



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Douglas Meckes, DVM
State Veterinarian

July 28, 2021

Trey and Sarah Rogers
Owners
Stay Golden Lodging
6424 Providence Rd S
Waxhaw, North Carolina 28173

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of N.C. GENERAL STATUTE § 19A-28

AWS-CP-2021-12

**Facility: Stay Golden Lodging
Unlicensed**

Dear Mr. and Mrs. Rogers:

Pursuant to NCGS § 19A-40, I am issuing this notice that you, as owners of Stay Golden Lodging, are hereby assessed a civil penalty of \$2,500.00 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.

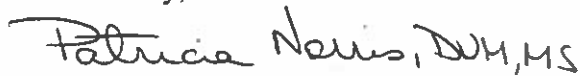
You must serve NCDA&CS by mailing a copy of the petition to:

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,

A handwritten signature in black ink that reads "Patricia Norris, DVM, MS". The signature is written in a cursive style with a large initial "P".

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;
Christina L. Waggett, 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
TREY and SARAH ROGERS
OWNERS OF
STAY GOLDEN LODGING

) NOTICE OF VIOLATION and
) ASSESSMENT of CIVIL PENALTY
) for VIOLATION of N.C. GENERAL
) STATUTE ("NCGS") § 19A-28
)

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 no time pertinent to this matter was Stay Golden Lodging, (the "kennel"), which was offering to the public the service of boarding dogs for a fee, licensed pursuant to N.C.G.S. § 19A-28.
2. On July 19, 2021, AWS received a complaint alleging that this facility was an unlicensed boarding kennel and that a Golden Retriever puppy, named Bella, died of heatstroke while boarding at the facility. Based on the information in the complaint, AWS opened an investigation.
3. As part of the investigation, the AWS Inspector conducted an unannounced site visit to the kennel on July 22, 2021. This site visit revealed the following:
 - a. 5 dogs were comingling in the outside play area unsupervised;
 - b. when the AWS Inspector requested permission to view the boarding kennel area, Mr. Owens denied entry. At no time during the site visit would Mr. Owens allow the AWS Inspector to view the animals or the kennels;
 - c. when asked about the puppy that died, Mr. Owens relayed that in the beginning of July, he noted the puppy vomited. He called the veterinary hospital, and a staff member directed him to take the dog's temperature. When told that the puppy's temperature was 107°F, the staff member instructed that the puppy be brought immediately to the hospital. The hospital was approximately 5 minutes from the kennel. Mr. Owens stated that upon arrival, the veterinarian took the puppy's temperature and then the puppy died;
 - d. the AWS Inspector requested the owners of the kennel to submit a written statement concerning the death of Bella. When no statement was received, the AWS Inspector again requested that the kennel owners supply a written statement on July 26, 2021. AWS received the written statement from the kennel owner at 11:49 PM July 26, 2021.
4. The AWS Inspector obtained Bella's medical records from the attending veterinarian's clinic. A review of the medical records revealed:
 - a. Bella presented deceased on arrival at the clinic;
 - b. Bella's temperature taken approximately 30 minutes after death, was 108.3°F.
5. As the kennel owner refused to allow the AWS Inspector to view the kennel facilities or the dogs and as one puppy had already died while boarding at the facility, the AWS Director requested Union County Animal Control to conduct a welfare check on the animals at the facility. A review of the report of this welfare check shows that 30+ animals were present at the facility. No animal appeared

to be in distress at the time of the welfare check.

6. The AWS Inspector recalls that, on or around March 2020, he received a call from Mr. Owens requesting information on obtaining a boarding kennel license. At the end of the conversation, Mr. Owens stated he would call the AWS Inspector back soon and set up a courtesy inspection. Mr. Owens never called AWS back. During the July 22, 2021 site visit, Mr. Owens admitted that he recalled the conversation and then relayed that "he had dropped the ball" on obtaining a boarding kennel license.
7. A review of the social media postings concerning the kennel revealed the following:
 - a. the Facebook site for Stay Golden Lodging was created June 27, 2019;
 - b. the first review for boarding services was dated June 28, 2019;
 - c. the Facebook page shows numerous photographs and videos of dogs boarding at the facility. The earliest timeline photographs are dated July 10, 2019;
 - d. numerous videos and photographs show animals comingling in the play yard and other photographs show boarding animals within a residence;
 - e. on May 26, 2021, the kennel posted on FB reminders for use of the kennel's online booking service for making boarding reservations.

CONCLUSIONS

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

NCGS §19A-28 for operating a boarding kennel without obtaining a license granted by the AWS Director to operate such an establishment.

In addition, AWS finds that the Golden Retriever puppy named Bella died while in the care and custody of this unlicensed boarding kennel.

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, Trey and Sarah Owens, as owners of Stay Golden Lodging, are hereby assessed a civil penalty for the following violations:

\$2,500.00 for violation of NCGS § 19A-28 for operating a boarding kennel without obtaining a license granted by the AWS Director to operate such an establishment

\$2,500.00 TOTAL AMOUNT ASSESSED

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

July 28, 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.

§ 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.