



Steven W. Troxler  
Commissioner

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

David T. Marshall, DVM  
State Veterinarian

December 20, 2011

Ms. Wendy Gunter  
212 Snow Creek Road  
Statesville, North Carolina 28625

**CERTIFIED MAIL  
RETURN RECEIPT  
REQUESTED -**

**7006 2760 0003 0472 2426**

NOTICE OF CIVIL PENALTY

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

Dear Ms. Gunter:

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 )  
 )  
WENDY B. GUNTER ) 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-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 November 22, 2010, the Veterinary Division, NCDA&CS, formally denied Ms. Gunter's application for a boarding kennel license for a boarding kennel she operated at 1086 Turnersburg Highway, Statesville, North Carolina.
- B. On November 22, 2010, the Veterinary Division, NCDA&CS, formally ordered Ms. Gunter to cease and desist from operating an animal shelter without a license with the unlicensed boarding kennel she operated at 1086 Turnersburg Highway, Statesville, North Carolina.
- C. On November 21, 2011, in the course of an investigation of an unlicensed boarding kennel located at 1086 Turnersburg Highway, Statesville, North Carolina, Ms. Gunter admitted to the Division's inspectors, Shelley Swaim and Gary Stamey, that Ms. Gunter had been taking dogs to her home at 212 Snow Creek Road, Statesville, North Carolina, at night from the facility at 1086 Turnersburg Highway.
- D. Ms. Gunter further admitted that she had been boarding the dogs she took home overnight in her home, returning them the next morning to the facility at 1086 Turnersburg Highway.
- E. Ms. Gunter further admitted that, at that time neither her home at 212 Snow Creek Road nor the boarding kennel facility at 1086 Turnersburg Highway was licensed as a boarding kennel by the Veterinary Division.

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, alleges that Wendy B. Gunter, 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. Wendy B. Gunter 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, Wendy B. Gunter 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, DVM  
State Veterinarian