Steven W. Troxler
Commissioner

North Carolina Department of Agriculture and Consumer Services

Veterinary Division

David T. Marshall, DVM
State Veterinarian

October 10, 2011

CERTIFIED MAIL RETURN RECEIPT REQUESTED

7006 2760 0003 0472 2389

Mr. Rossie Hayes
Director, Columbus County Animal Shelter
288 Legion Drive
Whiteville, NC 28472

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Re: ASSESSMENT OF CIVIL PENALTY
Columbus County Animal Shelter

Dear Mr. Hayes:

This letter encloses an Order issued pursuant to N.C. Gen. Stat. §§ 19A-40. Inspections of the conditions and practices prevalent in your animal shelter indicates that grounds exist for imposition of a civil penalty based upon violation(s) of the requirements set forth under the NC Animal Welfare Act and the rules establishing minimum standards in certified animal shelters promulgated under that law.

The attached Civil Penalty Assessment describes in detail the factual basis for this decision. You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, N.C. Gen. Stat. § 150B-23, within five (5) days of your receipt of this Order. Please find enclosed information on filing said petition.

APPEAL INFORMATION

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 919/733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Ray Starling
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.

A proposed consent agreement has been enclosed. If you wish to resolve this matter in accordance with the terms set forth in the proposed consent agreement, you need simply sign and return it to me in the enclosed, self-addressed envelope. Upon receipt I will sign the original agreement and return a copy to you for your records.

When you have satisfied the terms and conditions set forth in the consent agreement to the Department's satisfaction, I will issue notice to you that this order has been cancelled as to any remaining terms or conditions.

If you have any questions concerning the basis for this order or the terms of the proposed consent agreement, you may call me at the telephone number listed above.

Sincerely,

Lee Hunter, DVM, MPH
Director, Animal Welfare Section
Veterinary Division, NCDA&CS

Enclosures: 1) Civil Penalty Assessment;

cc: David McLeod, Assistant Commissioner, NCDA&CS
David T. Marshall, State Veterinarian, NCDA&CS
Barry Bloch, Assistant Attorney General, NCDOJ

STATE OF NORTH CAROLINA COUNTY OF COLUMBUS	NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, VETERINARY DIVISION ANIMAL WELFARE SECTION
IN THE MATTER OF COLUMBUS COUNTY ANIMAL SHELTER	))CIVIL PENALTY ASSESSMENT))PURSUANT TO THE ANIMAL)WELFARE ACT, N.C. GEN.)STAT. §§ 19A-30 and -40, AND 02)N.C.A.C. 52J .0103, .0204, .0210

Acting pursuant to N.C. Gen. Stat. § 19A-40, Dr. Lee Hunter, Director, Animal Welfare Section, NCDA&CS makes the following:

I. FINDINGS OF FACT

1. **On September 7, 2011, Ms. Pat Sholar, Inspector, with the North Carolina Department of Agriculture and Consumer Services, (NCDA&CS) Animal Welfare Section, conducted an inspection in response to a complaint about the facility premises of Columbus County Animal Shelter (hereinafter "CCAS"), located on 288 Legion Drive, Whiteville, NC.**

2. **Inspector Sholar found deficiencies in the premise's structure and repair, condition of its primary enclosures and the care given to the animals.**

3. **Inspector Sholar observed on September 7, 2011, that the puppy pen needed painting. On September 13, 2011, Inspector Sholar found that the puppy pen's welded wire had been repaired but its stainless steel sides were stained and had not been painted.**

4. **Inspector Sholar requested and received most of the animal records listed in the complaint. Upon review she noted that several of these records failed to adequately describe the nature or severity of the injury or illness an animal was suffering from, making it impossible to determine whether euthanizing the animal before the end of the statutory seventy-two hour hold period was justified in order to end the animal's suffering.**

5. **Several of these records failed to adequately document what veterinary care and/or medication was provided to the animals, if any. A medication log failed to adequately and accurately document the amount of medication administered and the time of administration.**

6. **Some impound records failed to accurately reflect the time of day when an animal arrived in the facility or when it was euthanized.**

7. **The following table lists identified deficiencies in animal care and/or maintenance of required disposition records.**

File Number	Deficiency 1	Deficiency 2	Section
11132	Failure to provide veterinary care		.0210
11153	Failure to provide veterinary care		.0210
11777	Failure to provide veterinary care		.0210
11278	Failure to provide veterinary care	Failure to list date dog was euthanized in disposition record	.0210; .0103
11574	Failure to provide veterinary care		.0210
11740	Failure to provide veterinary care	Inadequate disposition record; failure to report whether dog was injured before or after arrival in shelter	.0210; .0103
12004	Inadequate record of veterinary care: no diagnosis or explanation of why dog received an NSAID	Inadequate record of veterinary care: record makes it impossible to determine if dog received adequate veterinary care	.0103
12007	No disposition record		.0103
12060	Incomplete disposition record: no date of euthanization		.0103
12094	Failure to provide veterinary care		.0210
12325	Incomplete disposition record: no date of euthanization		.0103
12624	Failure to provide veterinary care	No disposition record	.0210; .0103
12697	Incomplete disposition record: no mark as to "owned" or "unowned"		.0103
12698	Incomplete disposition record: no mark as to "owned" or "unowned"		.0103
12768	Failure to provide		.0210

	veterinary care		
13151	**Incomplete disposition record: no diagnosis for sick or injured dog, making it impossible to determine if dog needed veterinary care**		**.0103**
13528	**Inaccurate disposition record: two different intake dates**		**.0103**
13534/13535	**No disposition record**	**No diagnosis as to need for veterinary care**	**.0103; .0210**

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, alleges that you either by act or omission, violated the following provision of the North Carolina General Statutes:

§ 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: …

(2) Willful disregard or violation of this Article or any rules issued pursuant thereto;

02 NCAC 52J .0103 INSPECTION OF RECORDS

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the director or his authorized representative on request, during the business and cleaning hours listed on the license application. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is released.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(b) Primary enclosures 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. Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, urn about freely, and to easily stand, sit, or lie in a natural position. The height of a primary enclosure other than a cage shall be no less than five feet. All enclosures shall be constructed to prevent the escape of animals.

02 NCAC 52J .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided

or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

II. CONCLUSIONS OF LAW

A. Columbus County Animal Shelter violated N.C. General Statute § 19A-30 and 2 N.C. Administrative Code 52J .0103, .0204, and .0210 and may be assessed a civil penalty of up to $5,000.00 per violation pursuant to N.C. Gen. Stat. § 19A-40.

B. The Director of the Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture and Consumer Services, pursuant to N.C. Gen.Stat. § 19A-40 has the authority to assess civil penalties in this matter.

III. DECISION

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 violation of N.C. Gen. Stat. § 19A-30 and 2 N.C. Administrative Code 52J .0103, .0204 and .0210.

Accordingly, Columbus County Animal Shelter is assessed a civil penalty of: $1,000.00

$1,000.00 for violating N.C. Gen. Stat. § 19A-30 and 2 N.C. Administrative Code 52J .0103, .0204 and .0210

$1,000.00 TOTAL AMOUNT ASSESSED

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Date **Lee Hunter, DVM, MPH**
Director of Animal Welfare