



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

LANCE CHEBIN - NACMIAS LAW FIRM
592 PACIFIC STREET
NEW YORK, NY 11217

Summons# : 000820685N et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

BANC OF AMERICA

Hearing Date : 11/14/2024

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 350.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000820685N	Sustained	11/02/2023	ON SMART STBETWEEN CHERRY AVE A, Queens

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

Total Penalty for Summons: 350.00

Findings of Facts & Conclusions of Law

Lance Chebin, authorized representative, appeared to represent Respondent Banc of America at the hearing. Senior Inspector Michael Grosso appeared for Petitioner.

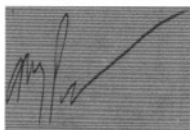
On 11/2/2023 at 3:13pm, the Respondent was observed causing or permitting the idling of a motor vehicle while parked, standing or stopped – 1st offense.

Inspector Grosso offered into evidence a 4 minute 11 second video allegedly showing Respondent's truck idling for more than 3 minutes. In addition, Inspector Grosso offered into evidence photos of the truck and a redacted idling complaint form. Pet. Exh. 1. Inspector Grosso detailed Petitioner's submissions including audible engine noise in the video and stated it established Petitioner's case.

Respondent's representative stated that an improper Respondent was named as the Respondent Banc of America has no association with the truck.

Inspector Gross further offered into evidence the results of the license plate of the offending vehicle being searched through department of motor vehicle records which reported that Banc of America as the owner of the vehicle.

I credit Petitioner's case. Without a completed DMV bill of sale or other proof of transfer of title or credible documentation that, as of the date of occurrence, Respondent did not hold title to the cited vehicle, Respondent has failed to credibly challenge its identification as title owner. Cf. DEP v. New York Custom Woodworking, Appeal No. 2201205 (January 26, 2023). I find that the evidence supports a prima facie case for the violation as alleged and Respondent has failed to provide a defense. Accordingly, I find that the summons is sustained and the standard penalty is imposed for this violation.



11/19/2024

11/19/2024

Malik Pearson, Hearing Officer

Date

