



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street, 1st fl Attn: Lance Chebin Brooklyn, NY 11217	Summons No: 000900302R et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CO LP Hearing Date: 04/10/2025 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
000900302R	Sustained	07/29/2024	On W 54th between 6 1/2 Avenue and 6th Avenue Manhattan

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

Findings of Fact & Conclusions of Law

The summons alleges violation of Title 24 Chapter 1 of the NYC Administrative Code in that respondent caused or permitted idling of a motor vehicle while parked standing or stopped for longer than 3 minutes.

Petitioner, The Department of Environmental Protection, appeared and was represented by Inspector Datney Parks.

Lance Chebin appeared as an authorized representative for the respondent, Penske Leasing and Rental Company, and denied the violation.

Petitioner relied on the sworn statement of the issuing officer and submitted photographs of the motor vehicle at issue in support of that statement. Petitioner also submitted a copy of the idling complaint, and video.

Respondent moved to dismiss contending that an improper party was named as the name on the truck in the video was different than the name alleged on the summons. Respondent stated there was nothing in the video identifying the truck as Penske. Respondent did not refute that the vehicle may have been idling.

Petitioner contended that the registered owner of the vehicle is a responsible party and submitted a printout of the DMV registration.

The owner is responsible even when the vehicle is rented to a third party and is not relieved of responsibility by a private agreement with a lessee. *See DEP v. U-Haul Co of Arizona Inc.*, Appeal No. 2000010 (April 23, 2020) (Board is not bound by private agreements between parties).

I credit the factual allegations in the summons and petitioner's evidence which support a violation of the cited code section. I find the respondent did not establish a defense to the violation. Accordingly, respondent's motion to dismiss is denied, the summons is sustained, and the mandatory penalty is imposed.

	
04/14/2025	04/14/2025
Ilene Sussman, Hearing Officer	Date