



Steven W. Troxler  
Commissioner

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

David T. Marshall, DVM  
State Veterinarian

December 19, 2011

Ms. Samantha Milam  
Happy Tails  
1086 Turnersburg Highway 21  
Statesville, North Carolina 28625

**CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED -**

**7006 2760 0003 0472 2433**

NOTICE OF CIVIL PENALTY

CIVIL PENALTY ASSESSMENT FOR VIOLATION OF CEASE & DESIST ORDER - NORTH CAROLINA GENERAL STATUTE §19A-40

Dear Ms. Milam:

Pursuant to the North Carolina General Statutes (N.C.G.S. §19A-40) this letter is notice of a civil penalty assessed by the North Carolina Department of Agriculture and Consumer Services, Veterinary 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 (OAH) 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 Dr. Lee Hunter, Director, Animal Welfare Section, who may be contacted by telephone at 919-733-7601. Settlement offers do not extend the 60 day deadline for payment or filing of a contested 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 & Consumer Services  
Dr. David T. Marshall  
State Veterinarian  
P. O. Box 26026  
Raleigh, NC 27611

## 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, NC 27699

Any questions about filing a petition may be directed to the Clerk of OAH by telephone – 919/431-3000. 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  
P. O. Box 27647  
Raleigh, NC 27611

Please note that the Office of Administrative Hearings now requires payment of a fee of \$20.00 with filing of a petition against the NCDA&CS.

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,



David T. Marshall, DVM  
State Veterinarian

/bhb/mwb

Attachment: Assessment Document

cc: Barry H. Bloch, Assistant Attorney General  
Lee Hunter, DVM, MPH, Director, Animal Welfare Section

IN THE MATTER OF )  
 )  
SAMANTHA MILAM ) NOTICE OF VIOLATION AND  
D/B/A HAPPY TAILS ) ASSESSMENT OF CIVIL  
 ) PENALTY FOR  
 ) VIOLATIONS OF  
 ) CEASE & DESIST ORDER  
 ) N.C.G.S. §19A-40  
 )

Acting pursuant to North Carolina General Statutes §19A-28 and §19A-40, Dr. David T. Marshall, State Veterinarian, North Carolina Department of Agriculture and Consumer Services (NCDA&CS), makes the following:

**FINDINGS OF FACT**

- A. On August 1, 2011, the Veterinary Division, NCDA&CS, formally revoked the boarding kennel licensed issued to Samantha Milam, license no. 10929, for the boarding kennel she operated at 1086 Turnersburg Highway, Statesville, North Carolina.
- B. On August 10, Milam received her notice of revocation by hand delivery from Inspector Shelly Swaim.
- C. Said notice of revocation included the order to Ms. Milam to cease and desist from operating a boarding kennel at 1086 Turnersburg Highway, Statesville, N.C., not later than five (5) days from her receipt of that letter.
- D. On November 21, 2011, the Veterinary Division’s inspectors, Ms. Swaim and Mr. Gary Stamey, visited Happy Tails’ location at 1086 Turnersburg Highway, in Statesville, N.C., in order to perform a reinspection Ms. Milam had requested after the facility had been disapproved after inspection in July, 2011.
- E. Ms. Milam denied to the inspectors that dogs being housed in outdoor enclosures were being boarded there.
- F. When asked for records for the ten dogs found in the facility, Ms. Milam could provide only one set of records for one dog.
- G. Subsequently the inspectors received veterinary information and determined that two of dogs belonged to Ms. Candy Turner. Ms. Turner informed the inspectors that she was boarding two dogs at the facility at 1086 Turnersburg Highway from November 18, 2011, until November 27, 2011.
- H. When Inspectors Swaim and Stamey informed Ms. Milam of what they had learned from Ms. Turner, Ms. Milam admitted that she had been boarding dogs at the facility at 1086 Turnersburg Highway, Statesville, since she had been served with the boarding kennel license revocation and cease and desist order on August 10, 2011.

- I. Ms. Milam provided inspectors Swaim and Stamey with a written statement admitting that she had continued to board dogs at the unlicensed boarding kennel she operated at 1086 Turnersburg Highway, Statesville, North Carolina.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, alleges that Samantha Milam, either by act or omission, violated the following provision of the North Carolina Animal Welfare Act and/or the North Carolina Administrative Code:

**§ 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 fifty dollars (\$50.00) for each license period or part thereof beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 9; 1987, c. 827, s. 65; 1989, c. 544, s. 18.)

**CONCLUSIONS OF LAW**

- A. Ms. Samantha Milam violated N.C.G.S. §19A-28 and may be assessed a civil penalty of up to \$5,000.00 per violation pursuant to N.C.G.S. §19A-40.
- B. The Commissioner of Agriculture, pursuant to N.C.G.S. §19A-40 has the authority to assess civil penalties in this matter. This authority has been delegated to Dr. David T. Marshall, State Veterinarian, Veterinary Division, NCDA&CS pursuant to N.C.G.S. §143B-10(a).

**DECISION**

As required by N.C.G.S. §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.G.S. §19A-28.

Accordingly, Samantha Milam is assessed a civil penalty of:

\$5,000.00 for violating N.C.G.S. §19A-28  
**\$5,000.00 TOTAL AMOUNT ASSESSED**

12/20/2011  
Date

David T. Marshall, SVM  
Dr. David T. Marshall  
State Veterinarian