was established in sworn testimony at the May hearing, these flagrant and continuing abuses by unscrupulous self-proclaimed recyclers have tarnished and undercut the economic viability of legitimate elements of the industry.

In sum, the findings of this investigation collectively draw a bright line under the need for statutory and regulatory reform to provide a proper and effective level of oversight to this system. To that end, legislation introduced in the state Senate after the hearing would address the core issues and concerns detailed by the Commission as part of its statutory mission as an independent watchdog agency.

Among other things, the bill (S-2306), sponsored by an early advocate in the history of the A-901 system, Sen. Raymond J. Lesniak, D-Union, would take the major step of subjecting individuals in the recycling industry to the same licensing and oversight requirements under the law as it applies to solid waste. At a minimum, as this legislation is reviewed and considered, the State should enact some form of background check as a condition for entering the recycling industry, most urgently in the area defined by statute as encompassing "Class B" recyclables, which includes construction/demolition dirt and debris. This sector is too similar and too closely connected to the solid waste industry to have been left unchecked for so long. Without at least this change in the statutory framework, criminal elements will continue to profit from polluting at will. Given the obvious environmental vulnerabilities and other consequences associated with improper handling and disposal of contaminated material, the facts dictate that New Jersey should no longer allow itself to be used by unsavory recycling entrepreneurs as a haven from aggressive oversight.

Key Findings

When it was established more than three decades ago, the architects of New Jersey's current recycling system never seriously contemplated the possibility of intrusion by criminal or other unscrupulous elements into what was then an untested and economically uncertain industry. Indeed, the record reflects that much of the focus during legislative hearings in the spring of 1985 was on the need for various incentives, including tax breaks and regulatory relief, to encourage private investment in the diversion and recovery of recyclable materials from the conventional solid waste stream. No witness was called and no testimony was given expressing concern that recycling would ever evolve into a lucrative enterprise vulnerable to the same or similar kind of systemic subversion that had come to plague garbage hauling.

The 1985 hearings led to the enactment two years later of the Statewide Mandatory Source Separation and Recycling Act, which classified potentially recyclable waste into four basic letter-designated categories – A, B, C and D – and set up a system to regulate facilities handling the various materials.³ Class A recycling centers receive, store and process common residential and commercial materials such as metal, glass, plastic and paper; Class B, dirt and debris generated by construction, demolition, large-scale landscaping projects and related activity;⁴

³ N.J.S.A. 13:1E-99.11 et seq.

⁴ Includes source separated, non-putrescible 1) waste concrete, asphalt, brick, block, asphalt-based roofing scrap, wood waste; 2) waste resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures; 3) whole trees, tree trunks, tree parts, tree stumps, brush and leaves provided that they are not composted; 4) scrap tires; and 5) petroleum contaminated soil. N.J.S.A. 7:26A-1.3

Class C, mostly organic material;⁵ and Class D, chemicals and e-waste.⁶ Except for Class A recycling centers, which are exempt,⁷ all other categories are subject to rules requiring evaluation and approval by the State Department of Environmental Protection (DEP) of engineering design, environmental and/or health impact statements prior to siting, construction and commencement of operations.⁸ For those seeking Class B, C and/or D facility approval, DEP also requires submission of an application packet certified under penalty of perjury that must include the following items: biographical information on the operators and ownership group, a listing of the type and amount of materials to be processed, projected operational byproducts, inventory and specifications of equipment to be used, a site map plan, deeding of the property as a recycling center, and a written narrative explaining of the proposed facility's operation.⁹

Notably absent from the State's oversight and approval protocols for recycling is any requirement that individuals and groups seeking entry into the industry be subject to an independent background investigation identical or similar to that required of applicants for an A-901 solid waste license. Thus, under the current framework, no government regulatory or law enforcement entity checks into an applicant's possible criminal record, associations or reputation for honesty in the community. In the final analysis, the State has no authority to deny approval for a recycling operation based upon any deficiencies in an applicant's background. The relevant

⁵ Includes source separated 1) food waste; 2) biodegradable plastic; 3) yard trimmings, including any biodegradable paper bags in which the yard trimmings are collected; biomass; and lakeweed generated from the cleaning of aquatic flora from freshwater lakes. N.J.S.A. 7:26A-1.3

⁶ Includes source separated 1) Used oils including lubricant oil, coolant oil, used emulsion oil and any other synthetic oil or oil refined from crude oil, which has been used, and as a result of such use is contaminated by physical or chemical impurities; 2) antifreeze; 3) latex paints; 4) lamps (light bulbs); 5) oil-based finishes; 6) batteries; 7) mercury-containing equipment; and 8) consumer equipment. N.J.S.A. 7:26A-1.3

⁷ Class A was exempted to provide an industry incentive.

⁸ N.J.S.A. 13:1E-99.34b

⁹ N.J.A.C. 7:26A-3.1 et al.

