



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# : 039529866Y et al. (3 summonses)

DEPT OF BUILDINGS,

-against-

FRSS Group Corp.

Hearing Date : 1/14/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 5,000.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039529866Y	Sustained	06/21/2024	75-59 178 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2F7	BC3301.7(2014 CODE)	Sustained	1,250.00

Total Penalty for Summons: 1,250.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039529867X	Sustained	06/21/2024	75-59 178 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B212	BC 3303.4 27-1018	Sustained	1,250.00

Total Penalty for Summons: 1,250.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039529868H	Sustained	06/21/2024	75-59 178 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B111	BC 3304.3 & 1 RCNY 52-01(a)	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

Pheobe Dossett appeared as the authorized representative of the named respondent, and Andrew Engel appeared for the Petitioner.

Summons 039529866Y cites a violation of 3301.7, summons 039529867x cites a violation of 3301.1.1.1, and summons 039529868H cites a violation of BC33304.3.

As to 66y there was a class challenge. The respondent contended there were no unsafe conditions at the site. There were no plans for underpinning provided but the underpinning had not yet started. The company had the documents all along, but either they did not have them at the exact time of inspection, or the inspector wanted to see the originals. The stop work ordered issued 6/21/24 but was lifted 7/5/24, and given the short period of time, it was likely that the plans were already in existence and approved.

The Petitioner agreed to amend to a "class 2," and nothing further was offered.

As to this summons, I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense. The summons is sustained.

As to 67x, insofar as the cited rule, 3301.1.1.1 is not a charging statute, the Petitioner moved to amend to a charge of 3303.4 to better conform to the narrative.

The motion was granted without objection, and nothing further was offered.

As to this summons, I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense. The summons is sustained.

As to 68H, the respondent contended that the job was approved but they just did not give notification within 24 hours. Nothing that was alleged was hazardous. She contended that a "class 1" had not been established.

The Petitioner contended that while the penalty schedule mandated a class 2 when there was no notification of cancellation of earthwork, pursuant to BC 3304.3 & 1 RCNY 52-01(b) it appeared that for no notification of commencement of earthwork, pursuant to BC 3304.3 & 1 RCNY 52-01(a), there is only a class 1 violation.

I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense. The narrative sets forth a cause of action of BC 3304.3 & 1 RCNY 52-01(a) for failure to notify the Department of commencement of earthwork, and it appears that for this circumstance it is a "per se class 1." The summons is sustained.



01/14/2025

01/14/2025

Amy Baranoff, Hearing Officer

Date

