



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 00700-24F0 et al. (1 Summons) DEPARTMENT OF HEALTH & MENTAL HYGIENE, -against- ENTRE DEUX MERS LLC Hearing Date: 08/20/2025 Hearing Location: Remote Type of Hearing: By One-Click
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Total Penalty Amount: \$900.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
00700-24F0	Sustained	01/18/2024	231 COURT STREET Brooklyn

LINE ITEM	OATH CODE	VIOL CODE	CODE SECTION/RULE	CONDITION (SEVERITY)	RESULT	PENALTY
1	NA	02G	NYCHC 81.09(a)	1	Sustained	\$250.00
2	NA	03A	NYCHC 81.04	N	Dismissed	\$0.00
3	NA	04L	NYCHC 81.23(a)	3	Sustained	\$250.00
4	NA	08A	NYCHC 81.23(a)	4	Sustained	\$200.00
5	NA	10G	NYCHC 81.29(b)(2)	4	Sustained	\$200.00

Findings of Fact & Conclusions of Law

Michael Nacmias, Esq. appeared by online submission on June 2, 2025 (Resp. Exh. A) as the Respondent's attorney.

In the electronic submission, Respondent's attorney moved to dismiss the violation in line item 1 because "the garlic-in-oil was

undergoing active preparation for immediate service and was out of refrigeration temporarily, consistent with regulatory exceptions for active prep. If the garlic in oil were taken from the fridge and immediately served it would be coagulated and unappetizing/inedible to the customer. Chilled oil must be warmed to room temperature before serving and the time out of the refrigerator was a necessary step in preparation." I do not credit the Respondent's reason. Accordingly, I credit the sworn statements of the Issuing Inspector as indicated in the Summons for this line item and I find Respondent was in violation of NYCHC 81.09(a). Line item 1 is sustained.

With regard to line item 2, Respondent's attorney moved to dismiss the violation because "the ice was from a reputable, regulated retail vendor. Absence of packaging/receipt may be procedural rather than substantive noncompliance. Without a working ice machine, staff relied in good faith on a known, approved vendor but lacked documentation due to oversight. Further, the term "unapproved source" is too vague when applied to store-bought, commercially available ice, and there is no evidence that the ice, which was purchased from a store in the neighborhood, was unfit for consumption in any way. Inspector did not provide any testing or proof that the ice was compromised, contaminated, or otherwise unfit for consumption." I credit that the cited ice was from an approved source and therefore I find that the Respondent was not in violation of NYCHC 81.04. Line item 2 is dismissed.

With regard to line item 3, Respondent's attorney moved to dismiss the violation because "Respondent was engaged in proactive pest control by regularly scheduling and working with an exterminator." I find that the Respondent's reason is insufficient to rebut the violation, especially since the factual allegations citing 38 fresh mice excreta at the premises is undisputed. Respondent's efforts to correct the violating condition does not relieve Respondent of liability thereunder. Accordingly, I credit the sworn statements of the Issuing Inspector as indicated in the Summons and I find there was a violation of NYCHC 81.23(a) at the time of the inspection. Line item 3 is sustained.

Respondent's attorney moved to dismiss the violation in line item 4 because "Wrong named respondent: The referenced issue is part of the building infrastructure and is the landlord's responsibility." I do not credit the Respondent's argument. I find that the Respondent did not establish that the cited area, i.e., ceiling...in the dry goods storage room in basement..." was exclusively controlled and/or used by the "landlord" only. Accordingly, I credit the sworn statements of the Issuing Inspector as indicated in the Summons for this line item and I find that the Respondent was in violation of NYCHC 81.23(a) at the time of the inspection. Line item 4 is sustained.

Respondent's attorney moved to dismiss the violation in line item 5 without rebuttal. Accordingly, I credit the sworn statements of the Issuing Inspector as indicated in the Summons for this line item and I find that the Respondent was in violation of NYCHC 81.29(b)(2) at the time of the inspection. Line item 5 is sustained.



August 20, 2025

8/20/2025

Anna Vira, Hearing Officer

Date