



Steve Troxler
Commissioner

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

W. Alan Wade
State Director

May 28, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dickie's Half Price Foods
Tracy Plemmons, Owner
114 Hansel Avenue
Asheville, NC 28806

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

Dear Mr. Tracy Plemmons:

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. W. Alan Wade, Director, Meat & Poultry Inspection Division, who may be contacted by telephone at (919) 707-3180. 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
W. Alan Wade, 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:

Ms. Tina Hlabse
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,

W. Alan Wade

Mr. W. Alan Wade
Director, Meat & Poultry Inspection Division

WAW:pr

Attachments: Assessment Document

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

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

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

IN THE MATTER OF)

Dickie's Half Price Foods)

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. W. Alan Wade, Director, Meat and Poultry Inspection Division of North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

I. FINDINGS OF FACTS:

- A. On April 10, 2013, NCDA & CS, MPID, Food Compliance Officer Ray Sloan (hereinafter FCO Sloan, respectively) visited Dickie's Half Price Foods, 114 Hansel Avenue, Asheville, NC.
- B. FCO Sloan spoke with Mr. Jesse Plemmons, Manager (hereinafter, Mr. Plemmons, respectively) who identified himself as the manager of Dickie's Half Price Foods.
- C. FCO Sloan inspected goods being offered to the general public for sale at Dickie's Half Price Foods and discovered that some of the meat products being offered for sale lacked required labeling, rendering them misbranded.
- D. FCO Sloan surveyed all of the inventory of meat products on hand and found non-inspected/misbranded (no NCDA or USDA mark of inspection or required labeling) sliced smoked ham and pork fat back.
- E. FCO Sloan NC detained and photographed two (2) packages weighing approximately six (6) pounds of the above-referenced products, comprising the entire inventory on hand of such meat products at Dickie's Half Price Foods.
- F. Mr. Plemmons informed FCO Sloan that he had purchased the above referenced misbranded sliced smoked ham and pork fat back in bulk boxes that contained a USDA mark of inspection and but could not provide invoices to that effect.
- G. Mr. Plemmons stated that he repackaged the sliced smoked ham and pork fat back into plastic bags without the benefit of inspection for the sole purpose of resale to the general public.
- H. Dickie's Half Price Foods does not operate under county inspection, state or federal inspection.

- I. On April 10, 2013, FCO Sloan issued Dickie's Half Price Foods an on-site cease and desist letter prohibiting the sale of misbranded meat products.
- J. The NCDA & CS, MPID, had previously found Mr. Plemmons, owner and operator of the Dickie's Half Price Foods, 114 Hansel Avenue, Asheville, NC to be violating the North Carolina Compulsory Meat Inspection Law and/or the North Carolina Poultry Products Law on September 9, 2005.
- K. The North Carolina Department of Justice issued Dickie's Half Price Foods, 114 Hansel Avenue, Asheville, NC, a Letter of Warning for the transporting, processing, storing, offering for sale and selling of misbranded meat and poultry products in 2005.

II. CONCLUSIONS OF LAW

- A. Dickie's Half Price Foods found to be processing, storing, offering for sale and selling non-inspected/misbranded 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. W. Alan Wade, 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 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, 106-549.24 and 106-549.56.

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

May 28, 2013
Date

W. Alan Wade
Mr. W. Alan Wade, Director
Meat and Poultry Inspection Division