A-901 registration statements are not required from any business or individual falling under the statutory definition of “Recycling Center,”¹⁰ or recycling activity, and were specifically exempted from the A-901 scheme.¹¹

The consequences of this gap in oversight became readily apparent during this investigation, particularly in the area of Class B recycling, which, given its essential components – construction/demolition dirt and debris – often presents a clear overlap with solid waste. Simply put, the lack of background checks and other rudimentary licensing requirements has enabled unscrupulous individuals and entities to operate with impunity beneath the State’s A-901 radar in the self-proclaimed guise of legitimate Class B recyclers, transporting and processing this often-contaminated material and dumping it wherever they choose.

One reason recycling was exempted from the A-901 system was that, in the mid-1980s, the industry was not considered a lucrative endeavor. Since then, however, it has evolved into an often profitable commodities enterprise. When operated and managed lawfully, the profit margins are narrow and those in the industry must either work with large volumes or be skilled in working out the best deals. However, in the absence of any systemic constraints – when materials, for example, are dumped or otherwise disposed of indiscriminately and unscrupulously – the money-making opportunities widen. This is particularly true when the material is tainted; and the more contaminated it is, the fewer legitimate sites there are to process, handle and store it.

¹⁰ N.J.S.A. 13:1EE-99.12

¹¹ N.J.S.A 13:1E-99.34a

At the center of this illicit commerce is a practice known as “dirt brokering.” Dirt brokers are middlemen engaged in the business of identifying sources of construction/demolition debris and arranging for its removal, transport, storage and ultimate disposition. Those who operate on the reputable side of this enterprise generally take steps to ensure that the material is handled properly and winds up at a destination authorized to accept it, usually a registered recycling center, a brownfield location or another construction site.¹² The debris in question can range from “clean fill” – e.g. dirt without major contaminants and suitable for residential use – to materials classified by DEP as solid or hazardous waste. Other than remediation sites, all locations can accept material purported to be clean fill without the DEP’s regulation or approval. Materials classified as recycled must be received either at a recycling center approved to process, store and recycle it or receive approval by DEP for other “beneficial uses.”¹³ Class B recycling centers typically have approval for levels of contaminants that can be held on their premises either temporarily or permanently. Contaminant levels in soils and other material held or recycled at these centers are typically categorized as a) residential, meaning the level of contamination is low enough to be suitable for placement in a residential area; b) nonresidential, meaning the contamination level is not appropriate for a residential area but potentially acceptable in an industrial or commercial setting; c) solid waste, meaning the contamination level makes the material appropriate only for disposal in a solid waste dump; and d) hazardous

¹² N.J.S.A. 58:10B-23.d defines a brownfield as “any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant.”

¹³ In an effort to divert materials from solid waste facilities, DEP may allow some material classified as solid waste to be used safely in redevelopment projects through the agency’s Beneficial Use Determination (BUD) program. Upon receipt of an application, and in coordination with local and county authorities, DEP may grant a BUD waiver allowing material to be used in a project – such as a fill for a parking lot – rather than being dumped in a landfill.

waste, meaning only specialized waste sites can receive it. Recycling centers and solid waste facilities are required to review laboratory reports of tests and compare them with DEP standards for contaminants to determine it is appropriate to for them accept the material.

Thanks to the largely hands-off regulatory netherworld in which New Jersey recyclers operate, however, dishonest brokers, complicit truckers and the recycling centers with which they do business can set their own self-serving agenda, sometimes with links to organized crime and other criminal elements. Operating largely beyond detection by authorities who have no record of their unlicensed existence, these freelance profiteers are able to evade rules governing everything from proper laboratory analysis of the material they are trafficking in to the proper processing and disposal of it appropriate facilities established to safeguard the environment and protect public health and safety.

The following case examples are emblematic of the Commission's findings in this matter:

Cliffwood Beach

When Superstorm Sandy raged up the Eastern seaboard in late October 2012, it struck the Cliffwood Beach section of Old Bridge Township particularly hard along Raritan Bay about 20 miles southwest of New York City. Homes in that neighborhood, situated the day before on a gently sloping bluff above the water, now teetered near the edge of a jagged cliff, the hillside torn away by a historic tidal surge. Desperate to save their properties from total collapse, residents took matters into their own hands in the storm's chaotic aftermath. What happened next not only added a disturbing dimension to Sandy's fearsome legacy but also made this

Middlesex County community something of a poster child for the consequences of improper “recycling” of contaminated dirt and debris.

Casting about for a quick way to replace their lost and eroded backyards, the affected residents came into contact with a local construction worker and part-time dirt broker, Gregory Guido, who promised substantial amounts of clean fill at nearly no cost.¹⁴ Delivery began almost immediately and continued for much of that winter. Over a period of more than two months following the storm, truckload after truckload of material was dumped at the site under Guido’s direction. Commission investigators, tipped off to this activity, observed it as it happened. Plainly, the fill was anything but “clean,” clotted instead with prodigious amounts of brick and concrete, rebar, crushed stone and dirt containing what later was determined to be a cancer-causing substance. By the time the dumping was curtailed in January 2013, more than 400 truckloads – some 7,500 cubic yards or approximately 10,000 tons – had been unloaded at water’s edge in Cliffwood Beach. The dumping stopped only after the truck traffic in the area became so messy and intrusive that surrounding neighbors were forced to complain.

