



Steven W. Troxler
Commissioner

**North Carolina Department of Agriculture
and Consumer Services**
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

February 8, 2024

Karma Maliar
Owner
K9 to 5
6521 Ten Ten Road
Apex, NC 27539
and via email
hello@k925.llc

NOTICE of CIVIL PENALTY

**Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of NC GENERAL STATUTE § 19A-28
and TITLE 02 NC ADMINISTRATIVE CODE CHAPTER 52 SECTION .0201(m).**

AWS-CP-2024-3

Facility: K9 to 5
License Number: Unlicensed

Dear Ms. Maliar:

Pursuant to NCGS § 19A-40, I am issuing this notice that you as owner and operator of K9 to 5 (“the kennel”) are hereby assessed a civil penalty of \$3,000.00 as provided in the enclosed Notice of Violation.

With regard to the civil penalty, within 60 days from the date of this letter, 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 NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me 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 NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings (“OAH”) within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). 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:

Mr. Jonathan Lanier
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", followed by the printed text "DVM, MS".

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: Michael Martin, DVM, State Veterinarian
Jonathan Lanier, General Counsel, NCDA&CS
Christina L. Waggett, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Special Deputy Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

| | | |
|------------------|---|---------------------------------|
| IN THE MATTER OF |) | NOTICE of VIOLATION and |
| |) | ASSESSMENT of CIVIL PENALTY |
| KARMA MALIAR |) | for VIOLATION of N.C. GENERAL |
| |) | STATUTE ("NCGS") § 19A-28 and |
| OWNER OF |) | TITLE 02 NC ADMINISTRATIVE CODE |
| |) | ("NCAC") CHAPTER 52J SECTION |
| K9 TO 5 |) | .0201(m) |
| |) | |

Acting pursuant to NCGS § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, K9 to 5 ("the kennel") owned and operated by the Karm Maliar was a boarding kennel that was not licensed with AWS as a boarding kennel pursuant to NCGS § 19A-28.
2. AWS Outreach Coordinator Joe Blomquist ("Coordinator Blomquist") received information about this unlicensed kennel but the information did not contain an address. On February 13, 2023, he emailed Ms. Maliar and explained that she needed to apply for a boarding kennel license from AWS if she wanted to provide boarding services to the public. He indicated that without an AWS boarding kennel license she could not provide or offer to provide boarding services to the public. Ms. Maliar responded by email on February 21, 2023 that she offered her boarding services through "Rover" and was renovating the area to be used as the kennel. Coordinator Blomquist requested her address so that he could conduct a site visit to review the renovations. Ms. Maliar did not respond to this request or provide an address.
3. On June 30, 2023, Coordinator Blomquist received information that the kennel was providing boarding services, and this information contained an address for this kennel. He attempted to conduct a site visit, but the owner was not present on the premises. Coordinator Blomquist left a copy of the NC Animal Welfare Act ("AWA") and its associated rules and his business card.
4. On July 6, 2023, Ms. Maliar emailed Coordinator Blomquist requesting more information on the AWA and its rules. On July 6, 2023, Coordinator Blomquist conducted a site visit of the kennel along with Wake County Animal Control and Wake County Code Enforcement. The Wake County officials explained that she could not board animals on the premises until a Special Use permit had been granted by the County. Coordinator Blomquist explained to Ms. Maliar that until the Special Use permit was granted, AWS could not issue a boarding kennel license and that the premises would need to pass a Facility Compliance Inspection as well. He stated very explicitly that no animals could be

boarded, and no boarding services could be offered to the public until an AWS boarding kennel license was issued. Later, the same day as the July 6, 2023 site visit, Coordinator Blomquist sent an email to Ms. Maliar reiterating that no animals could be boarded until an AWS boarding kennel license had been issued.

