



THE CITY OF NEW YORK
DEPARTMENT OF CONSUMER AND WORKER PROTECTION

NYC DEPARTMENT OF CONSUMER AND
WORKER PROTECTION,

Petitioner,

-against-

B&M ELECTRONIC DIAGNOSTIC REPAIR
SERVICE INC.

Respondent.

OATH Index No. 1869/23

Final Agency Decision

On January 9, 2023, the New York City Department of Consumer and Worker Protection (the “Petitioner”) brought this action against B&M Electronic Diagnostic Repair Service Inc. (the “Respondent”), alleging violations of New York City Code (“NYC Code”) sections 20-535(a), 19-169.2, 19.169.2, and 20-531(1)(a) and violations of title 6, section 2-408 of the Rules of the City of New York (“R.C.N.Y.”). The Petitioner sought penalties and restitution for 54 aggrieved consumers.

On December 21, 2023, the parties entered a Stipulation of Partial Settlement and Discontinuance and for the Admission of Evidence at Trial (“Stipulation of Partial Settlement”). The Stipulation of Partial Settlement includes Respondent’s guilty plea to all booting violations and agreement that OATH will impose penalties and restitution for those violations.

On October 20, 2025, Administrative Law Judge Jonathan Fogel issued a Report and Recommendation (“R&R”), recommending 1) revocation of Respondent’s booting license; 2) a civil penalty of \$174,750; and 3) \$5,875.59 in restitution for 29 consumers. The Department of Consumer and Worker Protection (the “Department”) received written arguments from the Petitioner. The Respondent did not submit written arguments.

The Department now issues this Final Agency Decision pursuant to section 2203(h)(1) of the New York City Charter and 6 R.C.N.Y. section 6-02. Following review of the record, the Department adopts OATH’s R&R subject to the modifications below.

DISCUSSION

The Department modifies OATH’s R&R to provide restitution to 14 additional consumers who were overcharged by the Respondent.



I. The Consumers Excluded in OATH’s R&R Are Entitled to Restitution

The R&R rejected restitution for 17 named and identified consumers where it was “not clear” “whether those individuals actually paid the fees they were charged” because Petitioner provided no receipts for the consumers. R&R at 7.

Each of the 17 named consumers filed a complaint with the Department and specifically identified the amount illegally charged by the Respondent. *See* Exhibit to Petitioner’s Post Trial Brief (Nov. 7, 2024). Respondent pled guilty to NYC Code section 20-535 and admitted to overcharging all named consumers.¹ Moreover, the Respondent offered no evidence contradicting Petitioner’s arguments on restitution. *See Wajsberkier, Lidia R*, Appeal No. 23T01285 (OATH A.U. July 18, 2024) (holding that a sworn summons alone was prima facie evidence to establish petitioner’s case and that no additional evidence was required absent respondent submitting any credible evidence or argument to rebut). The record thus contained unrebutted evidence of the booting overcharges paid by these 17 named consumers.

II. Restitution Calculation for Excluded Consumers

The R&R referenced 17 consumers for whom no receipts were provided. However, at least 3 of those 17 consumers were included in the group of 29 consumers the R&R recommended be awarded restitution. *See* R&R at 6-7. Accordingly, the following 14 additional consumers are awarded restitution as follows:

Name	Amount Paid to Respondent	Restitution Owed²
Dumaka Reed	\$223.17	\$198.17
Audrey Bass	\$225.00	\$200.00
Kelia Johnson	\$235.00	\$210.00
Joshua Friedman	\$223.17	\$198.17
Sam An	\$225.00	\$200.00
Thomas Nunez	\$223.17	\$198.17
Sydney MacDonald	\$230.00	\$205.00
Bridgett Salmel	\$223.17	\$198.17

¹ NYC Code §20-535 prohibits charging consumers more than \$25 for booting a motor vehicle on a private parking lot.

² Amount paid by consumer less the \$25 permitted to be charged pursuant to NYC Code §20-535.



Name	Amount Paid to Respondent	Restitution Owed ²
Beverly Stewart	\$223.00	\$198.00
Marlon Thomas	\$223.17	\$198.17
Chuan Lin	\$200.00	\$175.00
Kahlil McFadden	\$225.00	\$200.00
Shayla Budd	\$500.00	\$475.00
Joyce Brennan	\$223.17	\$198.17

III. OATH Calculated Restitution

In its R&R, OATH provided the following table showing the restitution owed to 29 individuals. The Department agrees that the 29 consumers listed below are entitled to restitution.

Name	Amount Paid to Respondent	Restitution Owed
Shanique Nelson	\$223.17	\$198.17
Navindra Persaud	\$230.00	\$205.00
Faraj Lakhana	\$223.17	\$198.17
Mohammed Islam	\$223.17	\$198.17
Kevin Lin	\$223.00	\$198.00
Nanette Gusmorino	\$223.17	\$198.17
Aliyah Wickham	\$223.19	\$198.19
Garance Franke-Ruta	\$223.17	\$198.17
Melissa Yee	\$223.17	\$198.17
Peng Sun	\$223.17	\$198.17
Pamela Philip	\$223.17	\$198.17
Lennox Carter	\$223.17	\$198.17
Edel Cunningham	\$233.00	\$208.00
Ron Vincent	\$223.17	\$198.17



Name	Amount Paid to Respondent	Restitution Owed
Kimberly Benjamin	\$223.17	\$198.17
Eula Henry	\$248.17	\$223.17
Jiarui Fu	\$223.17	\$198.17
Celeste Perez	\$223.17	\$198.17
Titus Speeight	\$223.17	\$198.17
Nam Lee	\$223.17	\$198.17
Huamin Yi	\$223.17	\$198.17
Luis Fragoso	\$223.17	\$198.17
Terrance Dixon	\$223.17	\$198.17
David An	\$225.00	\$200.00
Sheriza Bacchus	\$223.17	\$198.17
Maryanne Desalvo	\$285.00	\$260.00
Ina Duchan	\$226.00	\$201.00
Irene Dabydeen	\$214.00	\$189.00
Abraham Harris	\$253.00	\$228.00

IV. Conclusion

OATH’s R&R is adopted subject to the modifications outlined above. Respondent is ordered to pay \$174,750 in civil penalties and \$8,927.61 in restitution for a total of \$183,677.61.

Samuel A.A. Levine
Commissioner
Department of Consumer and Worker Protection

Date: _____