



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

September 17, 2024

James Pirog
Owner
The Woof Den, Inc.
1433 Adkin Drive
Iron Station, NC 28080
and via email
jagmachine@gmail.com

NOTICE of CIVIL PENALTY and NOTICE of WARNING

Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTIONS .0201(h); .0204(a) and (k); and .0207(a) and NOTICE of WARNING for VIOLATIONS of 02 NCAC 52J .0201(g); .0202(b)(3); .0203(e); and .0204(b) and (c).

AWS-CP-2024-20

Facility: The Woof Den, Inc.
License Number: 11321

Dear Mr. Pirog:

Pursuant to NCGS § 19A-40, I am issuing this notice that you as owner and operator of The Woof Den (“the kennel”) are hereby assessed a civil penalty of \$1,400.00 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 blue ink, appearing to read "Patricia Norris 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 LINCOLN

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

IN THE MATTER OF)
)
JAMES PIROG)
)
OWNER OF)
)
THE WOOF DEN, INC.)
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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, The Woof Den, Inc. (“the kennel”) owned and operated by James Pirog was a boarding kennel that was licensed with AWS as a boarding kennel pursuant to NCGS § 19A-28.
2. On August 19, 2024, AWS received a complaint concerning the care of a dog that boarded at the kennel from August 16 – 18, 2024 at the kennel. 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.
3. On August 21, 2024, AWS Animal Health Technicians Harris and Eudy (“Inspectors Harris and Eudy”) conducted a site visit and Facility Compliance Inspection (“FCI”) at the kennel starting at approximately 9:30 AM. The following information was obtained during this site visit and FCI:
 - a. in violation of 02 NCAC 52J .0201(g), each housing area did not have a functional thermometer present;
 - b. in violation of 02 NCAC 52J .0201(h), dogs were confined in 3 exercise areas known as “the Squares” unsupervised. In addition, the 3 dogs were confined to the gravel enclosure outside of A Room were unsupervised. These 4 outdoor enclosures are not surrounded by a separate perimeter fence. This violation was previously cited during the December 19, 2023 FCI;
 - c. in violation of 02 NCAC 52J .0202(b)(3), the air flow was not adequate to minimize odors;
 - d. in violation of 02 NCAC 52J .0203(e), the outdoor enclosures known as “the Squares” did not have any shade or source of protection from the elements;
 - e. in violation of 02 NCAC 52J .0204(a), the kennel failed to maintain the surfaces of the primary enclosures so that they were impervious to moisture as evidenced by the numerous rusted kennel doors and damaged areas with exposed drywall in the primary enclosures housing the dogs. In addition, dogs were housed in the front desk area where numerous

- surfaces were not impervious to moisture. This violation was previously cited during the December 19, 2023 FCI;
- f. in violation of 02 NCAC 52J .0204(b), damaged wood with which animals have access was not replaced so that the animals did not have contact with the wood. This violation was previously cited during the December 19, 2023 FCI;
 - g. in violation of 02 NCAC 52J .0204(c), the bars of the enclosure were loose allowing the dog housed in the enclosure to push his head between the bars putting him at risk of injury;
 - h. in violation of 02 NCAC 52J .0204(k), 25 dogs were confined together in the outdoor Valley yard with only 1 supervising employee;
 - i. in violation of 02 NCAC 52J .0207(a), the kennel failed to properly clean the exercise areas a minimum of two times per day as evidenced by the accumulation of fecal matter and biological debris in these areas. This violation was previously cited during the December 19, 2023 FCI;
 - j. the FCI was marked as Disapproved due to the risk of injury to the animals and the repetitive nature of the violations.

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:

02 NCAC 52J .0201(g) for failure to have a functional room thermometer present in each separate housing area as noted on August 21, 2024

02 NCAC 52J .0201(h) for housing animals unsupervised in 4 outdoor enclosures that did not have a separate perimeter fence as noted on August 21, 2024. This violation was previously cited during the December 19, 2023 FCI

02 NCAC 52J .0202(b)(3) for failure to provide adequate air flow to minimize odors as noted on August 21, 2024.

02 NCAC 52J .0203(e) for failure to provide shade and adequate protection from the elements in the outdoor "Square" enclosures as noted on August 21, 2024

