



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000604223M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- CITYWIDE CONTAINER SERVICES Hearing Date: 12/11/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$400.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000604223M	Sustained	09/20/2024	11 EAST 56TH ST Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA31	24-146 (B)	Sustained	\$400.00

Findings of Fact & Conclusions of Law

Lance Chebin appeared for Respondent by phone. The DEP was represented by Dantney Parks by phone.

The summons alleges a violation of NYC Administrative Code 24-146(b), dust allowed to become airborne. First offense.

NYC Administrative Code 24-146(b) states: No person shall cause or permit any material that may generate dust to be transported or stored without taking such precautions as may be ordered by the commissioner or as established by the rules of the department to prevent dust from becoming air borne.

The summons alleges that a citizen saw a garbage truck with NY plate #41398PF causing dust from workers dumping construction materials without any mitigation allowing dust to become air borne. This occurred on 9/20/24 at 6:56pm at 11 East 56th St.

The DEP submitted into evidence:

P1 Affidavit of service

P2 Side of garbage truck that say City Wide

P3 Photo of license plate

P4 3:53 video

Mr. Chebin denied the charge. He argued that there was no proof that this is Respondent's truck. I find the video is taken from far away and half the time is sideways and barely shows any dust. However, the DEP submitted a photo with the side of the truck that does say Citywide Container Service and a photo of the license that was taken on that day at that location at 7:00pm. (P2 P3) I find there is credible evidence that this is Respondent's truck.

I find that the DEP established a prima facie case that the truck caused dust to become air-borne (albeit barely) and Respondent provided no credible evidence to refute the allegation. I find Respondent in violation of the rule. Summons sustained.

	
12/18/2024	12/18/2024
Elizabeth Barrett, Hearing Officer	Date