



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

October 12, 2015

All Wags Doggie Daycare and Boarding
Attn: Mary Lisa Carmichael
670 Griffith Road
Charlotte, North Carolina 28217

UPS Tracking Number Signature Required
1Z 210 617 42 5654 5355

NOTICE OF CIVIL PENALTY

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C.
ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0102 (3), .0204 (e) and .0209 (2)**

Facility: All Wags Doggie Daycare and Boarding

Dear Ms. Carmichael:

Pursuant to N.C. Gen. Stat. § 19A-40, I am issuing this notice to you that All Wags Doggie Daycare and Boarding is assessed a civil penalty of \$1500.00, as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, 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 with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. 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
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

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

A handwritten signature in black ink, appearing to read 'Patricia Norris', written in a cursive style.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Ms. Tina Hlabse, General Counsel, NCDA&CS
Mr. Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
ALL WAGS DOGGIE DAYCARE
AND BOARDING

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) 02 N.C.A.C. 52J .0102 (3)
) 02 N.C.A.C 52J .0204 (e)
) 02 N.C.A.C 52J .0209 (2)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section (“AWS”), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter All Wags Doggie Daycare and Boarding (the “kennel”) is a boarding kennel licensed pursuant to N.C. Gen. Stat. §19A-26.
2. On September 16, 2015, AWS Animal Health Technician Jay Blatche (“Inspector Blatche”) visited the kennel as part of a complaint investigation. The records referenced in the body of this document are records gathered by Inspector Blatche during this investigation.
3. On September 17, 2015 Inspector Blatche conducted telephone interviews as part of this investigation.
4. Statements given by Ms. Carmichael (the owner of All Wags Doggie Daycare and Boarding), Ms. Hunt (the owner of the rat terrier dog named NuNu) and Ms. Eckardt (the owner of the pit bull dog named Sampson) agree that on or about August 8, 2015 Sampson and NuNu were left unsupervised by a kennel employee, Claire Setser while she went up front to check in another dog. During this interval, Sampson killed NuNu.
5. On arrival on September 16, 2015 for the complaint investigation, Inspector Blatche found only one employee on the premises who met him up front. During this time there were 10 dogs loose in the play area without supervision. The employee stated that at that time he was responsible for cleaning, supervising, exercising dogs, running the front desk and making appointments.
6. Inspector Blatche found that despite one animal receiving pain medications on September 16, 2015, no medication log was available.
7. The records for NuNu were reviewed by Inspector Blatche. No record was present that documented written permission from the owner to allow contact with other animals.
8. Inspector Blatche requested contact information for Clair Setser in order to set up an interview. The kennel owner, Ms. Carmichael, failed to produce the requested information.

As a result of this investigation, AWS, alleges that the kennel, either by act or omission, violated the North Carolina Administrative Code 52J .102 (3), .0204 (e), and .0209 (2).

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, All Wags Doggie Daycare and Boarding is assessed a civil penalty of:

- a) \$1,000.00 for 2 violations of North Carolina Administrative Code 52J .204 (e)
- b) \$250.00 for 1 violation of North Carolina Administrative Code 52J .209 (2)
- a) \$250.00 for 1 violation of North Carolina Administrative Code 52J .102 (3)

\$1,500.00 TOTAL AMOUNT ASSESSED

10/12/2015
Date



Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

As a result of this investigation, AWS, alleges that the kennel, either by act or omission, violated the North Carolina Administrative Code 52J .102 (3), .0204 (e), and .0209 (2).

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, All Wags Doggie Daycare and Boarding is assessed a civil penalty of:

- a) \$1,000.00 for 2 violations of North Carolina Administrative Code 52J .0204 (e)
- b) \$250.00 for 1 violation of North Carolina Administrative Code 52J .0209 (2)
- a) \$250.00 for 1 violation of North Carolina Administrative Code 52J .0102 (3)

\$1,500.00 TOTAL AMOUNT ASSESSED

10/12/2015
Date


Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

N.C. General Statutes 19A-40 and N. C. Administrative Codes 52J .0201 (j)

§19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6: 1998-215,s.3.)

02 NCAC 52J .0102 RECORDS; BOARDING KENNELS

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (3) veterinary care provided while boarded, which shall include date, times, description of medication (including name and dosage) and initials of person administering product or procedure.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.*

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.*

02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

- (2) In boarding kennels, animals of different owners shall not have contact with other animals, unless written permission is obtained from the animal's owner. Any dog or cat exhibiting an aggressive disposition shall be housed individually in a primary enclosure.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005.*