



Steve Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Meat and Poultry Inspection Division

W. Alan Wade
State Director

March 19, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

BargainMax, Inc.
Lynn Starnes, Acting Manager
1000 East Sugar Creek Road
Charlotte, NC 27834

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAW
G.S. § 106-549.23**

Dear Ms. Lynn Starnes:

Pursuant to North Carolina General Statute (G.S.) 106-549.35(c) this letter is notice of a civil penalty by the North Carolina Department of Agriculture and Consumer Services, Meat and Poultry Inspection Division (NCDA&CS). The civil penalty assessment document is attached.

Within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the Office of Administrative Hearings appealing the penalty assessment.

Pursuant to G.S. §150B-22, informal settlement negotiations may be initiated at any time. To negotiate a settlement of this assessment, present your offer to Mr. W. Alan Wade, Director, Meat & Poultry Inspection Division, who may be contacted by telephone at (919) 707-3180. Settlement offers do not extend the 60 day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

-PAYMENT-

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
W. Alan Wade, Director
Meat & Poultry Inspection Division
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

-APPEAL-

If you file a contested case petition, it must be in writing and in the form prescribed by G.S. § 150B-23. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, North Carolina 27699-1001

Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Process Agent and General Counsel
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,



Mr. W. Alan Wade
Director, Meat & Poultry Inspection Division

Attachments: Assessment Document

CC: Ms. Anne J. Brown, Special Deputy Attorney General
Ms. Tina Hlabse, General Council

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE & CONSUMER SERVICES
MEAT & POULTRY INSPECTION DIVISION

IN THE MATTER OF)

BargainMax, Inc.)

FOR VIOLATIONS OF THE N.C. COMPULSORY)
MEAT INSPECTION LAW)
G.S. § 106-549.23)

NOTICE OF VIOLATIONS
AND ASSESSMENT OF
CIVIL PENALTY

Acting pursuant to North Carolina General Statute (G.S.) § 106-549.35(c) Mr. W. Alan Wade, Director, Meat and Poultry Inspection Division of North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

I. FINDINGS OF FACTS:

- A. On February 17, 2014, NCDA & CS, MPID, Food Compliance Officers Percy Russell and Philip Renshaw (hereinafter FCO Russell and FCO Renshaw, respectively) visited BargainMax, Inc., 1000 East Sugar Creek Road, Charlotte, NC.
- B. FCO Russell spoke with Ms. Lynn Starnes (hereinafter, Ms. Starnes, respectively) who identified herself as the acting manager of BargainMax, Inc.
- C. FCO Russell and FCO Renshaw inspected goods being offered to the general public for sale at BargainMax, Inc. and discovered that some of the meat products being offered for sale lacked marks of inspection and required labeling, rendering them misbranded.
 - D. FCO Renshaw surveyed all of the inventory of meat products on hand and found non-inspected/misbranded (no NCDA or USDA mark of inspection or required labeling) pork shoulders.
- E. FCO Russell NC detained and photographed twelve (12) pork shoulders weighing approximately one hundred eighty (180) pounds of the above-referenced products, comprising the entire inventory on hand of such meat products at BargainMax, Inc.
- F. BargainMax, Inc. does not operate under county, state or federal inspection.
- G. On February 17, 2014, FCO Russell issued BargainMax, Inc. an on-site cease and desist letter prohibiting the sale of misbranded meat products.
- H. The NCDA & CS, MPID, had previously found BargainMax, Inc. to be violating the North Carolina Compulsory Meat Inspection Law and the North Carolina Poultry Products Inspection Law on December 15, 2006.

- I. The North Carolina Department of Justice issued BargainMax, Inc., 1000 East Sugar Creek Road, Charlotte, NC, a Letter of Warning for the storing, offering for sale and selling of misbranded meat and poultry products dated February 20, 2007.
- J. The NCDA & CS, MPID, found BargainMax, Inc. to be violating the North Carolina Compulsory Meat Inspection Law and the North Carolina Poultry Products Inspection Law on December 13, 2007.
- K. The North Carolina Department of Agriculture and Consumer Services issued BargainMax, Inc., 1000 East Sugar Creek Road, Charlotte, NC, a Civil Penalty Assessment for the processing, storing, offering for sale and selling of misbranded meat and poultry products dated February 22, 2008.

II. CONCLUSIONS OF LAW

- A. BargainMax, Inc. found to be storing and offering for sale non-inspected/misbranded meat products in violation of General Statutes 106-549.23 and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under G.S. §106-549.35(c).
- B. The Commissioner of Agriculture, pursuant to G.S. §106-549.35(c) has the authority to assess civil penalties in this matter. The authority has been delegated to Mr. W. Alan Wade, Director, Meat and Poultry Inspection Division by the Commissioner of Agriculture pursuant to G.S. §143B-10(a).

III. DECISION

As required by G.S. §106-549.35(c) and in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of G.S. § 106-549.23.

\$3000.00 for violating G.S. § 106-549.23
\$3000.00 TOTAL AMOUNT ASSESSED.

3-19-14
Date

W. Alan Wade
Mr. W. Alan Wade, Director
Meat and Poultry Inspection Division