



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

Decision

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

Summons# : 000829999R et al. (3 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

ON PENSKE TRUCK LEASING CORPORATI

Hearing Date : 1/29/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 1,050.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000829680P	Sustained	11/20/2023	Park Ave & E. 21 & E. 22 Sts., Manhattan

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

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000829959M	Sustained	11/16/2023	225 E. 38th Street, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Sustained	350.00

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000829999R	Sustained	11/19/2023	CENTRAL Park, Manhattan

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 appeared for Respondent. DEP appeared by Michael Grosso.

Videos , pictures and redacted complaints were submitted for each of these violations. These are first offense idling violations.

59M

Respondent challenged the violation as the school is not visible in the video. The redacted complaint also does not mention any school being nearby. However in DEP v. New York Paving Inc. appeal No 2400840 the burden is upon the Respondent to affirmatively prove that the cited school was not easily identifiable by signage or otherwise. Respondent had no evidence or additional argument to provide. I sustain the violation as per the Appeal placing the burden on the Respondent.

999R

Respondent representative argues that the wrong Respondent has been charged as the video shows United and not Penske. DEP police researched plates from out of State. The plate at issue shows that Penske is the proper Respondent for this truck. I credit this evidence and therefore sustained the violation.

680P

Respondent argues that a lift gate is in use . The video show the lift gate is open but the video does not really focus on the back of the truck. I heard some noise that could have been the lift gate in use but in absence of definitive evidence of Respondent's defense I sustain the violatioin . Respondent's defense that he thinks that the sound was a lift gate is in use is not a defense to this violation.

S Frenkel

01/29/2025

01/29/2025

Sylvia Frenkel, Hearing Officer

Date