5. On July 7, 2023, Ms. Maliar sent an email to Coordinator Blomquist stating that she was not boarding animals at that time.
6. On January 30, 2024, Coordinator Blomquist received information that K9 to 5 was boarding animals. Based on this information, AWS opened an investigation. The investigation centered on possible violation(s) of the N.C. Animal Welfare Act (“AWA”) as these statutes and associated regulations are the extent of the jurisdiction of AWS.
7. On January 30, 2024, Coordinator Blomquist accompanied Wake County Code Enforcement and Wake County Animal Control on a site visit to the kennel. The site visit revealed the following:
 - a. there were 2 dogs housed in large crates in the garage at the bottom of the hill. The ammonia smell was overwhelming in the garage. Ms. Maliar stated the 2 dogs were her personal dogs; and
 - b. Ms. Maliar denied entry into her house. She stated that there were no boarding animals on the premises.
8. A review of social media sites on January 30, 2024, showed that K9 to 5 was currently offering boarding and day camp services to the public. Multiple reviews stated that their animals had boarded either overnight, for several nights or during the day.
9. On February 2, 2024, Wake County served a search warrant on the property. They seized and removed 4 dogs and 4 cats that were boarding on the premises. The owners of these privately-owned boarding animals were contacted, and they were able to retrieve their animals. The kennel owner indicated to the Wake County officials that the cats had been boarding there for approximately 2 weeks.
10. On February 5, 2024, a review of the Rover website showed that K9 to 5 posting advertising boarding services and daycare boarding services was still active. The most recent review was dated January 30, 2024, in which the reviewer stated that her dog had stayed at the kennel several times and she will continue to take the dog there when she goes out of town.
11. As of February 8, 2024, a review of AWS documents showed that the kennel did not submit an application for a boarding kennel license and no AWS boarding kennel license was issued to the kennel.

CONCLUSIONS

To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels. Based on the findings of this investigation, AWS concludes that the kennel violated the following provisions:

NCGS §19A-28 for operating a boarding kennel without obtaining a license granted by the AWS

Director to operate such an establishment. Given the multiple contacts by AWS with the owner of this kennel informing her of the need for a boarding kennel license prior to this Notice, this violation was deemed to be a willful violation of this statute

02 NCAC 52J .0201(m) for failure to be truthful with NCDA&CS employees during an investigation on January 30, 2024 when the kennel owner stated no boarding animals were on the premises when at least 4 boarding animals were present. This violation was deemed to be a willful violation of this rule

CIVIL PENALTY

As required by NCGS § 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, Karma Maliar as owner and operator of K9 to 5 is hereby assessed a civil penalty for the following violation:

\$2,500.00 for the willful violation of NCGS § 19A-28 for operating a boarding kennel without obtaining a license granted by the AWS Director to operate such an establishment


\$500.00 for the willful violation 02 NCAC 52J .0201(m) for failure to be truthful with NCDA&CS an employee during an investigation on January 30, 2024

\$3,0000.00 TOTAL AMOUNT ASSESSED

Please be aware that pursuant to NC General Statute § 19A-33, operation of a boarding kennel without a currently valid license constitutes a Class 3 misdemeanor with each day of operation constituting a separate offense. In addition, operation of a boarding kennel without a valid license is a violation of the NC Animal Welfare Act and may result in the assessment of a civil penalty of up to \$5,000.00 per violation pursuant to NC General Statute § 19A-40 and/or the suspension, revocation, or denial of a license pursuant to NC General Statute § 19A-30.

(See Appendix for text of referenced General Statutes and Administrative Code)

February 8, 2024
Date


Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said

license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 19A-33. Penalty for operation of pet shop, kennel or auction without license.

Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense.

§ 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.

02 NCAC 52J .0201 GENERAL

(m) A licensee or registrant and all agents of the facility shall be truthful with NCDA&CS employees during all phases of inspections or investigations.

History Note: Authority G.S. 19A-24; 19A-30(3); Eff. April 1, 1984; Amended Eff. January 1, 2005; Readopted Eff. October 1, 2022.