

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Submitted - December 8, 2006

ROBERT W. SCHMIDT, J.P.
WILLIAM F. MASTRO
FRED T. SANTUCCI
STEVEN W. FISHER, JJ.

2005-06773

DECISION & JUDGMENT

In the Matter of Mo's Carting Corp., petitioner, v
Raymond Martinez, etc., respondent.

(Index No. 1104/05)

Arthur L. Miller, Rego Park, N.Y., for petitioner.

Andrew M. Cuomo, Attorney-General, New York, N.Y. (Michael S. Belohlavek,
Carol Fischer, and Thomas B. Litsky of counsel), for respondent.

Proceeding pursuant to CLPR article 78 to review a determination of the New York State Department of Motor Vehicles Appeals Board dated September 10, 2004, affirming a determination of an Administrative Law Judge dated January 22, 2004, which, after a hearing, found that the petitioner violated Vehicle and Traffic Law § 401(7)(F)(b) and New York City Traffic Rules and Regulations (34 RCNY) § 4-15(b)(9), and imposed a penalty.

ADJUDGED that the determination is confirmed, the petition is denied, and the proceeding is dismissed on the merits, with costs.

Judicial review of a determination rendered by an administrative body after a hearing is limited to whether that determination is supported by substantial evidence (*see 300 Gramatan Ave. Assoc. v State Div. of Human Rights*, 45 NY2d 176, 179-180; *Matter of L. Camino Trucking v Martinez*, 5 AD3d 597).

The testimony of the traffic enforcement agent who issued the summonses regarding the location of the weighing site and her training, accompanied by certificates establishing the

accuracy of the devices she used in weighing the petitioner's vehicle, provided a sufficient basis for the determination of the Administrative Law Judge (*see Matter of Mo's Carting Corp. v Martinez*, 28 AD3d 560; *Matter of Louis A. Petrosino, Inc. v Martinez*, 11 AD3d 468; *Matter of Allied Sanitation v Adduci*, 226 AD2d 195; *Matter of R & D Equip. Leasing Co. v Adduci*, 220 AD2d 900). As the determination is supported by substantial evidence, we decline to disturb it.

The petitioner's remaining contention is without merit.

SCHMIDT, J.P., MASTRO, SANTUCCI and FISHER, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive, flowing style.

James Edward Pelzer
Clerk of the Court