

STATE OF NORTH CAROLINA
COUNTY OF GASTON

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

IN THE MATTER OF)

B & B Variety and Discount Grocery)

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

) NOTICE OF VIOLATIONS
) AND ASSESSMENT OF
) CIVIL PENALTY

Acting pursuant to North Carolina General Statutes (G.S.) § 106-549.35(c) and § 106-549.59(a1), Mr. W. Alan Wade, Director, Meat and Poultry Inspection Division (MPID) of the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

I. FINDINGS OF FACTS:

- A. On August 24, 2015 NCDA & CS, MPID Food Compliance Officer Phillip Renshaw (hereinafter, CO Renshaw), visited B & B Variety and Discount Grocery, 215 West Pennsylvania Avenue, Bessemer City, North Carolina to perform a Planned Compliance Review.
- B. CO Renshaw spoke with Mr. Christopher Bustle, who identified himself as the manager of B & B Variety and Discount Grocery.
- C. CO Renshaw inspected the goods being offered for sale to the general public at B & B Variety and Discount Grocery and discovered that some of the meat and poultry products being offered for sale were bearing unauthorized and fraudulent U.S.D.A. marks of inspection (Est. # P 184, P-164 and 7881A).
- D. On August 24, 2015, CO Renshaw detained and photographed sixty (60) five (5) pound bags of Chicken Nuggets, Popcorn Chicken, and Chicken Breast along with twenty-eight (28) four (4) pound bags of Pork Barbecue that contained fraudulent U.S.D.A. marks of inspection.
- E. Mr. Christopher Bustle stated the meat and poultry products were purchased in large boxes that contained the U.S.D.A. marks of inspection. B&B Variety and Discount Grocery removed the interior plastic bags from the boxes which contained Pork Barbecue, Chicken Nuggets, Popcorn Chicken and/or Chicken Breast and in turn placed a label on those bags of meat/poultry products that contained a fraudulent U.S.D.A. mark of inspection. B&B Variety and Discount Grocery then offered these products for sale and sold them to the general public.
- F. In a signed statement dated August 24, 2015, Mr. Christopher Bustle stated that the owner of B & B Variety and Discount Grocery, Mr. Jimmy Bustle Jr., had himself printed the labels bearing the fraudulent U.S.D.A. marks of inspection (Est. # P-184, # P-164 and #7881A).
- G. The U.S.D.A. establishment numbers P-184, P-164 and 7881A are not official establishments inspected by the U.S.D.A., Food Safety Inspection Service.

- H. Mr. Christopher Bustle admitted in his signed statement that he applied the labels containing the fraudulent U.S.D.A. mark of inspection to four (4) pound bags of meat and five (5) pound bags of poultry products without the benefit of County, State, or Federal Inspection.
- I. Mr. Christopher Bustle further stated in his signed statement that B & B Variety and Discount Grocery had printed and applied the fraudulent labels to meat and poultry products for approximately twelve (12) months.
- J. Mr. Christopher Bustle further admitted in his signed statement that approximately three hundred (300) pounds of poultry products (chicken), and one hundred (100) pounds of meat products (pork), were stored, offered for sale and sold that contained labels with the fraudulent U.S.D.A. mark of inspection that had been printed by Mr. Jimmy Bustle Jr., owner of B & B Variety and Discount Grocery.

II. CONCLUSIONS OF LAW

- A. B & B Variety and Discount Grocery was found to be processing, storing, offering for sale and selling misbranded meat and poultry products to the general public and applying labels that contained a fraudulent U.S.D.A. mark of inspection in violation of G.S. §106-549.23, §106-49.24, and §106-549.56 and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under General Statutes §106-549.35(c) and §106-549.59(a1).
- 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 General Statute § 143B-10(a).

III. DECISION

As required by General Statute § 106-549.35 (c) and § 106-549.59(a1) in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of General Statutes § 106-549.23, § 106-549.24 and § 106-549.56.

Accordingly B & B Variety and Discount Grocery is assessed a civil penalty of:

- \$ 500.00 for violating G.S. §106-549.23 – (Misbranded Meat)
- \$ 500.00 for violating G.S. §106-549.24 – (Prohibited Acts regarding certificate)
- \$ 500.00 for violating G.S. §106-549.56 – (Prohibited Sales of misbranded Poultry)

\$1,500.00 TOTAL AMOUNT ASSESSED.

Date

11-18-15

W. Alan Wade

Meat and Poultry Inspection Division



Steve Troxler
Commissioner

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

W. Alan Wade
State Director

November 18, 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jimmy Bustle Jr.
B & B Variety and Discount Grocery
215 West Pennsylvania Avenue
Bessemer City, North Carolina 28018

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT AND POULTRY INSPECTION LAWS
G.S. § 106-549.23; § 106-549.24 and § 106-549.56**

Dear: Mr. Jimmy Bustle Jr.

Pursuant to North Carolina General Statutes (G.S.) § 106-549.35(c) and § 106-549.59(a1) 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 Notice of Violations and Assessment of Civil Penalty 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 Hearing 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
Mr. 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

WAW:cp

Attachment 1: Notice of Violations and Assessment of Civil Penalty
Attachment 2: Applicable General Statutes

CC: ~~Mr.~~ Joe Reardon, Assistant Commissioner, NCDA&CS
~~Ms.~~ Tina Hlabse, General Counsel, NCDA&CS
~~Mr.~~ Chris McLennan, Assistant Attorney General