



Steve Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Meat and Poultry Inspection Division

Donald H. Delozier
State Director

March 1, 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Asian Market
Mr. Nongkham Chanthaboun
Ms. Vixay Chanthaboun
505 Woodlawn Avenue-A
Belmont NC 28012

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAW
G.S. § 106-549.23

Dear Mr. & Mrs. Nongkham Chanthaboun:

Pursuant to North Carolina General Statute (G.S.) 106-549.35(c) this letter is notice of a civil penalty by the North Carolina Department of Agriculture and Consumer Services, Meat and Poultry Inspection 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 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 Mr. Donald H. Delozier, Director, Meat & Poultry Inspection Division, who may be contacted by telephone at (919) 733-4136. Settlement offers do not extend the 60 day deadline for payment or filing of a contested case 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 and Consumer Services
Mr. Donald H. Delozier, Director
Meat & Poultry Inspection Division
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

-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, North Carolina 27699-1001

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:

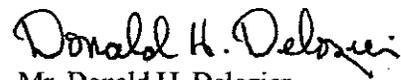
Mr. Ray Starling
North Carolina Department of Agriculture and Consumer Services
Process Agent and General Counsel
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

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.

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Your attention to this matter is appreciated.

Sincerely,



Mr. Donald H. Delozier
Director, Meat & Poultry Inspection Division

DHD:aw

Attachments: Assessment Document
CC: Mr. Barry Bloch, Assistant Attorney General
Mr. Ray Starling, General Counsel

STATE OF NORTH CAROLINA
COUNTY OF GASTON

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE & CONSUMER SERVICES
MEAT & POULTRY INSPECTION DIVISION

IN THE MATTER OF)

Asian Market)

FOR VIOLATIONS OF N.C. COMPULSORY)
MEAT INSPECTION LAW)
G.S. § 106-549.23)

NOTICE OF VIOLATIONS
AND ASSESSMENT OF
CIVIL PENALTY

Acting pursuant to North Carolina General Statute (G.S.) § 106-549.35(c), Mr. Donald H. Delozier, Director, Meat and Poultry Inspection Division (MPID) of the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

I. FINDINGS OF FACTS:

- A. On January 5, 2011, United States Department of Agriculture (USDA), Food Safety Inspection Service (FSIS) Investigator John Zeberan (“Zeberan”) performed a random compliance review at Asian Market, 505 Woodlawn Avenue-A, Belmont, NC.
- B. Zeberan spoke with Mr. Nongkham Chanthaboun (“Mr. Chanthaboun”), who identified himself as the owner and operator of Asian Market.
- C. Zeberan inspected the goods being offered for sale to the general public at Asian Market and discovered that some of the meat products being offered for sale lacked required labeling, rendering them misbranded.
- D. Zeberan surveyed the entire inventory of meat products on hand and found misbranded/non-inspected beef jerky.
- E. Zeberan officially detained and photographed three (3) packages, weighing approximately 3/4 lbs., of the above-referenced product, comprising the entire inventory on hand of such meat at Asian Market.
- F. Mr. Chanthaboun informed Zeberan in a signed Shipper’s or Receiver’s Certification dated January 5, 2011 that he purchased ten packages of misbranded/non-inspected beef jerky from a lady named “Duey” on or about December 24, 2010 for the sole purpose of resale to the general public.
- G. Mr. Chanthaboun stated that he did not know “Duey’s” address or telephone number nor did “Duey” supply an invoice or sales receipt for the purchase of the beef jerky.
- H. The misbranded/non-inspected beef jerky that Mr. Chanthaboun purchased from “Duey” was packaged in clear plastic tray containers which did not contain a NCDA or USDA mark of inspection or required labeling.

- I. Mr. Chanthaboun stated that he had sold seven containers of the misbranded/non-inspected beef jerky weighing approximately 1.5 pounds to the general public since December 24, 2010.
- J. On January 5, 2011, Mr. Chanthaboun stated that he had stored, offered for sale and sold misbranded/non-inspected meat products to the general public for approximately two months.
- K. In addition to the aforementioned activities, Asian Market failed to keep accurate and legible records documenting the purchase, receipt, etc. of the beef jerky.
- L. Asian Market does not operate under county, state or federal inspection.
- M. The NCDA&CS, MPID, had previously found Asian Market to be violating the North Carolina Compulsory Meat Inspection Law on September 3, 2008.
- N. The North Carolina Department of Justice issued Asian Market a Letter of Warning concerning this previous violation on January 6, 2009.
- O. The NCDA & CS, MPID, also found Asian Market to be violating the North Carolina Compulsory Meat Inspection Law and the North Carolina Poultry Products Inspection Law on March 18, 2010.

II. CONCLUSIONS OF LAW

- A. Asian Market was found to be storing, offering for sale and selling misbranded/non-inspected (no NCDA or USDA mark of inspection) meat products in violation of General Statute 106-549.23 and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under G.S. §106-549.35(c).
- B. The Commissioner of Agriculture, pursuant to G.S. §106-549.35(c) has the authority to assess civil penalties in this matter. The authority has been delegated to Mr. Donald H. Delozier, Director, Meat and Poultry Inspection Division by the Commissioner of Agriculture pursuant to G.S. §143B-10(a).

III. DECISION

As required by G.S. §106-549.35(c) in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of G.S. § 106-549.23.

Accordingly Mr. & Mrs. Nongkham Chanthaboun, owner/operator of Asian Market, is assessed a civil penalty of:

\$2000.00 for violating G.S. § 106-549.23
\$2000.00 TOTAL AMOUNT ASSESSED.

March 1, 2011

Date

Donald H. Delozier
Mr. Donald H. Delozier, Director
Meat and Poultry Inspection Division