Through extended surveillance, SCI agents identified a major out-of-state source of this material. Trucks were tracked from Old Bridge to a massive demolition project under way on 237th Street in The Bronx, N.Y., containing what New York regulators term “historic fill,” meaning it was contaminated and thus unacceptable for any residential use. The company leading this project had retained subcontractors for different aspects of the demolition and removal work, and investigators soon discovered that one of these subcontractors, AJC Trucking Inc. of

¹⁴ The great bulk of material supplied by Guido to the area was delivered at no cost. One homeowner paid a one-time fee of \$200 for a load of fill cleaner than the rest.

Yonkers, N.Y., had, in turn, engaged the services of a dirt broker on its end. This individual, Frank Gillette, of Jackson, N.J., essentially became Guido's *de facto* boss as the primary architect of the Cliffwood Beach operation.

As indicated earlier in this report, the job of a reputable dirt broker is to identify the least expensive yet safest and most appropriate destination for demolition and other debris for recycling or outright disposal. A responsible broker examines laboratory reports of test analyses of the material and, based upon the results, finds a suitable location to receive it. Typically, the more contaminated the soil and debris, the fewer the number of sites available to accept it, thus driving up the cost of processing, shipment and disposal. In this instance, the dirt brokers circumvented the proper course of business for financial gain. The fact that both were convicted felons – and that Gillette was an associate of organized crime – stood as no impediment to their unscrupulous enterprise because they were not required to undergo any official scrutiny or obtain any form of licensure.

Guido's criminal record includes a 2002 arrest and 2004 sentence in federal prison for interstate theft. During this investigation, he was a fugitive from multiple warrants for failure to appear on a narcotics charge dating from February 2012 and failure to pay child support, for which he was jailed. Gillette, meanwhile, completed four years of probation in 2016 after pleading guilty to a third degree crime for passing two bad checks in the combined amount of \$27,000 to a Newark trucker. He has run several trucking and dirt brokering businesses over the years, though never through his own name, instead positioning others to serve as fronts. More troubling is Gillette's relationship with a member of New York-based Bonanno crime organization of *La Cosa Nostra* (LCN) who has funded and assisted in operating Gillette's various business

ventures over the years. In 2014, this individual, identified by law enforcement authorities in New York as a *capo* in the Bonanno organization, completed a federal prison sentence for securities fraud and was placed on supervised release partly conditioned on a requirement that he obtain legitimate employment. Gillette provided the appearance of that, giving him a no-show job at one of his companies. Separately, an examination of bank records showed that a firm controlled by the Bonanno crime figure paid into and received payments from Gillette's companies, and appeared to be connected directly to the Cliffwood Beach job.

Free to operate with impunity in a system with few checks and balances, Gillette engineered a scheme to paper over the true nature of his work as a subcontractor for AJC Trucking. He provided the company with what appeared to be legitimate acceptance letters from locations in New York and New Jersey purportedly delineating their willingness to lawfully accept soil and debris from the Bronx site. He then claimed to AJC and the main contractor in The Bronx that the material would be delivered to those locations. Copies of these letters were examined by investigators and presented to the individuals purported to have written and signed them. In one instance, the owner of Mount Vernon Recycling Corp. in Mount Vernon, N.Y., stated he could not be sure he even wrote the letter, and that when a load from the Bronx site showed up, he rejected it. Another site operator, the owner of C&T Building and Construction Corp. in Staten Island, N.Y., went further. He told SCI investigators that the signature on a letter bearing his name did not match his own, and that his firm had never used the letterhead that appeared on the document. He stated that C&T never accepted any material from the Bronx job, either. It is noteworthy that both letters were virtually identical down to the typeface. They even included the same obvious grammatical error, using "except" instead of the proper "accept." At the SCI's

May 2016 public hearing, a Commission investigator testified under oath that one or both of the letters must have been falsified.

Commission investigators confirmed that no material from the Bronx site wound up at the locations to which Gillette purported to have had it delivered. The investigation further showed that both he and employees of AJC Trucking directed truck drivers specifically to “Old Bridge,” which the drivers told the Commission they understood to mean Cliffwood Beach. AJC employees and Gillette directed these trucks to the actual site, where Guido and his associate received the material. At that point, Guido gave instructions as to where the materials should be dumped and, as the pile grew in size, operated machinery to level it off. Under similarly false pretenses, some of the material was also taken to the Middlesex County Utility Authority’s (MCUA) Edgeboro Landfill.¹⁵

In the final analysis, the Cliffwood Beach debacle illustrates that illicit dirt brokering in the recycling and solid waste industries can be as lucrative for the perpetrators as it is costly for those who must deal with the mess left behind. An analysis of bank and other financial records showed that Gillette was paid more than \$320,000 by AJC Trucking over a matter of a few months. Bank records also show that at one point as dumping proceeded at Cliffwood Beach, Gillette wrote a \$25,000 check payable to a shell company controlled by his Bonanno crime organization benefactor. Industry standards suggest that if the material had been handled and disposed of

