



Steve Troxler
Commissioner

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

Donald H. DeLozier
State Director

January 21, 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ojemba African Market & Gift
Ms. Charity Morgini
3579 Maitland Drive
Raleigh NC 27610

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAW AND POULTRY PRODUCTS INSPECTION LAW
G.S. § 106-549.23 and 106-549.56

Dear Ms. Charity Morgini:

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

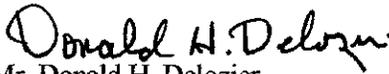
Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

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

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

IN THE MATTER OF)
)
Ojemba African Market & Gift)
)
FOR VIOLATIONS OF N.C. COMPULSORY) NOTICE OF VIOLATIONS
MEAT INSPECTION LAW AND POULTRY) AND ASSESSMENT OF
PRODUCTS INSPECTION LAW) CIVIL PENALTY
G.S. § 106-549.23 and 105-549.56)

Acting pursuant to North Carolina General Statute (G.S.) § 106-549.35(c) and (G.S.) §106-549.59 (a1), 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 16, 2010, NCDA & CS, MPID Food Compliance Officer Daniel E. Moody Jr. (“FCO Moody”) visited Ojemba African Market & Gift, 3579 Maitland Drive, Raleigh, NC.
- B. FCO Moody spoke with Ms. Charity Morgini (“Ms. Morgini”), who identified herself as the owner and operator of Ojemba African Market & Gift.
- C. FCO Moody inspected the goods being offered to the general public for sale at Ojemba African Market & Gift and discovered that some of the meat and poultry products being offered for sale lacked required labeling, rendering them misbranded.
- D. FCO Moody surveyed all of the inventory of meat and poultry products on hand and found:
 - a) misbranded (no NCDA or USDA mark of inspection or required labeling) beef tripe;
 - b) misbranded (no NCDA or USDA mark of inspection or required labeling) goat meat;
 - c) misbranded (no NCDA or USDA mark of inspection or required labeling) chicken;
 - d) misbranded (no NCDA or USDA mark of inspection or required labeling) smoked turkey.
- E. FCO Moody NC detained and photographed 38 packages weighing approximately 76 pounds of the above-referenced products, comprising the entire inventory on hand of such meat and poultry products at Ojemba African Market & Gift.
- F. Ms. Morgini informed FCO Moody that she had purchased the above referenced misbranded packages of meat and poultry products in bulk boxes from Afrik International Food Store, 411 Morse Street NE, Washington, DC.
- G. Ms. Morgini supplied a generic retail type receipt for the above referenced meat and poultry products but the receipt did not contain accurate and legible information.

- H. Ms. Morgini stated that the individual packages of misbranded beef tripe, goat meat, chicken and smoked turkey, being offered for sale, were already packaged in small clear plastic bags, which did not contain a USDA mark of inspection, at the time she removed the packages from the master container.
- I. Ojemba African Market & Gift does not operate under county, state or federal inspection.
- J. On December 16, 2010, FCO Moody issued Ojemba African Market & Gift an on-site cease and desist order prohibiting the sale of misbranded meat and poultry products.
- K. The NCDA & CS, MPID, had previously found Ojemba African Market & Gift to be violating the North Carolina Compulsory Meat Inspection Law and/or the North Carolina Poultry Products Inspection Law on August 17, 2009.
- L. The North Carolina Department of Justice issued Ojemba African Market & Gift a Letter of Warning concerning these previous violations on October 5, 2009.

II. CONCLUSIONS OF LAW

- A. Ojemba African Market & Gift found to be storing, offering for sale and selling misbranded (no NCDA or USDA mark of inspection or required labeling) meat and poultry products in violation of General Statutes 106-549.23 and 106-549.56 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) and G.S. §106-549.59 (a1).
- B. The Commissioner of Agriculture, pursuant to G.S. §106-549.35(c) and G.S. §106-549.59 (a1) 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) and G.S. §106-549.59 (a1) 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 and G.S. §106-549.56.

Accordingly Ms. Charity Morgini, owner/operator of Ojemba African Market & Gift, is assessed a civil penalty of:

\$1500.00 for violating G.S. § 106-549.23 and G.S. § 106-549.56
\$1500.00 TOTAL AMOUNT ASSESSED.

Date

Jan. 21, 2011

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