



Steven W. Troxler  
Commissioner

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

David T. Marshall, DVM  
State Veterinarian

February 19, 2013

Jennifer Whaley  
Sheltered Hearts Animal Rescue and Education  
1645 Jones Shore Road  
Roxboro, NC 27502

NOTICE OF CIVIL PENALTY

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

Dear Ms. Whaley:

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. David McLeod  
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 )  
)  
JENNIFER WHALEY ) NOTICE OF VIOLATION AND  
) ASSESSMENT OF CIVIL  
D/B/A SHELTERED HEARTS ) PENALTY FOR  
ANIMAL RESCUE & EDUCATION ) 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 September 11, 2012, the Veterinary Division, NCDA&CS, inspected the Sheltered Hearts Animal Rescue and Education (SHARE), 1645 Jones Shore Road, Roxboro, NC 27502.
- B. SHARE is not registered as a private animal shelter as required by North Carolina General Statute § 19A-26.
- C. NCDA&CS Senior Inspector Joe Blomquist left Jennifer Whaley a copy of the inspection report and asked her to submit an application for registration within 10 working days.
- D. Sr. Inspector Blomquist directed Ms. Whaley to cease and desist from operating a private animal shelter at 1645 Jones Shore Road, Roxboro, NC, if she did not apply for registration with NCDA&CS' Animal Welfare Section.
- E. On October 3, 2012, NCDA&CS's Animal Welfare Section mailed Ms. Whaley a notice to Cease and Desist operation of an animal shelter immediately, by U.S. Mail, First Class, pre-paid.
- F. The North Carolina Department of Agriculture and Consumer Services received an email on Sunday, February 17, 2013, stating that an animal rescue was in operation and requested information about applicable rules and laws. The next day the complainant sent another email that provided the address of the animal rescues facility, 1645 Jones Store Road, Roxboro NC.
- G. Sr. Inspector Blomquist conducted an internet search and found evidence that, on Monday, February 18, 2013, SHARE was offering animals for adoption on two web sites, <http://shelteredhearts.rescueme.org/> and on SHARE's Facebook page, <http://www.facebook.com/pages/Sheltered-Hearts-Animal-Rescue-Education-Inc/194271525951?ref=stream> .
- H. Sr. Inspector Blomquist visited 1645 Jones Shore Road, Roxboro, NC, on Tuesday, February 19, 2013, and during the visit, identified at least one (1) dog on the premises that was offered for adoption on SHARE's web sites.

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

**§ 19A-26. Certificate of registration required for animal shelter.**

No person shall operate an animal shelter unless a certificate of registration for such animal shelter shall have been granted by the Director. Application for such certificate shall be made in the manner provided by the Director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided. (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)

**CONCLUSIONS OF LAW**

- A. Ms. Jennifer Whaley violated N.C.G.S. §19A-26 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).

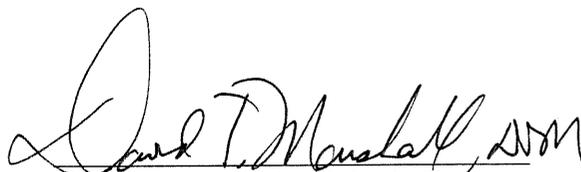
**DECISION**

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-26.

Accordingly, Jennifer Whaley is assessed a civil penalty of:

\$5,000.00 for violating N.C.G.S. §19A-26  
**\$5,000.00 TOTAL AMOUNT ASSESSED**

2/20/2013  
Date

  
Dr. David T. Marshall  
State Veterinarian