¹⁵ The means by which some of this debris wound up at the MCUA landfill illustrate another illicit dirt-brokering strategy hatched by Gillette. He arranged with a local contractor to purchase what effectively are admittance tickets into the MCUA for the Bronx material. These “tickets” were for soil supposedly pre-authorized by the MCUA, but Gillette brought soil from The Bronx without MCUA’s knowledge. Evidence obtained by the Commission also suggests that Gillette made photocopies of these tickets and used those copies to facilitate the delivery of more soil to the MCUA than even the original ticket-holder knew. After alerting the MCUA to the issue, Authority officials undertook several steps to improve their intake system to ensure that soil accepted at the landfill would be subject to greater accountability.

properly, this operation would have been highly expensive, costing as much as \$500,000. Instead, by misrepresenting where the material was taken, Gillette and his minions were able to pocket pure profit with minimal overhead, if any.

There was a substantial additional cost, however, and it is being borne by the environment and by the taxpayers of Old Bridge Township. Laboratory analysis of the debris dumped at Cliffwood Beach showed concentrations of the substance benzo(a)pyrene, a known carcinogen, at levels only appropriate for disposal at a properly regulated solid waste facility. Due to the proximity of the debris pile at the edge of Raritan Bay, it is situated such that storm-water erosion and run-off can allow the material to physically travel into the water. Additionally, the lack of ground cover raises the clear possibility that contaminants may have or will become airborne, carried by the wind throughout the area adjacent to where the debris was dumped.

Following the Commission's referral of this matter to DEP, the township was directed to develop a remediation plan to address the Cliffwood Beach area. Although the fill was solicited by residents to rebuild the bluff behind their homes, the actual land upon which the debris was dumped is owned by the Township of Old Bridge, leaving the burden to remediate in the collective hands of the municipality. After evaluating multiple options presented by an engineering consultant, township officials adopted a plan to cap the area at a cost of approximately \$300,000. In addition, the capping plan requires a ventilation system and continuous monitoring over the next 30 years. The expense to build and monitor the capped area will be billed to Old Bridge's general fund, which is directly underwritten by the township's taxpayers.

Had Gillette and Guido been required to apply for licensure, the overwhelming likelihood is that they would have been rejected for an A-901 license and debarred from the solid waste industry altogether. According to DEP, their actions constituted a violation of New Jersey's Solid Waste Act, yet they were able to carry on as dirt brokers/recyclers beyond the scope of the current law.

Jersey Recycling Services

For years, the sprawling parcel of land along heavily travelled Route 73 in Palmyra, Burlington County was presumed to be just another dusty recycling yard where tree limbs, stumps, leaves and brush were turned into mulch. But in 2012, hidden in plain sight, things changed drastically. That's when Bradley Sirkin, a convicted felon out of Florida with ties to organized crime, gained control of the hundred-acre-plus facility and covertly set about transforming it into a lucrative dumping ground for all manner of construction and demolition debris. Over the next year and a half, passing itself off as a Class B recycler under the benign corporate name "Jersey Recycling Services," Sirkin's operation accepted huge amounts of unauthorized soil, crushed brick, rebar, concrete aggregate, asphalt and material contaminated with a known carcinogen. Piled high and wide, the debris occupied ground abutting Pennsauken Creek, which flows into the nearby Delaware River north of Philadelphia. It also wound up being co-mingled with vegetative waste processed into topsoil for sale to the public. And through it all – until its discovery by SCI investigators – Sirkin was able to exploit a very convenient form of

official cover: The site was approved by the State Department of Environmental Protection (DEP) to accept at least a small amount of vegetative waste for mulching on an annual basis.¹⁶

Suspicion about what was really going on at Jersey Recycling was first aroused during the course of an SCI analysis of bank records involving a *capo* of the Bonanno organized crime family who was found to be a business associate of New Jersey dirt broker Frank Gillette.¹⁷ During that review, investigators discovered a \$50,000 payment to Jersey Recycling from a company in which the Bonanno figure held a substantial interest. A corresponding analysis of Jersey Recycling records turned up a journal entry identifying this payment as a shareholder loan. Investigators found it noteworthy that while Jersey Recycling's books listed other shareholder loans as well, the money from the Bonanno *capo* was the only loan never recorded as having been repaid.

This finding along with other evidence prompted a closer examination of the Jersey Recycling's Palmyra location, and investigators soon found that activity at the site belied the permitted operation of a supposedly small mulching facility. Strewn across acres in every direction lay heaps of mixed debris, including construction/demolition waste and soil piled directly adjacent to material being mulched and processed for sale on the open market. On one visit, investigators observed a backhoe flattening an extensive debris pile some 10 to 15 feet about ground level.

The Commission determined that during the 18 months Jersey Recycling was in operation before being ordered by state environmental authorities to cease and desist in 2013 based on the SCI's referral, scores of trucks delivered more than 380,000 cubic yards of material to the site

¹⁶ The DEP approvals were designed and intended to aid in a remediation of the property, which had been neglected and contaminated in one form or another for decades.

