



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Chia-Han Lin - Nacmias Law Firm, PLLC 592 Pacific Street Brooklyn, NY 11217	Summons No: 000822088Y et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- METAL LOGISTICS NYC INC Hearing Date: 11/21/2024 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
000822088Y	Sustained	09/07/2023	INTERSECTION OF FRONT STREET AND Brooklyn

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

Findings of Fact & Conclusions of Law

Chia Han Lin, authorized representative, appeared to represent Respondent Penske Leasing and Rental Company at the hearing. Inspector Antwan Gibbs appeared for Petitioner.

On 9/7/2023 at 1:49pm, the Respondent was observed causing or permitting the idling of a motor vehicle while parked, standing or stopped – 1st offense.

Inspector Gibbs offered into evidence a 4 minute 17 second video allegedly showing Respondent's truck idling for more than 3 minutes. In addition, Inspector Gibbs offered into evidence photos of the truck and a redacted idling complaint form. Pet. Exh.



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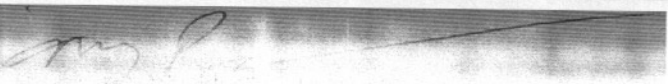
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1. Inspector Grosso detailed Petitioner's submissions including audible engine noise in the video and stated it established Petitioner's case.

Respondent's representative stated that an improper Respondent was named as the Respondent Penske Leasing and Rental Company has no association with the truck.

Inspector Gibbs stated that a Penske sticker was visible at 1 minutes and 11 second in the video and evidences Respondent's relationship to the truck.

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). Once Petitioner established its prima facie case, the critical inquiry became whether any credible evidence in the record, such as testimony or affidavits from the vehicle's driver, refuted its case or otherwise established an affirmative defense "by a preponderance of the evidence." See *DEP v. Citnalta Construction Corp.*, Appeal No. 2201191 (February 23, 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.

	
11/26/2024	11/26/2024
Malik Pearson, Hearing Officer	Date