

**IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE
COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION
DATE OR 35 DAYS IF MAILED.**

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

**CAN I DO
COMMUNITY
SERVICE?**

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

**COMPLETION OF
COMMUNITY
SERVICE**

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

**NON-DISCLOSURE
FOR SUMMONSES
ELIGIBLE FOR
COMMUNITY
SERVICE**

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

**IF YOU DISAGREE
WITH THE DECISION,
YOU MAY APPEAL IT**

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you may need to pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

**APPEAL BY
ENFORCEMENT
AGENCY**

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC

112018



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