¹⁷ For background on this relationship see prior section of this report beginning at page 9.

– 19 times the limited volume of material set by its mulching permit. The debris was hauled there from a variety of construction and demolition locations across the region, including the expansive Interstate 95 reconstruction project in Philadelphia. Investigators found instances in which deliveries were facilitated by the manipulation, misrepresentation and/or outright dismissal of laboratory test results plainly showing that tainted materials were inappropriately dumped at Jersey Recycling.

In one instance, an individual hired by Sirkin to serve ostensibly as an expert environmental consultant for Jersey Recycling okayed the receipt of debris from a charter school construction site in Camden even though existing lab work showed the material was laced with high levels of polycyclic aromatic hydrocarbons (PAHs), known cancer-causing agents. Under normal circumstances, this level of contamination would have mandated that the debris be classified for safe disposal only at an approved solid waste facility.

In another instance, PAH-tainted debris from a construction project in New Brunswick was dumped at Jersey Recycling after Sirkin provided the trucking company that was to haul it with a notarized letter stating that lab tests had determined the material to be residential grade and thus suitable for delivery to the Palmyra site. This claim was false. Investigators determined that existing lab tests showed exactly the opposite analysis and that the letter was clearly doctored by incorporating material cut and pasted from a separate and differently dated email. The rendering of this letter was so sloppy that it included the following generic statement printed at the bottom of the original document: “Please consider the environment before printing this email.” Aside from the obvious environmental risks set in motion by this false-letter scheme, it

had the added effect of boxing out legitimate disposal firms that could not compete because of the costs associated with handling this type of material properly.

As to Sirkin's environmental "expert," the Commission found his credentials to be thin to nonexistent. Having failed multiple licensing exams, this individual had lost his standing as a State-certified Licensed Site Remediation Professional (LSRP). Further, in sworn testimony, he was unable to identify benzo(a)pyrene as a PAH, a fact which constitutes elementary knowledge in his purported field.

On-site employees of Jersey Recycling were similarly ill-informed and/or unqualified, evincing no apparent awareness that the facility was only permitted to accept a limited volume of vegetative waste for mulch production purposes. Instead, they told investigators they were authorized routinely to receive any waste material not labeled hazardous. Also, they readily acknowledged that topsoil generated at the site was produced with few controls and then conveyed to landscapers, who in turn sold it to the general public. One landscaper who purchased topsoil there told investigators that Frank Gillette, the dirt broker, transported it and collected payment for it on behalf of Jersey Recycling.

The lucrative self-serving economics of this type of unscrupulous "recycling" operation are undeniable. Using the tainted Camden charter school construction debris as just one example, proper disposition of the material at an appropriate site, such as a development project under way in Bellmawr, Camden County, would have cost \$25.85 per cubic yard.¹⁸ Sirkin's Jersey

¹⁸ The Brownfield Development Area in Bellmawr encompasses 70 acres of former municipal landfills along Big Timber Creek that were never properly closed under state requirements. The municipality envisions for this area a large commercial project that will include a hotel and conference center, marina and boat ramp as well as a greenway along the creek. See: http://www.nj.gov/dep/newsrel/2008/08_0003.htm.

Recycling operation, however, charged only \$14.50 per cubic yard – little more than half the legitimate cost – to accept the material improperly. The facility received approximately 2,000 cubic yards of debris from the Camden school site, or about 100 truckloads of material, creating a difference of more than \$10 a cubic yard and \$20,000 for the entire project. Sirkin thus was able to save the generator(s) of the material a great deal of money while still pocketing nearly \$30,000 for himself. The Camden site, however, was just one small stream – approximately one-half of 1 percent – of the estimated 380,000 cubic yards of debris dumped at Jersey Recycling overall. By way of extrapolation, one can see that the opportunity for profit was astronomical. Conservatively, the SCI estimates a profit of around \$5.3 million for Sirkin, if the rest of the material was brought in under similar arrangements.

Had he been required to undergo even the most rudimentary of background checks, it is quite unlikely that Sirkin would ever have qualified for licensure in New Jersey. His organized crime connections are extensive. Aside from the earlier reference to an unrepaid loan to his company from a *capo* in the Bonanno organization, Sirkin is related by marriage to a soldier in the Lucchese LCN group. In September 1992, he was convicted and served two years in federal prison on conspiracy, wire fraud and unlawful interstate transportation charges involving a “bust-out scheme” in which he ordered \$500,000 worth of cosmetics for re-sale but never reimbursed the seller. Upon his release to a halfway house, Sirkin became a housemate and close friend of Joseph “Skinny Joey” Merlino, identified by law enforcement authorities in Philadelphia and elsewhere as the head of the Philadelphia/South Jersey LCN organization. That relationship continued when Merlino was released in 2012 and both had moved to south Florida. Sirkin was a constant social companion there, often serving as Merlino’s driver. When Merlino was charged

with violating federal supervised release in 2014, Sirkin was even publicly named as one of the felons Merlino was not permitted to associate with. Most recently, Sirkin was arrested on August 4, 2016 in Florida, charged in an indictment by the Southern District of New York with healthcare fraud, and named as a co-defendant with Merlino. In this scheme, Sirkin allegedly caused corrupt doctors to issue unnecessary and excessive prescriptions for expensive compound creams. Kickbacks were paid to the physicians to write these scrips and to patients who requested and received them.

