



Steve Troxler
Commissioner

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

Dr. Beth Yongue
State Director

February 19, 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Pedro Hernandez
Ms. Zenaida Hernandez
1945 Dilling Farm Road
Charlotte, NC 28214

Mr. Felicito Phillip Hernandez
624 Trailing Rock Road
Charlotte, NC 28214

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAWS AND POULTRY PRODUCTS INSPECTION LAWS
G.S. § 106-549.17, 106-549.23 and 106-549.56.**

Dear Mr. Pedro Hernandez, Ms. Zenaida Hernandez, Mr. Felicito Phillip Hernandez,

Pursuant to North Carolina General Statute (G.S.) 106-549.35(c) and (G.S.) 106-549.59(a1) 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 Dr. Beth Yongue, 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:

Mr. Pedro Hernandez
Ms. Zenaida Hernandez
Mr. Felicito Phillip Hernandez
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-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
Dr. Beth Yongue, 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

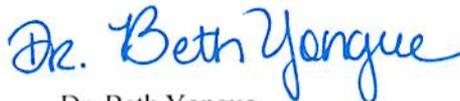
Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

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,



Dr. Beth Yongue
Director, Meat & Poultry Inspection Division

MEY:dm

Attachments: Assessment Document

CC: Mr. Chris McLennan, Assistant Attorney General
Mr. Joe Reardon, Assistant Commissioner
Ms. Tina Hlabse, General Counsel

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

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

IN THE MATTER OF)
)
Mr. Pedro Hernandez)
Ms. Zenaida Hernandez)
Mr. Felicito Hernandez)
)
)
FOR VIOLATIONS OF THE N.C. COMPULSORY)
MEAT INSPECTION LAW AND N.C. POULTRY)
POULTRY PRODUCTS LAW)
G.S. § 106-549.17, § 106-549.23(1), § 106-549.23(3)(a))
§ 106-549.23(3)(b) & 106-549.56(a)(2))

NOTICE OF VIOLATIONS
AND ASSESSMENT OF
CIVIL PENALTY

Acting pursuant to North Carolina General Statute (G.S.) § 106-549.35(c), § 106-549.17, § 106-549.23(1), § 106-549.23(3)(a), § 106-549.23(3)(b) and § 106-549.56(a)(2) Dr. Beth Yongue, 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. This investigation is a result of anonymous information received alleging that there was a non-inspected slaughter/processing operation being conducted at 1945 Dilling Farm Road, Charlotte, NC.
- B. On October 14, 2017, a confidential informant, while posing as a member of the general public, went to 1945 Dilling Farm Road, Charlotte, NC also known as Big H Farms, where an apparent non-inspected slaughter and processing operation appeared to be in full operation, without the benefit of NCDA (State) or USDA (Federal) inspection.
- C. After arriving at the property, the confidential informant, spoke with a farm employee and requested to purchase some goat meat. The farm employee then began removing the hair, from a goat that was killed prior to the confidential informant's arrival, by burning the hair off with a blowtorch. The employee then eviscerated the animal (goat carcass) and cut off approximately six (6) pounds of the goat meat (ribs and skin attached) and placed/packaged the goat meat into a small non-food grade plastic bag. The non-food grade plastic bag stated the following: "Have A Nice Day", "Thank You" and the bag contained a large yellow smiley face.
- D. On October 14, 2017, the confidential informant also observed a large bull carcass, the bull was killed prior to the confidential informant's arrival, hanging from a forklift. The confidential informant asked the farm employee if he could purchase approximately three (3) pounds of the beef meat.

