



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Jon Lin, Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 000814820X et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- WONDERFUL SALES LLC Hearing Date: 11/26/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000814820X	Sustained	10/11/2023	INTERSECTION OF EAST 17 STREET & CHURCH AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	\$350.00

Findings of Fact & Conclusions of Law

The summons is sustained.

The Respondent, WONDERFUL SALES LLC, appeared by its authorized representative, Jon Lin, Nacmias Law Firm. The Petitioner, NYC DEPARTMENT OF ENVIRONMENTAL PROTECTION, appeared by its representative, Inspector Antwan Gibbs.

The summons alleges a violation of NYC Air Pollution Control Code Section 24-163, Idling of a Motor Vehicle engine over three (3) minutes. The Issuing Officer specifically alleges in details of the violation that charge was based on a Citizen Complaint

that Respondent's truck with NY license plate #86925ND was idling for longer than three (3) minutes on October 11, 2023 beginning at 9:19:35 AM at the intersection of East 17th Street & Church Avenue in Brooklyn.

Petitioner's representative relied on the summons for Petitioner's main case and produced the following evidence in support of the alleged violation: 1) a redacted idling complaint form (Px1), 2) a photograph of the front of the vehicle in which the license plate is visible (Px2) and 3) a video taken by the complaining citizen of the violating condition including what appears to be the sound of an idling vehicle (Px3).

Respondent's representative moved to dismiss the summons arguing that the subject vehicle was using a processing device and, therefore, would be immune to the summons. Mr. Lin stated that the subject vehicle contained a refrigeration unit which required that the truck's engine remain running in order to maintain power.

Petitioner's representative stated that the type of refrigeration unit contained in the subject vehicle was able to provide itself with power independently of the motor vehicle's engine and, therefore, the vehicle would not need to be idling.

Respondent's representative did not produce any evidence or rebut Inspector Gibbs's assertion.

I find by a preponderance of the evidence that the violating condition existed and the standard penalty is imposed.

The summons is sustained.

 11/26/2024	11/26/2024
Jamin Sewell, Hearing Officer	Date