As for Jersey Recycling, the Palmyra site sits polluted and abandoned with Sirkin having retreated to Boca Raton. DEP's Bureau of Solid Waste Compliance and Enforcement has issued a Notice of Violation ordering Jersey Recycling to cease and desist the importation of materials to the site. Referrals also were made to other bureaus within DEP in an effort to require Sirkin to remediate the problems he caused. Palmyra officials estimate that after Sirkin's ownership, the cost to remediate and make use of the Jersey Recycling site will be approximately \$5 million. However, because he fled, DEP was not able to locate him for many months, thus delaying final disposition of the administrative penalties against him.

Visionstream – Route 516

One of the more nefarious factors in the shadowy and unregulated world of dirt brokering is that unscrupulous practitioners can play both sides against the middle – especially when they control the flow of critical information and no one asks any important questions. Case in point: Michael D'Angelo, a Middlesex County-based dirt broker whose distortion and misrepresentation of lab test results, in combination with a willing customer, enabled him to profit from the

improper dumping of tons of contaminated soil and debris on property being developed for business and residential use along County Route 516 in Old Bridge.

In March 2013, D'Angelo signed a contract with the project's developer, Visionstream LLC to supply 2,000 truckloads (approximately 36,000 cubic yards) of supposedly clean fill to the development site. Although D'Angelo provided the firm with paperwork that included lab analyses of the material he intended to deliver, the results were minimized and given only cursory scrutiny. Only after the fact did an evaluation by DEP show that it was contaminated with cancer-causing PAHs, thus completely unsuitable for both residential and nonresidential use, and should have been classified as a form of solid waste.

As to the source of the material he was brokering, D'Angelo turned to the owner of a Jersey City trucking company, Mecca and Sons Inc., which needed to dispose of a large amount of concrete aggregate fill commingled with asphalt millings. In exchange for collecting fee of \$250 per truckload, D'Angelo promised the firm's owner in writing that he would adhere to all applicable New Jersey environmental rules governing the handling, processing and disposition of the debris, given the fact that lab tests showed it to be heavily contaminated. Had he actually done so, D'Angelo's fee would have been far surpassed by the cost of proper disposal at an appropriate solid waste facility. Instead, by arranging for the material to be delivered to Visionstream's property by various trucking companies – including at least one controlled by fellow dirt broker Frank Gillette – he cleared a profit of nearly \$70,000 in a matter of weeks.

Based upon the SCI's intervention and referral of this matter, a follow-up inquiry by DEP resulted in a \$100,000 penalty assessment against D'Angelo and the company he was operating. This action was affirmed by a state administrative law judge in May 2016. Meanwhile, the Route

516 development site has been remediated by Visionstream, which capped the site with clean fill. D'Angelo and his business associates in October 2016 filed a notice of intent to appeal this decision.

Ironically, according to the administrative law ruling, D'Angelo and the company he ran were found by the judge to be operating as solid waste haulers without an A-901 license, and, since D'Angelo did not actually recycle the material as he had claimed, he was in fact in violation of the A-901 statute. Had he been required to apply for some form of licensure, and undergo a background check pursuant to his purported Class B recycling activity, authorities would have been able to take note of a criminal record. In 2009, D'Angelo was indicted by a state grand jury on securities fraud, theft and money laundering charges, in response to which he entered a guilty plea to second-degree theft by deception and served a three-year prison sentence.

Hudson County Improvement Authority

The money-making potential of unscrupulous and unregulated dirt brokering makes it an excellent vehicle for public corruption. During this inquiry, for example, SCI investigators discovered circumstances that resulted in a criminal referral and the successful federal prosecution of two individuals charged in a scheme to extort thousands of dollars from companies doing business with the Hudson County Improvement Authority (HCIA).

The payments were solicited in connection with the construction of a nine-hole public golf course located at Lincoln Park West in Jersey City. As overseer and gatekeeper for the project, the HCIA was responsible for selecting contractors to evaluate and deliver soil, crushed stone and other fill material to the site. Commission investigators found evidence that that

process was corrupted when a senior HCIA employee, Gerard Pica, who also owned an environmental consulting company, conspired with a New Jersey dirt broker, James Castaldo, to obtain payments for themselves and another HCIA official in exchange for steering contracts to select companies. One of these select companies was a Bayonne, N.J., recycling business from which the trio shared payments in exchange for the use of their authority and influence at the HCIA to ensure that the Bayonne firm received approval to provide fill material to the HCIA.

On its face, the amount initially received by the conspirators seemed minimal – \$3 per ton in the case of one contractor, \$2 per cubic yard in another – but, over time, between at least August 2010 and November 2011, these favored firms delivered thousands of cubic yards of fill materials to the site. According to the indictment obtained by the U.S. Attorney for the District of New Jersey, the profits that flowed to Pica and Castaldo as a result of this corrupt enterprise totaled approximately \$53,000 – taken, essentially, from the pockets of the citizens of Hudson County.

