Steven W. Troxler
Commissioner

North Carolina Department of Agriculture and Consumer Services

Veterinary Division

David T. Marshall, DVM
State Veterinarian

November 24, 2010

**CERTIFIED MAIL
RETURN RECEIPT
REQUESTED –
7006 2760 0003 0472 2242**

Ms. Tracy Smith
Angel's Paws Rescue
3069 Herbert Faucett Road
Granville, NC 28625

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

Dear Ms. Smith:

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
1030 Mail Service Center
Raleigh, NC 27699-1030

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 S. McLeod
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

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

Dr. David T. Marshall, State Veterinarian

/bhb
Attachment: Assessment Document

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

STATE OF NORTH CAROLI[illegible]
COUNTY OF HENDERSON

NORTH CAROLINA DEP[illegible]TMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF LITTLE
ANGEL'S PAWS RESCUE

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NOTICE OF VIOLATION AND
ASSESSMENT OF CIVIL
PENALTY FOR
VIOLATIONS OF
CEASE & DESIST ORDER
N.C.G.S. §19A-40

Acting pursuant to North Carolina General Statutes §19A-26 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 October 12, 2010, Administrative Office Joe Blomquist, Animal Welfare Section, NCDA&CS, visited Angel's Paws Rescue (hereinafter "APR"), 3069 Herbert Faucett Road, Granville, North Carolina, and determined that an animal shelter was in operation at that location.

B. Administrative Office Blomquist informed the owner of APR, Ms. Tracy Smith, that the North Carolina Animal Welfare Act requires that private animal shelters be registered with the NCDA&CS and that private animal shelters' facilities be operated in compliance with minimum standards set forth in 2 North Carolina Administrative Code 52J.

C. Administrative Officer Blomquist inspected the APR facility, determined that it was not in compliance with minimum standards and informed Ms. Smith of what needed to be done to qualify for registration.

D. Administrative Officer Blomquist provided Ms. Smith with an application for registration and invited her to apply for registration on behalf of APR.

E. As of October 26, 2010, APR had not submitted an application for registration to the Animal Welfare Section, NCDA&CS.

F. On October 26, 2010, the Animal Welfare Section, NCDA&CS, issued a Cease and Desist Order to APR, mailed by U.S. Mail, Certified, Return Receipt Requested, to 3069 Herbert Faucett Road, Granville, North Carolina.

G. On October 30, 2010, the Animal Welfare Section, NCDA&CS, received a return receipt acknowledgement card for its Cease and Desist Order, indicating that said order had been received at APR.

H. On November 18, 2010, Administrative Officer Blomquist returned to APR and determined that it was still in operation.

I. To date APR has not applied for registration and remains in operation.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, alleges that Angel's Paws Rescue, either by act or omission, violated the following provision of 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. Angel's Paws Rescue violated N.C.G.S. §19A-26 and may be assessed a civil penalty of up $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-26 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, All Creatures Great and Small is assessed a civil penalty of:

$1,000.00 for violating N.C.G.S. §19A-26
$1,000.00 TOTAL AMOUNT ASSESSED

Nov. 24, 2010
Date

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