



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Joseph W. Reardon
Assistant Commissioner
for Consumer Protection

Douglas Meckes, DVM
State Veterinarian

February 15, 2021

Avery Griffin
Owner
Camp Bow Wow South Asheville
5 Airport Road
Arden, North Carolina 28704

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE ("NCAC") CHAPTER 52J SECTION .0204(e).

AWS-CP-2021-5

Facility: Camp Bow Wow South Asheville
License Number - 11363

Dear Ms. Griffin:

Pursuant to NCGS § 19A-40, I am issuing this notice that you, as owner of Camp Bow Wow South Asheville, are hereby assessed a civil penalty of \$500.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, 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 with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. 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. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.

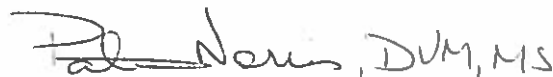
You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 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,



Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

AVERY GRIFFIN

DBA CAMP BOW WOW
SOUTH ASHEVILLE

) NOTICE OF VIOLATION and
) ASSESSMENT of CIVIL PENALTY
) for VIOLATION of TITLE 02 N.C
) ADMINISTRATIVE CODE CHAPTER
) 52J SECTION .0204(e)
)

Acting pursuant to NCGS § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, Camp Bow Wow South Asheville ("the kennel") was a boarding kennel, licensed pursuant to N.C. General Statute ("NCGS") § 19A-28.
2. On December 14, 2020, AWS received a complaint concerning the injury of a dog named Coco while day boarding at the kennel. AWS initiated an investigation based on the information contained in the complaint. The investigation centered on possible violation(s) of the N.C. Animal Welfare Act ("AWA") as these statutes and associated regulations are the extent of the jurisdiction of AWS.
3. On December 15, 2020, AWS Animal Health Technician Joshua James ("Inspector James") conducted an unannounced site visit as part of the complaint investigation. During this site visit, Inspector James interviewed the kennel owner, several kennel staff members, reviewed relevant kennel records, viewed a portion of the relevant kennel videos, and obtained a copy of the video for Inside Play Yard 2 (time frame - 10:26 AM – 5:31 PM) and the Outside Play Yard (time frame – 12:00 PM – 4:25 PM) for December 11, 2020.
4. On January 12, 2021, Inspector James returned to the kennel to obtain additional information. During this visit, Inspector James asked the kennel owner additional questions and interviewed a staff member that was not available during the December 15, 2020 visit.
5. On January 13, 2021, Inspector James was able to speak with another kennel staff member who was working on December 11, 2020 when Coco was injured. Inspector James had initially called this staff member on December 16, 2020.
6. On January 15, 2021, Inspector James was able to speak with additional staff members that were working at the kennel on December 11, 2020.
7. Inspector James was unable to speak with one staff member as she repeatedly disconnected the telephone calls when Inspector James attempted to identify himself and his reason for calling.
8. Review of the video revealed the following:
 - a. a dog named Ella Dacy chased a dog named Sunny in an aggressive manner, grabbed Sunny but

Sunny was able to escape;

- b. Ella Dacy and Sunny have another brief aggressive interaction;
- c. Ella Dacy and Coco have an unfriendly, mildly aggressive interaction;
- d. Later, as a staff member was removing a dog, Ella Dacy bit Coco on the face; the staff member re-entered the yard and removed Ella Dacy;
- e. a puppy named Nellie was introduced in to the play yard; Nellie focused her attention on Coco. This attention was not well-received by Coco and Coco made numerous attempts to discourage and avoid Nellie. For 3 and ½ hours Nellie agitated and harassed Coco by nipping, pulling her tail, pinning her to the ground, chasing her and at one point, dragging her across the floor;
- f. other than brief intervals to bring in and remove dogs, clean up a water spill, remove items from the cleaning closet, no staff member stayed for any length of time to supervise the dogs and monitor compatibility of the group; and
- g. based on the time stamp of the kennel video, from 11:05AM until 4:25 PM, more than 4 dogs were housed together without the required supervision by a kennel employee in violation of 02 NCAC 52J .0204(e).

9. A review of the kennel records revealed that Ella Dacy's record noted that this dog does not like "aggressive dogs" and the question concerning whether the dog had growled at or bit another dog was checked "yes" with the notation of "aggressive dogs."

10. A review of Coco's veterinary medical record revealed the following:

- a. Coco's owner sought immediate veterinary care for her eye injury on December 11, 2020;
- b. veterinary examination noted multiple puncture wounds consistent with a dog bite(s); and
- c. due to the severity of the eye injury, Coco's eye had to be removed.

CONCLUSIONS

As a result of this investigation, AWS concludes that the kennel, either by act or omission, violated the following provisions:

02 NCAC 52J .0204(e) for failing have at least one person supervising the dogs when more than more 4 dogs were housed within the play area on December 11, 2020; and

02 NCAC 52J .0209 for failing to maintain housing animals in compatible groups.

CIVIL PENALTY

As required by N.C. General Statute § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Avery Griffin as owner and operator of Camp Bow Wow South Asheville is hereby assessed a civil penalty for the following violations:

\$500.00 for violation of 02 NCAC 52J .0204(e) for having more than 4 dogs confined to a common area or enclosure (the play area) without supervision on December 11, 2020.

\$500.00 TOTAL AMOUNT ASSESSED

(See Appendix for text of referenced General Statutes and Administrative Code)

February 15, 2021
Date

Patricia Norris, DVM, MS
Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 9; 1987, c. 827, s. 65; 1989, c. 544, s. 18; 2011-145, s. 31.5(b).)

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the

violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. January 1, 2005.