- E. On October 14, 2017, the confidential informant, paid six (6) dollars per pound for the goat meat a total of \$36.00 and the informant paid \$10.00 for three (3) pounds of beef meat. The goat meat and beef meat came to a total of \$46.00.
- F. The non-inspected, misbranded and/or adulterated meat products were transferred from the confidential informant to Compliance Officer Philip Renshaw (hereinafter, CO Renshaw, respectively) relevant to chain of custody proceedings.
- G. Upon taking custody of the non-inspected, misbranded and/or adulterated meat products, CO Renshaw examined and photographed the contents and saw no NCDA (State) or USDA (Federal) marks of inspection and several signs of adulteration which included a speckled black substance and a small amount of hair on the non-inspected/misbranded goat meat.
- H. CO Renshaw transferred the above mentioned non-inspected, misbranded and/or adulterated meat products to the MPID Raleigh Compliance Office, following the Division chain of custody procedures.
- I. On October 28, 2017, the confidential informant, while posing as a member of the general public, visited the property of Big H Farms, 1945 Dilling Farm Road, Charlotte, NC 28214 for a second undercover purchase. At the time the confidential informant arrived on the property of Big H Farms there appeared to be a non-inspected slaughter and processing operation in full operation, without the benefit of NCDA (State) or USDA (Federal) inspection for the general public.
- J. After arriving at the property, the confidential informant, observed a beef carcass hanging from the back of a tractor (this animal was slaughtered prior to the confidential informant's arrival), and spoke with a farm employee to purchase part of the animal's stomach.
- K. After the confidential informant spoke with the farm employee, the employee of Big H Farms walked up to the beef carcass that was hanging from the tractor (that was slaughtered without the benefit of NCDA or USDA inspection) and cut out/removed part of the stomach from the eviscerated carcass. The viscera/stomach was lying on the concrete floor when the farm employee removed it for the confidential informant. The farm employee in-turn emptied the loose stomach digestive contents out the stomach, briefly sprayed it with a water hose (approximately 5 pounds of stomach) and then packaged it into a small non-food grade plastic bag. The non-food grade plastic bag stated the following: "Have A Nice Day", "Thank You" and the bag contained a large yellow smiley face.
- L. On October 28, 2017, the confidential informant, was charged and paid \$20.00 for the non-inspected, misbranded and adulterated beef stomach.

- M. The non-inspected, misbranded and/or adulterated meat products were transferred from the confidential informant to CO Renshaw relevant to chain of custody proceedings.
- N. Upon taking custody of the non-inspected, misbranded and/or adulterated meat products, CO Renshaw examined and photographed the contents and saw no NCDA (State) or USDA (Federal) marks of inspection and several signs of adulteration which included a large amount of fecal material and/or ingesta attached to the beef stomach. The confidential informant stated that the meat product had a strong off smell to it at the time the non-inspected, misbranded and adulterated beef stomach was placed into the non-food grade plastic bag.
- O. CO Renshaw transferred the above mentioned non-inspected, misbranded and/or adulterated meat products to the MPID Raleigh Compliance Office, following the Division chain of custody procedures.
- P. On January 20, 2018, NCDA & CS, MPID, Compliance Officer Philip Renshaw (hereinafter, CO Renshaw, respectively), Compliance Officer Jake Groce (hereinafter, CO Groce, respectively) and Compliance Officer Daniel Moody (hereinafter, CO Moody, respectively), along with members of the Mecklenburg County Sheriff's Office: Captain D. Belk, Sergeant G. Headon, Deputy A. Stitt, Deputy D. Frazier, Deputy N. Davie, Deputy E. Elmendorf, Deputy B. Daniels, Deputy D. Davis, Deputy G. Baker, Deputy C. Pettis, and Deputy R. Poe, executed an administrative inspection warrant at the property owned by Mr. Pedro Hernandez and Ms. Zenaida Hernandez, 1945 Dilling Farm Road, Charlotte, NC, on behalf of the North Carolina Department of Agriculture and Consumer Services to investigate the illegal slaughtering, processing and selling of misbranded, non-inspected and adulterated meat and poultry products to the general public.
- Q. During the announcement of the execution of the administrative inspection warrant, the son of the property owners, Mr. Felicito Phillip Hernandez, 624 Trailing Rock Dr., Charlotte, NC, stated that he was in charge of the non-inspected slaughtering and processing operation.
- R. Upon entering the property, CO's Renshaw, Groce and Moody observed, photographed and videoed the wooden buildings on the property and the live animals which consisted of: approximately fifteen (15) goats/lambs, eleven (11) cattle, ten (10) hogs, nine (9) rabbits, forty (40) pigeons/doves, two (2) turkeys, one (1) small calf, thirty (30) ducks, twenty (20) roosters and two hundred and twenty (220) chickens.
- S. On the property, there was an open-sided roof structure that contained a slaughter area. This slaughter area contained a stainless-steel table, a white metal bathtub with a propane tank and burner system attached to it. The bath tub was full of hot steaming water and in the past Big H Farms has used this tub as a scald vat for pigs.
- T. There was a holding pen directly attached to the slaughter area that contained ten (10) pigs/hogs which appeared to be waiting to be slaughtered.

