



Steve Troxler
Commissioner

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

Donald H. Delozier
State Director

February 18, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

African Market
Mr. Augustine Cole
5038 - Suite 105 North Tryon Street
Charlotte, NC 28213

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAW AND POULTRY PRODUCTS INSPECTION LAW
G.S. § 106-549.23, 106-549.24 and G.S. § 106-549.56

Dear Mr. Augustine Cole:

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. Donald H. Delozier, 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
Donald H. Delozier, 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

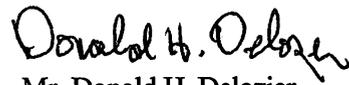
Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Mr. David McLeod
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. Donald H. Delozier
Director, Meat & Poultry Inspection Division

DHD:aw

Attachments: Assessment Document

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

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

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

IN THE MATTER OF)

African Market)

FOR VIOLATIONS OF THE N.C. COMPULSORY)
MEAT INSPECTION LAW AND THE POULTRY)
PRODUCTS INSPECTION LAW)
G.S. § 106-549.23, 106-549.24 and G.S. § 106-549.56)

NOTICE OF VIOLATIONS
AND ASSESSMENT OF
CIVIL PENALTY

Acting pursuant to North Carolina General Statute (G.S.) § 106-549.35(c) Mr. Donald H. Delozier, 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 January 10, 2013, NCDA & CS, MPID Food Compliance Officer Percy Russell ("FCO Russell") visited African Market, 5038 - Suite 105 North Tryon Street, Charlotte, NC.
- B. FCO Russell spoke with Mr. Augustine Cole ("Mr. Cole"), who identified himself as the owner and operator of African Market.
- C. FCO Russell inspected goods being offered to the general public for sale at African Market and discovered that some of the meat and poultry products being offered for sale lacked required labeling, rendering them misbranded.
- D. FCO Russell surveyed all of the inventory of meat and poultry products on hand and found:
 - a. Non-inspected/misbranded (no NCDA or USDA mark of inspection or required labeling) dried whole chickens;
 - b. Non-inspected/misbranded (no NCDA or USDA mark of inspection or required labeling) chicken feet;
 - c. Non-inspected/misbranded (no NCDA or USDA mark of inspection or required labeling) pig feet with an unauthorized mark of inspection;
- E. FCO Russell NC detained and photographed 27 packages weighing approximately 27 pounds of the above-referenced products, comprising the entire inventory on hand of such meat and poultry products at African Market.
- F. Mr. Cole informed FCO Russell that he had purchased the non-inspected misbranded packages of meat and poultry products in bulk boxes from Liberian Best Food, Newark, NJ.

- G. Mr. Cole could not provide a receipt or invoice for the above referenced meat and poultry products.
- H. Mr. Cole stated that the individual packages of non-inspected/misbranded whole dried chickens, chicken feet, and pig feet, being offered for sale, were packaged by him at his store into zip lock bags and plastic bags, which did not contain a NCDA or USDA mark of inspection.
- I. Mr. Cole stated that he placed an unauthorized USDA mark of inspection (est. #35051) and unapproved labeling on the zip lock bags of pork (pig) feet. Mr. Cole stated he made the labels containing the USDA mark of inspection on his home computer.
- J. African Market does not operate under county, state or federal inspection.
- K. On January 10, 2013, FCO Russell issued African Market on-site cease and desist letters prohibiting the sale of misbranded meat and poultry products.
- L. The NCDA & CS, MPID, had previously found Ms. Joanna Cole, who shares co-ownership of the African Market, 5038-Suite 105 North Tryon Street, Charlotte, NC with her husband (Mr. Augustine Cole) to be violating the North Carolina Compulsory Meat Inspection Law and/or the North Carolina Poultry Products Law on May 15, 2006.
- M. The North Carolina Department of Justice issued The Uniform Store, 4525 Plaza Road, Charlotte, NC, previously co-owned by Ms. Joanna Cole and Mr. Augustine Cole, a Letter of Warning for the transporting, processing, storing, offering for sale and selling of misbranded meat products on June 1, 2006.

II. CONCLUSIONS OF LAW

- A. African Market found to be transporting, processing, storing, offering for sale and selling non-inspected/misbranded meat and poultry products, applying an unauthorized mark of inspection to non-inspected/misbranded meat products and knowingly representing meat products as inspected and passed when in fact they were not inspected and passed in violation of General Statutes 106-549.23, 106-549.24 and 106-549.56 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. Donald H. Delozier, 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, 106-549.24 and 106-549.56.

\$3000.00 for violating G.S. § 106-549.23, 106-549.24 and G.S. § 106-549.56
\$3000.00 TOTAL AMOUNT ASSESSED.

Date

Feb. 18 2013

Donald H. Delozier

Mr. Donald H. Delozier, Director
Meat and Poultry Inspection Division