



Steve Troxler
Commissioner

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

Dr. Beth Yongue
State Director

August 17, 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lino Aguilar Diaz
11126 Monroe Road
Matthews, NC 28105

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

Dear Mr. Lino Aguilar Diaz:

Pursuant to North Carolina General Statutes § § (G.S.) 106-549.35(c) and 106-549.23 (3) (a) & (b), this letter is notice of a civil penalty by the North Carolina Department of Agriculture and Consumer Services (NCDA & CS), Meat and Poultry Inspection Division (MPID). The Notice of Violation and Assessment of Civil Penalty 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:

-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

- I. Mr. Lino Aguilar Diaz stated in a signed statement dated July 5, 2018, that he processed, transported, stored, offered for sale and sold the misbranded/non-inspected packages of cooked pork skins to the general public for approximately three months.
- J. On October 18, 2015, Mr. Lino Aguilar Diaz was found to be processing, storing, transporting, offering for sale and selling misbranded/non-inspected (no N.C.D.A. or U.S.D.A. mark of inspection or required labeling) meat products to the general public in violation of the North Carolina Compulsory Meat Inspection Laws, General Statutes § 106-549.23 (3) (a) & (b).
- K. On December 16, 2015, a Notice of Warning (NOW) was issued by the North Carolina Department of Agriculture and Consumer Services (NCDA & CS), Meat and Poultry Inspection Division (MPID) to Mr. Lino Aguilar Diaz (a.k.a. Mr. Lino Diaz Aguilar) for the processing, storing, transporting, offering for sale and selling misbranded/non-inspected meat products to the general public in violation of the North Carolina Compulsory Meat Inspection Laws, General Statute § 106-549.23 (3) (a) & (b).

II. CONCLUSIONS OF LAW

- A. Mr. Lino Aguilar Diaz was found to be processing, transporting, storing, offering for sale and selling misbranded/non-inspected meat products to the general public in violation of the General Statute § 106-549.23 and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under General Statute §106-549.35(c).
- B. The Commissioner of Agriculture, pursuant to General Statute § 106-549.35(c) 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 General Statute §143B-10(a).

III. DECISION

- A. As required by General Statute §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 General Statute § 106-549.23.

Accordingly, Mr. Lino Aguilar Diaz
is assessed a civil penalty of:

\$ 500.00 for violating G.S. § 106-549.23 (3)(a) – (Misbranded/Non-Inspected Meat)
\$ 500.00 for violating G.S. § 106-549.23 (3)(b) – (Misbranded/Non-Inspected Meat)

\$ 1,000.00 TOTAL AMOUNT ASSESSED

August 17, 2018
Date

Dr. Beth Yongue
Dr. Beth Yongue, Director
Meat and Poultry Inspection Division