SCI investigators found that Castaldo is documented by law enforcement authorities in New Jersey as an associate of the DeCavalcante LCN criminal organization. He also has prior felony convictions. In 1992, Castaldo was arrested and eventually sentenced to federal prison for demanding and receiving union bribes. Later, in 1998, he was charged and sentenced to seven years in federal prison for solicitation to murder his secretary. Even with this background and criminal history, however, Castaldo continued to operate in the dirt brokering end of the Class B recycling industry. When sentenced in March 2016 in connection with the HCIA-related charges, Castaldo's attorney sought to mitigate the court's treatment of his client by bluntly stating that since Castaldo's job as a dirt broker required him to link fill suppliers with customers, the type of

payments he sought were merely part of the normal course of business in order to ensure the best deal for all parties. The argument fell flat. Castaldo was sentenced to 51 months in prison. Pica, meanwhile, though a first-time offender, received a prison term of 35 months to be followed by supervised release, based on the use of his public office to collect corrupt payments.

RNR Technologies/A2Z Universal

On a stretch of Bordentown Avenue between Sayreville and Old Bridge in Middlesex County, a small residential neighborhood faces a tangle of trees and underbrush directly across the road. Beyond this groundcover is a barren and discolored quarter-mile-square lot strewn with debris that suggests a long history of questionable and improper dumping. Indeed, for more than three decades – and despite action by state environmental authorities – this property has repeatedly been the repository for all manner of contaminated materials, much of it at the hands of characters familiar to this story line.

From 2008 to 2012, the site was leased to a company called Expert Recycling Services whose owner, Anthony Quarant, presided over the receipt of large volumes of tainted construction debris and soil. Among those employed by Expert Recycling as a sales representative and consultant was James Castaldo, the same DeCavalcante organized crime soldier who would go to federal prison for his role in corrupting a Hudson County Improvement Authority project. In July 2012, the owner of the site ordered it closed, and DEP levied fines of nearly \$300,000 against Expert Recycling and the property's owner. As it turned out, the effect of that order was only temporary.

In March 2014, the owner negotiated with DEP to reopen and operate under a remediation plan pursuant to the strict terms of another Class B permit, this time ostensibly limiting activity at the site to the acceptance and processing of wood products into mulch. The property was then leased to a separate company, RNR Technologies LLC, whose principal, Roger West, was informed by DEP that the firm was prohibited from processing any other materials, except for some concrete left by Quarant's operation.

West, however, had other plans. He established another company, A2Z Universal LLC, which was purported to be in charge of removing and remediating the leftover concrete debris. Instead, A2Z became the portal through which tons of additional construction and demolition material was brought onto the site. While West conducted the approved wood and mulching work under the RNR brand, Commission investigators observed truckloads of unauthorized debris arriving and being unloaded at the property. An examination of the operation's finances turned up evidence of an unusual structure to this operation: Investigators found hundreds of thousands of dollars in payments to West were flowing through a local check cashing outlet rather than being deposited in a normal personal or corporate bank account. He did not exactly welcome the scrutiny. On one occasion early in the inquiry, West approached an SCl agent and threatened physical violence unless the agent left the vicinity of his recycling yard.

DEP later tested samples of soil and debris brought to the site during this period on May 29, 2014, and found them to contain cancer-causing PAHs, along with an assortment of other toxic pollutants, including chromium. Potential retail topsoil processed at the site was also impacted. RNR had been producing soil that was deemed ready for shipment. DEP sampled this

soil as well and found PAH levels well above permitted residential levels. Had the SCI and DEP not intervened at that point, the soil was ready to go out for sale to landscapers.

The Commission also examined the roster of those working with and for West at the site and found that it included Michael D'Angelo – mastermind of improper dumping at the Visionstream location.¹⁹ Personnel of one trucking company that delivered debris to the site reported D'Angelo as setting prices, accepting material and collecting checks on behalf of RNR/A2Z. He even sat in when West and others in the ownership ranks met with DEP officials to secure the limited recycling permit for RNR. The Commission's review found that another employee on the site, in charge of day-to-day management, is a registered sex offender. While West himself has no known criminal history, a corporate background check on the scale of the A-901 system would have identified D'Angelo and the day-to-day site manager as "key employees" and thus would likely have served as an effective impediment to licensure.

¹⁹ See page 20 of this report.

Conclusion and Recommendations

Under current laws, rules and regulations, New Jersey lacks the ability and authority to properly oversee its recycling industry. As the findings of this and previous inquiries have amply demonstrated, the consequences of this gaping breach in the State's regulatory framework are particularly serious in the area of Class B recycling where unscrupulous individuals with criminal backgrounds and ties to organized crime have been able to gain a profitable foothold despite the fact that much of their illicit trade involves debris and other materials that could just as well be classified as solid waste and thus subject to rigorous control and oversight.