- U. Attached to the slaughter area was a wooden building (20 ft x 20 ft., tan in color) which was being used for processing the slaughtered animals and storing the non-inspected meat and poultry products which were being offered for sale and sold to the general public. Inside the processing room there was one small meat grinder, two band saws, several fans (with heavy dust/debris), dozens of knives and steels, two stainless steel processing tables, a wheelbarrow, a water hose, a poultry plucker, a poultry scolding vat, household cleaning chemicals, a 22 rifle, one commercial cooler with three glass doors and one household refrigerator/freezer which all contained non-inspected, misbranded and/or adulterated meat (goat, sheep, pork and beef) products which were being stored and offered for sale to the public.
- V. When entering the wooden building where the processing operation was set up Big H Farms used the left side of the room for cleaning and processing poultry. This area contained a stainless-steel table, a poultry plucker, a stainless-steel sink, a poultry scolding vat, three (3) large plastic containers and the plastic containers were full of cleaned whole chickens (approximately three hundred ten (310) pounds). The poultry scolding vat was full of water and still steaming from previous use.
- W. On January 20, 2018, Mr. Phillip Hernandez was asked to produce documentation on the poultry that was slaughtered and processed earlier that day as noted in M.P.I.D. Notice 5-14. Mr. Hernandez stated that he did not maintain or have any records for the poultry that was slaughtered and processed earlier that day.
- X. Directly in front of the slaughter area and across a small gravel lot there is a cabin style structure (approximately 25ftX60ft) that contained three (3) large chest freezers. Inside the three (3) chest freezers were approximately one thousand (1,000) pounds of non-inspected, misbranded and adulterated beef meat and approximately one hundred (100) pounds of non-inspected, misbranded and adulterated pork meat. Inside the three (3) chest freezers the non-inspected, misbranded and adulterated meat products were encased in ice, had a freezer burned appearance and the meat products were stored in the freezers without any wrapping or protection to maintain the wholesomeness of the meat products.
- Y. On the back side of the cabin style structure there was a walk-in refrigerated truck body used as a walk-in cooler. The truck body had a heavy-duty gate (used on animal pastures) mounted to the ceiling and the non-inspected, misbranded and/or adulterated meat products were hanging on metal hooks from this heavy-duty gate. CO's Renshaw, Groce and Moody observed approximately ninety (90) pounds of goat meat, two hundred and sixty (260) pounds of pork meat and one thousand fifty (1,050) pounds of beef meat. The non-inspected, misbranded and/or adulterated meat products contained a speckled black substance, hair and fecal material.
- Z. CO's Renshaw, Groce and Moody estimated that approximately 3,120 pounds of non-inspected, misbranded (no NCDA or USDA mark of inspection or required labeling) and/or adulterated meat products were observed and NC Detained (Tag Numbers: 2930, 2932, 2937, 4390, 4391, 4402, 4403, 4404, 4405, 4415 and 4416), videoed and photographed.

