



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

NACMIAS LAW FIRM PLLC - MABEL OGHOJA FOR
592 Pacific Street
Brooklyn, NY 11217

Summons# : 000824000J et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

AUTOTAP CORPORATION

Hearing Date : 1/28/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 600.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000824000J	Sustained	12/08/2023	857 BROADWAY, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	600.00

Total Penalty for Summons: 600.00

Findings of Facts & Conclusions of Law

Petitioner, the New York City Department of Environmental Protection, charges Respondent, Autotap Corporation, with a third-offense violation of Section 24-163 of the New York City Administrative Code for idling of a motor vehicle engine for longer than three minutes.

Both parties attended a telephonic hearing on Tuesday, January 28, 2025. Dantney Parks appeared for Petitioner. Mabel Oghojafor appeared for Respondent, and waived an Issuing Officer's appearance.

For the following reasons, the summons is SUSTAINED.

Evidence and Arguments

Petitioner presented a redacted NYC Citizen Idling Complaint, an Affirmation of Citizen's Complaint, two photos depicting various portions of the cited vehicle, (collectively, "P1"), and a video in support.

After reviewing Petitioner's evidence and video, Ms. Oghojafor denied the allegation. However, she challenged the sequence of the alleged violation, and argued that one prior summons was issued to another entity, Autotap Soda Service.

In rebuttal, Ms. Parks argued that Respondent and Autotap Soda Service used the same address. In one of the two photos in P1, the side of the truck displayed the name "Autotap Soda Service," indicating that the two entities are connected and operate as a single entity.

Ms. Oghojafor repeated her arguments.

Discussion

Code § 24-163 prohibits idling a motor vehicle engine for longer than three minutes while parking, standing, or stopping unless the engine is used to operate a loading, unloading, or processing device.

Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the summons details, affirmed by the Officer under penalty of perjury that the Officer verified Respondent's vehicle idled for longer than the statutorily allowed period at the cited date, time, and location based on a review of DEP records, was sufficient to establish Petitioner's prima facie case. See DEP v. Edge Auto, Appeal No. 2301007 (October 26, 2023), see also DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019).

I credit the summons details and Petitioner's evidence. Petitioner stated a prima facie case. In the absence of probative evidence to contest Petitioner's case, Respondent failed to refute the allegation or establish a defense.

I am not convinced by Respondent's argument challenging the sequence of the offense. Petitioner asserted that Respondent and Autotap Soda Service operate as a single entity. The photo showing the side door of the vehicle displaying "Autotap Soda Service"—the name of a respondent in one of the prior summonses—supports this claim. The burden then shifted to Respondent to demonstrate that Autotap Soda Service operates independently from Respondent, which Respondent failed to establish.

Conclusion

Accordingly, the summons is sustained, and a standard civil penalty of \$600 for the third offense violation is imposed upon Respondent.



01/29/2025

01/29/2025

Geoffrey Luan, Hearing Officer

Date

