



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Frank Tamberino, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039167608X et al. (1 Summons) DEPT OF BUILDINGS, -against- GOULD HOTEL ON WEST 40TH STREE Hearing Date: 02/26/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$312.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039167608X	Sustained	11/19/2025	342 WEST 40 STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B251	28-304.1	Sustained	\$312.00

Findings of Fact & Conclusions of Law

Petitioner New York City Department of Buildings (DOB) was represented by DOB attorney DANIEL BRICKMAN, ESQ.

Respondent GOULD HOTEL ON WEST 40TH STREE was represented by attorney FRANK TAMBERINO, ESQ. of the Nacmias Law Firm.

The Respondent is charged with a Class 1 violation of § 28-304.1 of the Administrative Code of the City of New York (Code) for failure to maintain an elevator.

I find the Issuing Officer's sworn-to summons narrative to be credible and persuasive.

Respondent denied the violation, and submitted a certificate of correction before the first scheduled hearing date, as credible evidence of timely correction.

The first scheduled hearing date was January 29, 2026.

Respondent also submitted evidence that the cited building was one of three separate entrances to one building, with other elevators available to the tenants if one should be taken out of service, and that the cited elevator was out-of-service and not a threat to anyone. Respondent challenged the Class 1 designation. Petitioner moved to amend the Class 1 charge to Class 2. GRANTED. Respondent denied the violation without further rebuttal.

Petitioner recommended the mitigated Class 2 penalty.

The credible evidence, here the sworn-to summons narrative of the Issuing Officer, is sufficient to establish, and I find, that respondent was in violation on the date of the offense. The violation is SUSTAINED, and I impose the Class 2 penalty of \$312.

	
03/04/2026	03/04/2026
Mark Goichman, Judicial Hearing Officer	Date