- AA. CO's Renshaw, Groce and Moody examined the NC Detained non-inspected, misbranded and/or adulterated meat products and observed various meat products of goat/lamb, beef and pork that contained fecal material, hair, rust and a black substance directly on the meat products.
- BB. Inside the processing room was a meat band saw, a one compartment stainless steel sink with a water hose attached, plastic containers, several scales, one scalding water tank for processing chickens, a wood cutting block, a wood table, several knives and a metal cone used for slaughtering chickens.
- CC. Numerous unsanitary conditions and practices were observed by CO's Renshaw, Groce and Moody which led to the direct adulteration of the slaughtered and processed animals. These unsanitary conditions and practices included but were not limited to:
- a. the band saw contained meat particles from previous day(s) use;
 - b. blood, bones, hooves and horns were observed lying around the area from previous day(s) slaughter/processing activities;
 - c. the equipment, tables and buildings showed no signs of routine cleaning or sanitizing;
 - d. the processing table located next to the kill floor had a white cutting board on the top which was discolored and deeply scored with knife marks;
 - e. the stainless-steel processing table located next to the kill floor had a buildup of dried blood residues and hair, from the previous day(s) slaughter, on the surface area;
 - f. no device to sanitize knives was observed in the building;
 - g. the scald vat was a converted bathtub and had a buildup (black unidentified substance and hair) on the surface area from previous day(s) use;
 - h. a bag containing Kevlar gloves had heavy buildups (dirt, grime and meat particles) on the surface area from previous day(s) use and;
 - i. knives used for processing had buildup (dried blood residue and hair) on the surface area from the previous day(s) use.
- DD. On the south side grounds of the property, CO's Renshaw, Groce and Moody observed several acres of land where it appeared Mr. Hernandez had been digging to dispose of dead animals and offal (internal organs, heads and bones) generated by the non-inspected slaughter and processing facility.
- EE. On January 20, 2018, Mr. Phillip Hernandez was issued on-site cease and desist letters for the selling of non-inspected, misbranded and/or adulterated meat and poultry products.
- FF. On October 14, 2011, Mr. Pedro Hernandez, Ms. Zenaida Hernandez and Mr. Felicito Phillip Hernandez was found to be slaughtering (without the benefit of NCDA or USDA inspection) processing, storing, offering for sale and selling non-inspected, misbranded and adulterated meat products to the general public in violation of the North Carolina Compulsory Meat Inspection Law, General Statutes 106-549.17 and 106-549.23 and the North Carolina Poultry Products Inspection Laws, General Statutes § 106-549.56.

GG. On June 21, 2012, Mr. Pedro Hernandez, Ms. Zenaida Hernandez and Mr. Felicito Phillip Hernandez was issued a civil penalty of \$68,000.00 by the North Carolina Department of Agriculture and Consumer Services (NCDA&CS), Meat and Poultry Inspection Division (MPID) for the slaughtering (without the benefit of NCDA or USDA inspection), processing, storing, offering for sale and selling of non-inspected, misbranded and/or adulterated meat products to the general public in violation of the North Carolina Compulsory Meat Inspection Laws, General Statutes § 106-549.17, § 106-549.23 and § 106-406 and the North Carolina Poultry Products Inspection Laws, General Statute § 106-549.53 and § 106-549.56.

CONCLUSIONS OF LAW

- A. Mr. Pedro Hernandez, Ms. Zenaida Hernandez and Mr. Felicito Hernandez are found to be slaughtering (without the benefit of NCDA (State) or USDA (Federal) inspection), processing, storing, offering for sale and selling non-inspected/misbranded and/or adulterated meat and poultry products to the general public and in addition, the unacceptable insanitary conditions at the location/facility were such that all products slaughtered (without the benefit of NCDA (State) or USDA (Federal) inspection), processed, stored, offered for sale and sold would be rendered adulterated in violation of General Statutes § 106-549.17, § 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 under 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 Dr. Beth Yongue, Director, Meat and Poultry Inspection Division by the Commissioner of Agriculture pursuant to G.S. §143B-10(a).

I. DECISION

As required by G.S. §106-549.35(c) and G.S. §106-549.59 (a1) 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. § 106-549.17, 106-549.23, 106-549.53 and 106-549.56.

Accordingly, Mr. Pedro Hernandez, Ms. Zenaida Hernandez and Mr. Felicito Phillip Hernandez are assessed a civil penalty of:

- (\$22,000.00) §106-549.17.(a) - Inspection of Animals Before Slaughter
- (\$22,000.00) §106-549.23.(1) - Prohibited Slaughter
- (\$22,000.00) §106-549.23.(3)(a) - Prohibited Sale (Misbranded)
- (\$22,000.00) §106-549.23.(3)(b) - Articles Required to be Inspected
- (\$22,000.00) §106-549.23.(3)(a) - Prohibited Sale (Adulterated)
- (\$2,000.00) §106-549.56.(a)(2) - Prohibited Act (Misbranded)

\$112,000.00 for violating General Status §106-549.17, §106-549.23, §106-549.53 and §106-549.56.
\$112,000.00 TOTAL AMOUNT ASSESSED.

February 19, 2018 

Date

Dr. Beth Yongue, Director
Meat and Poultry Inspection Division