



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

March 15, 2017

Mary Beth Jensen
Pet Shop Owner
Friendly Pets DBA Jensen & Sons, Inc.
625 Friendly Center Road
Greensboro, North Carolina 27408

NOTICE OF CIVIL PENALTY

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(5) and .0209(5).

AWS-CP-2017-3

Facility: Friendly Pets DBA Jensen & Sons, Inc.
License Number 20446

Dear Ms. Jensen:

Pursuant to N.C. Gen. Stat. § 19A-40, I am issuing this notice to you that Friendly Pets is hereby assessed a civil penalty of \$350.00 as provided in the enclosed Notice of Violations and Order.

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 N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted 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 N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. 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, appearing to read 'Patricia Norris', with a long horizontal flourish extending to the right.

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

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

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
FRIENDLY PETS DBA
JENSEN & SONS, INC.

) NOTICE OF VIOLATIONS,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violations Of:
) 02 NCAC 52J .0101(5)
) 02 NCAC 52J .0209(5)

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

FINDINGS OF FACT

1. At all times pertinent to this matter Friendly Pets DBA Jensen & Sons, Inc. (the "pet shop") is a pet shop licensed pursuant to N.C. General Statute §19A-27.
2. As documented on the facility inspection reports, during the inspections of the pet shop on February 22, 2016, April 26, 2016 and December 15, 2016, the pet shop was repeatedly notified of the need to comply with 02 N.C.A.C 52J .0209(5).
3. On March 30, 2016, AWS issued a Notice of Warning and Notice of Deficiency to the pet shop for violations of 02 NCAC 52J .0101(5) and .0210(c).
4. On July 7, 2016, AWS issued a Notice of Warning and Notice of Deficiency to the pet shop for violations of 02 NCAC 52J .0204(c), .0209(5) and .0210(b).
5. On February 14, 2017, AWS received a complaint concerning a sick puppy purchased from the pet shop.
6. On February 15, 2017, AWS Animal Health Technician Christie Shore ("Inspector Shore") conducted a site visit and review of the pet store records as a part of the investigation into this complaint.
7. The February 15, 2017 site visit revealed the puppy noted in the complaint was housed in the general population, despite being currently medicated for a contagious disease. When Inspector Shore asked the store manager if any other puppy was being treated for a contagious disease, the store manager denied that any other puppy was currently being treated. Later during this visit, 8 puppies were found to be receiving medication for contagious diseases. These puppies were also housed in the general population of the pet shop.
8. During the February 15, 2017 site visit, the review of the records of the pet store showed the 9 records of veterinary care were missing information such as time of administration and dosage of medication as required by 02 NCAC 52J .0101(5).
9. According to the medical records dated February 13, 2017 from the veterinary clinic that treated the puppy referenced in the complaint, this puppy was on the medications azithromycin and clavamox dispensed by the pet store. The statement from the owner of the

puppy reveals that the owner purchased the puppy on February 11, 2017. The owner further states that on February 12, 2017 she took the puppy back to the pet store because the puppy appeared to be ill. A staff member of the pet store dispensed the medications azithromycin and clavamox to the owner of the puppy to treat the illness. The owner states that this staff member represented herself as a veterinary technician during this incident.

CONCLUSIONS

As a result of this investigation, AWS finds that on February 15, 2017, the pet shop, either by act or omission, violated 02 NCAC 52J .0101(5) and .0209(5) in failing to properly maintain record of veterinary care and to failing to separate animal being treated for a communicable disease.

Furthermore, AWS finds that the pet shop has been previously issued a Notice of Warning and Notice of Deficiency on March 30, 2016 for violation of 02 NCAC 52J .0101(5) and .0210(c). The pet shop has also been previously issued a Notice of Warning and Notice of Deficiency on July 7, 2016 for violation of 02 NCAC 52J .0204(c), .0209(5) and .0210(b). The aforementioned Notices of Warning and Deficiency notified the pet shop of the consequences of additional violations of these regulations with the following language:

Continued or future violation of these statutes or regulations will be considered to be a willful disregard or violation of the N. C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto may result in disciplinary action against your facility's license pursuant to N. C. General Statute §19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N. C. General Statute §19A-40.

AWS hereby notifies the owner of the pet shop that any future violation of these NCAC regulations will be considered willful disregard of the AWA and pursuant to N. C. General Statute §19A-30, may result in the suspension or revocation of the pet shop license for this facility.

(See Appendix for text of cited General Statutes and Administrative Codes)

CIVIL PENALTIES

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, Friendly Pets DBA Jensen & Sons, Inc. is assessed a civil penalty of:

- a) \$100.00 for violation of 02 NCAC 52J .0101(5)
- b) \$250.00 for violation of 02 NCAC 52J .0209(5)

\$350.00 TOTAL AMOUNT ASSESSED

March 15, 2017

Date



Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

Relevant Statutes and Regulations

§ 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, pet shop, 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 pet shop 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 pet shop, 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. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§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. (1995, c. 516, s.6: 1998-215,s.3.)

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

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

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:

- (5) All facilities shall designate an isolation area for animals being treated or observed for communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area when in use, giving notice of a communicable disease.

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