



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

MABEL OGHOJAFOR - NACMIAS LAW FIRM PPLC 592 PACIFIC ST - 1ST FL BROOKLYN, NY 11217	Summons No: 000822801K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- D'ARTAGNAN INC Hearing Date: 02/03/2025 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
000822801K	Sustained	11/21/2023	INTERSECTION OF 5TH AVENUE AND GARFIELD PL Brooklyn

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

Findings of Fact & Conclusions of Law

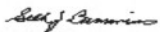
Petitioner NYC Department of Environmental Protection appeared by Michael Grosso and respondent D'Artagnan Inc appeared by Mabel Oghojafor. The summons alleged a first violation of NYC Administrative Code 24-163, observing respondent's motor vehicle (NJ # XHYJ44) idling in excess of three minutes from 8:05:30am to 8:09:13am on November 21, 2023 at the intersection of Fifth Avenue and Garfield Place.

Petitioner's evidence package included a redacted idling complaint, photo and a video (Ex 1).

Respondent, denied the charge, urging that the observed truck had carried fresh poultry and other food requiring refrigeration

and that the refrigeration unit ("unit") had no independent power source and thus the engine was required to idle when parked to keep the unit operating. Petitioner urged that the Thermo King unit shown in the video was large and of the type that had its own power source and did not operate off the vehicle's idling engine when parked, and thus the "processing" affirmative defense was not established. Petitioner also provided a screen shot (and website link) of the operations manual for a Thermo King T-580, page 14, which indicates that the unit is an independent system and thus would not operate off the vehicle's engine. (See also, <https://manualzz.com/doc/2988355/thermo-king-t-580r-transport-temperature-control-system-o...?p=15>.) Respondent offered no documentation as to the specifications of the observed unit, nor did respondent accept an offer of adjournment to provide such.

I credit petitioner's evidence and find it supports a violation of the cited section of law. Respondent's rebuttal is insufficient. The summons is sustained and a penalty of \$350.00 is assessed.

	
02/05/2025	02/05/2025
Seth Cummins, Hearing Officer	Date