

NOTICE OF RULE MAKING

Pursuant to the power vested in me as Commissioner of Finance by section 237 of the New York State Vehicle and Traffic Law, section 19-203 of the Administrative Code of the City of New York, and sections 1043 and 1504 of the New York City Charter, I hereby promulgate the rule amending the New York City Department of Finance's ("the Department") rules concerning representatives at Parking Violations Bureau ("PVB") hearings. This amendment revises the time period that a representative may be suspended from appearing before the PVB after a finding that the representative violated one or more Department representative conduct rules. This amendment also adds a new definition relating to brokerage companies. This rule was published in the proposed form on April 19, 2018. A hearing for public comment was held on May 24, 2018.

| S/S_____

Jacques Jiha, Commissioner of Finance

STATEMENT OF BASIS AND PURPOSE

The Department's Fleet Program is a voluntary program that assists companies with one or more commercial vehicles in obtaining hearings for outstanding parking violation summonses. Similarly, the Department's Car Rental Program is a voluntary program that assists vehicle rental companies in managing parking summonses. Under these programs, when companies receive summonses for their vehicles, they may be represented at hearings in the Department's Commercial Adjudications Unit ("CAU") by their employees or by brokers.

To deter misconduct by representatives who appear at PVB hearings, this rule authorizes DOF to suspend brokers, brokerage companies and employees of companies that participate in the Fleet Program from appearing before the PVB for any period up to life, after a finding that the representative violated one or more Department representative conduct rules. Examples of rule infractions include attempting to coerce or influence Administrative Law Judges ("ALJs") and submitting fraudulent evidence to ALJs at PVB hearings.

This rule also adds a new definition relating to brokerage companies as this rule extends liability separately to brokerage companies.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Amendments to Rules Relating to Parking Violations

§ 1. Paragraph (1) of subdivision (a) of section 39-09 of Chapter 39 of Title 19 of the Rules of the City of New York is amended to read as follows:

(a) Brokers. (1) Definitions.

Broker. “Broker” means a person who:

- (i) is not the owner or operator of the summonsed vehicle;
- (ii) represents another person or firm;
- (iii) requests a hearing three or more times within any six month period; and
- (iv) is not an employee of the respondent (as defined in § 39-09(b)(1)).

Brokerage Company. “Brokerage Company” means a corporation, company, partnership or entity that:

- (i) is not the owner or operator of the summonsed vehicle;
- (ii) engages brokers to represent another person or firm; and
- (iii) requests a hearing three or more times within any six month period.

§ 2. Paragraph (9) of subdivision (a) of section 39-09 of Chapter 39 of Title 19 of the Rules of the City of New York is amended to read as follows:

(9) *Penalty for violation of these rules.* Any broker or brokerage company who willfully or repeatedly violates these rules may be barred from representing clients at PVB in any capacity. The Commissioner may, after providing notice to the broker and, if the brokerage company is also subject to suspension, the brokerage company, and an opportunity to be heard, suspend the broker for any period up to [five years] life from appearing before the Department in any capacity, except that the broker may appear on parking violations issued in the broker's name, and/or suspend a brokerage company for any period up to and until the dissolution of the brokerage company from appearing before the Department in any capacity, except that the brokerage company may appear on parking violations issued in the brokerage company's name. Such notice(s) will inform the broker and, if the brokerage company is subject to suspension, the brokerage company, of the reasons for the proposed suspension and that the broker and the brokerage company, if the brokerage company is subject to suspension, has the right to present information as to why the broker and/or brokerage company should not be suspended to the Commissioner, or his or her designee, within 10 business days of delivery of the notice by hand or 15 business days of the posting of notice by mail. Any suspension of a broker will apply solely to the broker unless the Department has evidence either that the brokerage company which employed the broker had knowledge of the broker's infractions and did not inform the Department or that the standard practice of [the broker's company] such

brokerage company was to commit infractions in its interactions with the Department regardless of the broker involved. Any suspension of a brokerage company will apply to all brokers employed by the brokerage company for the period during which those brokers remain employed by the brokerage company. Any brokerage company shall be barred from representing clients at PVB in any capacity when a broker subject to a life suspension is employed by, engaged by, is subcontracted to, consults with or has any ownership interest in, such brokerage company.

§ 3. Paragraph (9) of subdivision (b) of section 39-09 of Chapter 39 of Title 19 of the Rules of the City of New York is amended to read as follows:

(9) *Penalty for violation of these rules.* Any employee who willfully or repeatedly violates these rules may be barred from representing his or her employer at PVB in any capacity. The Commissioner may, after providing notice to the employee and an opportunity to be heard, suspend the employee for any period up to [five years] life from appearing before the Department in any capacity, except that the employee may appear on parking violations issued in the employee's name. Such notice will inform the employee of the reasons for the proposed suspension and that the employee has the right to present information as to why the employee should not be suspended to the Commissioner, or his or her designee, within 10 business days of delivery of notice by hand or 15 business days of the posting of notice by mail. Any suspension will apply solely to the employee unless the Department has evidence either that the standard practice of the employer was to commit infractions in its interactions with the Department regardless of the employee involved or that the employer had knowledge of the employee's infractions and did not inform the Department.