These operators, however, are free to skirt background checks, licensing requirements and other rules simply by declaring themselves to be recyclers. As such, except by happenstance, the State has no way of knowing they even exist. As a consequence, they have undermined the industry and its legitimate elements, produced a legacy of environmental damage, opened the door to government corruption and created needless danger to public health and safety. Thus, the Commission recommends the Legislature and Governor act on recommendations that have been pending throughout this inquiry and that were incorporated into Senate Bill S-2306 introduced late last year. At a minimum, some form background check requirement should be mandated immediately for any individual or entity seeking to participate in the Class B recycling arena, particularly as it applies to construction and demolition debris and related materials.

S-2306 incorporates every major recommendation made by the Commission as an outgrowth of its 2011 report on solid waste and recycling, and those recommendation still stand today. While some administrative and regulatory improvements have been undertaken by the

State during the interim, the core problems remain and would be addressed by the bill's main provision, i.e. including the recycling industry in the A-901 licensing scheme for solid waste. Most importantly, this change would enable regulators to deter the type of improper and untoward activity outlined in this report before it can occur. It is the position of the Commission that none of the recycling operators and dirt brokers identified during this inquiry would have been eligible for an A-901-type license had they be required to apply for one. These individuals, and others like them, must be subject to at least a minimum of scrutiny.

Without some type of preemptory examination of those who seek to profit from recycling in New Jersey, the type of flagrant abuses detailed in this report will continue. Although the Legislature specifically exempted recycling from the A-901 framework years ago under the assumption that the industry would be spurred economically by few regulatory rules, that hands-off approach has been thoroughly exploited by unsavory elements in a shadowy underground marketplace surrounding what has become a lucrative commodity, which, when mishandled, carries the grave potential to poison our State. Thus, it is the Commission's strong recommendation that a system be established to slam the door shut on this dangerous and deleterious activity.

APPENDIX

N.J.S.A. 52:9M-12.2 provides that:

- a. The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following material was submitted pursuant to those statutory requirements.

RECEIVED

JACOBS & BARBONE, P.A.

EDWIN J. JACOBS, JR.
LOUIS M. BARBONE

2017 FEB 17 AM 10:07

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February 13, 2017

C. Andrew Cliver, Esquire
State of New Jersey
Commission of Investigation
28 West State Street, PO Box 045
Trenton, New Jersey 08625-0045

Dear Mr. Cliver:

We spoke last week and I have now read your revised extract from a proposed SCI report. It is now correct, but in fairness I request that you include a sentence or a parenthetical statement or a footnote clearly stating that the violations charged against Mr. Merlino were all dismissed.

Very truly yours,

JACOBS & BARBONE, P.A.

Edwin J. Jacobs, Jr.

E.JJ:es
cc with enc: Joseph Merlino

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February 28, 2017

VIA E-MAIL AND FIRST CLASS MAIL

acliver@sci.state.nj.us

C. Andrew Cliver, Counsel
New Jersey State Commission of Investigation
28 West State Street
Trenton, New Jersey 08625

**Re: Expert Recycling Service, LLC and Anthony Quarant;
p.q.: 3220 Bordentown Avenue, Old Bridge, New Jersey**

Dear Mr. Cliver:

As you are aware, the undersigned is legal counsel to Expert Recycling Service, LLC and Anthony Quarant (collectively, the "Expert Parties") for purposes of issuing a response on behalf of the Expert Parties to a redacted excerpt of a proposed report by NJSCI which references certain purported activities by the Expert Parties at the above-referenced property between 2008 and 2012. After conferring with the Expert Parties, their response to the first full paragraph of the non-redacted excerpt of the report which has been provided is as follows:

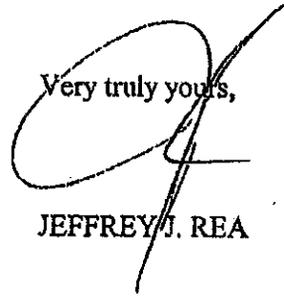
At all times while the Expert Parties were in possession and control of the subject real property, all of the activities conducted thereon were in conformance with the Class B recycling permit which was in effect at the time. Furthermore, all materials which the Expert Parties had brought to the site and processed were approved for that purpose pursuant to the aforementioned Class B recycling permit by Richard D. Galli, P.E. and/or other professional engineers employed by Galli Engineering, P.C., 35 Pinelawn Road, Suite #209e, Mellville, New York 11747.

The Expert Parties are unable to respond to the redacted portions of the first full paragraph or with respect to any portion of the second full paragraph of the excerpt of the report which NJSCI furnished to the Expert Parties as an attachment to your February 24 e-mail to the undersigned.

C. Andrew Cliver, Counsel
New Jersey State Commission of Investigation
February 28, 2017
Page 2

Please feel free to contact the undersigned if you have any questions concerning the foregoing. All rights reserved on behalf of the Expert Parties.

Very truly yours,

A handwritten signature in black ink, appearing to be 'JEFFREY J. REA', written over the typed name below.

JEFFREY J. REA

JJR/bjg

cc: Mr. Anthony Quarant (via e-mail only)



***State of New Jersey
Commission of Investigation***