



Steve Troxler
Commissioner

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

Donald H. Delozier
State Director

January 20, 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

B & B Produce & Country Market
Ms. Donna Mangum
770 Cornelius Street
Hillsborough NC 27278

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

Dear Ms. Donna Mangum:

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

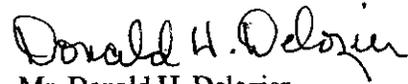
Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

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.

Your attention to this matter is appreciated.

Sincerely,



Mr. Donald H. Delozier

Director, Meat & Poultry Inspection Division

DHD:aw

Attachments: Assessment Document

CC: Ms. Anne J. Brown, Special Deputy Attorney General

IN THE MATTER OF)

B & B Produce & Country Market)

FOR VIOLATIONS OF THE 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 December 19, 2011, NCDA & CS, MPID Food Compliance Officer Percy Russell (hereinafter, FCO Russell, respectively) visited B & B Produce & Country Market, 770 Cornelius Street, Hillsborough, NC.
- B. FCO Russell spoke with Ms. Donna Mangum (hereinafter, Ms. Mangum, respectively), who identified herself as the owner and operator of B & B Produce & Country Market.
- C. FCO Russell inspected the goods being offered to the general public for sale at B & B Produce & Country Market and discovered that some of the meat products being offered for sale lacked required labeling, rendering them misbranded.
- D. FCO Russell surveyed all of the inventory of meat products on hand and found:
 - a) misbranded (no NCDA or USDA mark of inspection or required labeling) pork chops and;
 - b) misbranded (no NCDA or USDA mark of inspection or required labeling) pork link sausage.
- E. FCO Russell NC detained and photographed two (2) packages weighing approximately eight (8) pounds of the above-referenced meat products, comprising the entire inventory on hand of such meat products at B & B Produce & Country Market.
- F. Ms. Mangum informed FCO Russell that she had purchased the above referenced misbranded pork link sausage in bulk boxes that contained a USDA mark of inspection but could not provide invoices to that effect.
- G. Ms. Mangum stated that she repackaged the pork link sausage into plastic bags without the benefit of inspection for the sole purpose of resale to the general public at her store.
- H. Ms. Mangum stated that she purchased the above referenced misbranded pork chops at a Sam's Club located in Durham, NC for the sole purpose of resale to the general public at the her store.
- I. Ms. Mangum alleged that the pork chops had a USDA mark of inspection on the package but the USDA mark of inspection had been removed by one of her employees.

- J. B & B Produce & Country Market does not operate under county, state or federal inspection.
- K. On December 19, 2011, FCO Russell issued B & B Produce & Country Market an on-site cease and desist order prohibiting the sale of misbranded meat products.
- L. The NCDA & CS, MPID, had previously found B & B Produce & Country Market to be violating the North Carolina Compulsory Meat Inspection Law and/or the North Carolina Poultry Products Inspection Law on May 16, 2011.
- M. The North Carolina Department of Agriculture and Consumer Service, Meat and Poultry Inspection Division issued B & B Produce & Country Market a Notice of Warning concerning the previous violation on June 10, 2011.

II. CONCLUSIONS OF LAW

- A. B & B Produce & Country Market found to be processing, storing and offering for sale misbranded (no NCDA or USDA mark of inspection or required labeling) meat products in violation of General Statutes 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 Ms. Donna Mangum, owner/operator of B & B Produce & Country Market, is assessed a civil penalty of:

\$1000.00 for violating G.S. § 106-549.23
\$1000.00 TOTAL AMOUNT ASSESSED.

Date

Jan 20, 2012

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