

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

D20722
X/prt

_____AD3d_____

Argued - September 23, 2008

ROBERT A. LIFSON, J.P.
DAVID S. RITTER
HOWARD MILLER
RUTH C. BALKIN, JJ.

2008-03871

DECISION & JUDGMENT

In the Matter of Empire Auto Care, Inc., petitioner,
v New York State Department of Motor Vehicles,
et al., respondents.

(Index No. 2843/08)

C. Fred Weil, Syosset, N.Y. (Kenneth L. Robinson and Reza Ebrahimi of counsel),
for petitioner.

Andrew M. Cuomo, Attorney General, New York, N.Y. (Michael S. Belohlavek and
Diana R. H. Winters of counsel), for respondents.

Proceeding pursuant to CPLR article 78 to review so much of a determination of the
New York State Department of Motor Vehicles Appeals Board dated August 28, 2007, as affirmed
so much of a determination of an Administrative Law Judge dated May 24, 2006, as, after a hearing,
upon finding that the petitioner violated Vehicle and Traffic Law § 303(e)(1), (3), and 15 NYCRR
79.12(f), revoked the petitioner's inspection station license.

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

Under the circumstances of this case, the imposition of the penalty of revocation of
the petitioner's inspection station license was not so disproportionate to the offenses committed so

October 14, 2008

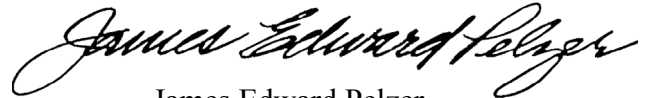
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as to be shocking to one's sense of fairness (*see Pell v Board. of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County, 34 NY2d 222*).

LIFSON, J.P., RITTER, MILLER and BALKIN, JJ., concur.

ENTER:

A handwritten signature in black ink, reading "James Edward Pelzer". The signature is written in a cursive style with a large, sweeping initial "J".

James Edward Pelzer
Clerk of the Court