



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039169935M et al. (1 Summons) DEPT OF BUILDINGS, -against- RIBELLINO RICHARD Hearing Date: 02/18/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$0.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039169935M	Dismissed	12/10/2025	411 3 AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B263	28-204.4	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Petitioner, DOB, appeared by Carl Kanev. Respondent appeared by Phoebe Dossett, Esq. Respondent is charged with a Class 2 violation for failing to comply with the commissioner's order.

Respondent challenged service.

Respondent argued as follows: respondent is an individual and therefore, must either be served personally, or by substituted service, which is serving another individual , of suitable age and discretion, at respondent's actual place of business, dwelling or usual place of abode.

The issuing officer marked an erroneous box, for service of respondent personally, "Sam Cassidy". However, respondent's name is Richard Ribellino. However, the main defect in service is that respondent was purportedly served at 411 Third Ave, the place of occurrence, however, respondent contended that that location is neither respondent's home, dwelling, place of business or abode, since it is a warehouse. Accordingly, service was defective.

Mr. Kanev had no recommendation.

Respondent's motion to dismiss this summons based upon defective service is granted. I find that the subject location is a warehouse and respondent could not be served at a warehouse since a warehouse is not respondent's actual place of business, dwelling or usual place of abode. This summons is dismissed.

Pauline E. Glaser

02/25/2026

02/25/2026

Pauline Glaser, Judicial Hearing Officer

Date



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Andre Autz, Esq. - Nacmias Law 592 Pacific Street Brooklyn, NY 11217	Summons No: 25T00822 DEPARTMENT OF CONSUMER AND WORKER PROTECTION, -against- 5TH AVENUE CANDY & GROCERY, INC Hearing Date: 01/16/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$3,000.00	Restitution: \$0.00
Suspension/Revocation/Sealing:	

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
25T00822	Sustained	03/25/2025	439 5TH AVE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	OCCUR- RENCE	NO. OF COUNTS	RESULT	PENALTY	SUSPENSION/ REVOCATION/SEALING
1	NA	NYC Admin Code § 17-706(a)	1	1	Sustained	\$1,000.00	
3	NA	24 RCNY § 13-03(b)	2	1	Sustained	\$2,000.00	

Findings of Fact & Conclusions of Law

The summons was issued by the NYC Department of Consumer and Worker Protection for several tobacco sales violations.

Petitioner, DCWP, appeared by Inspector Rachid Aitoumghar.

Respondent appeared by Andre Autz, Esq.

Petitioner submitted into evidence; photographs, affidavit of minor and prior summons of 8/20/2020, without objection.

1) As to NYC Administrative Code Section 17-706(a) selling tobacco or tobacco products to a person under the age of 21 years;

Petitioner relied on the summons and the evidence in the record.

Respondent denied the violation arguing that the Petitioner did not produce a receipt of purchase into the record and because of that, has not met its burden of proof, and that the charge should be dismissed.

I credit the sworn statement of the complainant who swears under penalties of perjury as to the sale of tobacco to a minor.

The evidence in the record establishes the violation as written and the Petitioner has met its burden of proof.

As such, based on the record before me, the violation is sustained and the standard penalty is hereby imposed.

2) As to NY Public Health Section 1399-cc(2), sale of tobacco or tobacco products to a person under the age of 21 years.

Petitioner relied on the summons and the evidence in the record.

Respondent denied the violation arguing that the Petitioner did not produce a receipt of purchase into the record and because of that, has not met its burden of proof, and that the charge should be dismissed.

Andre Autz, Esq. also argued that the charge is duplicative to NYC Administrative Code Section 17-706(a), and thus should be dismissed.

NY Public Health Section 1399-cc(2) is a different section compared to NYC Administrative Code Section 17-706(a), and thus not duplicative.

I credit the sworn statement of the complainant who swears under penalties of perjury as to the sale of tobacco to a minor.

The evidence in the record establishes the violation as written and the Petitioner has met its burden of proof.

As such, based on the record before me, the violation is sustained and the standard penalty is hereby imposed of \$1,500.00 and two points on the NYS Registry.

3) As to 24 RCNY Section 13--03(b), selling cigar for less than the floor price of \$8.00 plus \$1.75 for each additional cigar, as a subsequent offense dated 8/20/2020.

Petitioner relied on the summons and the evidence in the record.

Respondent denied the violation arguing that the Petitioner did not produce a receipt of purchase into the record and because of that, has not met its burden of proof, and that the charge should be dismissed.

Andre Autz, Esq. also objected to the notation of a prior violation for the same condition cited dated 8/20/2020, as it is more than three years since the subject violation herein.

I credit the sworn statement of the complainant who swears under penalties of perjury as to the sale of tobacco to a minor, along with the corroborated evidence in the record.

As such, based on the record before me, the violation is sustained.



February 12, 2026

02/12/2026

John Ciafone, Judicial Hearing Officer

Date