02 NCAC 52J .0204(a) for failure to maintain the surfaces of the primary enclosures so that they were impervious to moisture as observed on August 21, 2024. This violation was previously cited during the December 19, 2023 FCI

02 NCAC 52J .0204(b) for failure to replace damaged wood in primary enclosures and other areas where animals had access so that the animals no longer had contact with the wood as noted on August 21, 2024. This violation was previously cited during the December 19, 2023 FCI

02 NCAC 52J .0204(c) for failure to maintain primary enclosures in good repair to prevent injury to animals as noted on August 21, 2024

02 NCAC 52J .0204(k) for failure to provide at least one person constantly supervising each 10 dogs confined in an exercise area as only 1 person was observed to be supervising 25 dogs in the outdoor Valley yard on August 21, 2024.

02 NCAC 52J .0207(a) for failure to properly clean the exercise areas a minimum of two times per day as observed on August 21, 2024. This violation was previously cited during the December 19, 2023 FCI.

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, James Pirog, as owner and operator of The Woof Den, Inc., is hereby assessed a civil penalty for the following violations:

\$800.00 for 4 violations (\$200.00 per violation) of 02 NCAC 52J .0201(h) for housing animals unsupervised in 4 outdoor enclosures that did not have a separate perimeter fence as noted on August 21, 2024. This violation was previously cited during the December 19, 2023 FCI

\$200.00 for violation of 02 NCAC 52J .0204(a) for failure to maintain the surfaces of the primary enclosures so that they were impervious to moisture as observed on August 21, 2024. This violation was previously cited during the December 19, 2023 FCI

\$200.00 for violation of 02 NCAC 52J .0204(k) for failure to provide at least one person constantly supervising each 10 dogs confined in an exercise area as only 1 person was observed to be supervising 25 dogs in the outdoor Valley yard on August 21, 2024.

\$200.00 for violation of 02 NCAC 52J .0207(a) for failure to properly clean the primary enclosures a minimum of two times per day as observed on August 21, 2024. This violation was previously cited during the December 19, 2023 FCI

\$1,400.00 TOTAL AMOUNT ASSESSED

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

NOTICE of WARNING

As to the remaining violations of 02 NCAC 52J .0201(g); .0202(b)(3); .0203(e); and .0204(b) and (c), this Warning Letter serves as written notice indicating in which respects the kennel may have violated the NC Animal Welfare Act and the rules issued pursuant thereto.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's registration pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

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

September 17, 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-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

(g) Each facility shall have the ability to confirm ambient temperature. A functional room thermometer shall be present in each separate area of indoor enclosures, common areas and exercise areas.

(h) A separate five-foot tall perimeter fence is required if any animal(s) has/have unsupervised access to an outdoor primary enclosure, common area, and/or exercise area. Supervision of animals is required for any animal(s) within any outdoor enclosure, common area, or exercise area without a separate five-foot tall perimeter fence.

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

02 NCAC 52J .0202 INDOOR FACILITIES

(b) Ventilation of indoor facilities:

(3) air flow shall be adequate to minimize odors and moisture condensation.

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

02 NCAC 52J .0203 OUTDOOR FACILITIES

(e) Dogs and cats in outdoor areas shall be provided adequate protection from inclement weather and the Sun. This protection shall be sufficient to protect all animals simultaneously in the exercise area. If an animal cannot maintain its normal body temperature in an outdoor exercise area, the animal shall not be placed in an outside exercise area.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005; Readopted Eff. September 1, 2022.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(a) Primary enclosures and exercise areas shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture excluding the ground cover options of gravel and grass allowed for in Rule .0203 of this Section.

(b) For primary enclosures and exercise areas placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures and exercise areas in use in a licensed or

registered facility prior to January 1, 2005, any damaged wood shall be replaced in a manner that does not permit contact with wood by the animal.

(c) Primary enclosures and exercise areas for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out.

(k) If more than four dogs including animals owned by the staff or operator of the facility are housed or confined in an exercise area or primary enclosure, then there shall be at least one person constantly supervising each 10 dogs housed or confined within each primary enclosure or exercise area. This supervision shall be conducted from within the exercise area or primary enclosure such that the person(s) has/have immediate access to the animals in the event of an emergency, aggression or fight between animals.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985; Readopted Eff. September 1, 2022.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures, exercise areas and common areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats shall be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985; Readopted Eff. September 1, 2022.