



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000828606M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE LE A SING & RNTL CO Hearing Date: 01/15/2025 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
000828606M	Sustained	10/02/2023	West Houston and Sullivan Streets Manhattan

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

Findings of Fact & Conclusions of Law

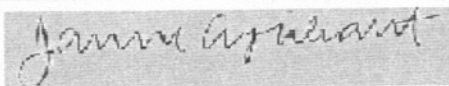
Authorized representative Lance Chebin appears for the Respondent and Inspector Leah Smith appears for the NYC Department of Environmental Protection (DEP). Respondent was charged with a violation of Rule 24-163 of the Administrative Code for the idling of a motor engine for more than three minutes. For the reasons stated below, the summons is sustained.

The summons states that the Respondent caused or permitted the idling of a motor vehicle while parked, standing or stopped. As per DEP records, the citizen observed a truck with NJ license plate XH4436 idling for longer than three minutes on 10/22/23 2:11:02 to 2:14:20 p.m. on West Houston and Sullivan Streets. The DEP submits photographs of the vehicle, an affirmation of the citizen's complaint, the redacted citizen's complaint and a video of the vehicle sitting idle with the motor

vehicle on. The Inspector adds that the vehicle's engine is audible, there is no processing device present, a refrigeration unit exists but has its own fuel source and does not require the motor to be on in order to operate. The video shows the videographer walking around the vehicle, showing all sides of the truck.

The Respondent's representative does not deny the substantive allegations, but states that his client was improperly named as the Respondent, and nothing on the vehicle identifies Penske as the owner of such vehicle. In rebuttal, Petitioner submits a plate run showing the vehicle's license plate and that such named respondent Penske owns the vehicle attached to this license plate. Respondent does not offer any documentary evidence to counter.

Rule 24-163 of the Administrative Code states that No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device. When the ambient temperature is in excess of forty degrees Fahrenheit, no person shall cause or permit the engine of a bus as defined in section one hundred four of the vehicle and traffic law to idle while parking, standing, or stopping (as defined above) at any terminal point, whether or not enclosed, along an established route. I find that the Respondent violated this rule. The evidence submitted by the DEP is clear, credible and convincing. I credit the witness's observations of the scene and find his/her video to be credible. It is clear from the video that the truck was sitting with its motor on for longer than the requisite three minutes. I do not credit Respondent's representative's self-serving statement that Petitioner did not establish ownership. Petitioner presents credible documentation that the named Respondent did in fact own this vehicle, and Respondent's representative did not counter with any of his own documentation. As such, the summons is sustained.



01/15/2025

01/15/2025

Janine Azriliant, Hearing Officer

Date