



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

August 3, 2016

Gilligan's Barkery and Dog Spa  
Attn: Elizabeth Gilligan, Owner  
99 Village Drive  
Holly Ridge, North Carolina 28445

**NOTICE OF CIVIL PENALTY**

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C. ADMINISTRATIVE CODE (NCAC), CHAPTER 52J, SECTION .0210(c)**

**Facility: Gilligan's Barkery and Dog Spa**

**AWS-CP-2016-7**

Dear Ms. Gilligan:

Pursuant to N.C. Gen. Stat. § 19A-40 I am issuing this notice to you that Gilligan's Barkery and Dog Spa is assessed a civil penalty of \$1000.00, 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', written over a horizontal line.

Patricia Norris, DVM, MS  
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS  
Tina Hlabse, General Counsel, NCDA&CS  
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  
GILLIGAN'S BARKERY  
AND DOG SPA

) NOTICE OF VIOLATIONS,  
) ASSESSMENT OF CIVIL  
) PENALTY  
)  
) For Violations Of:  
) 02 NCAC 52J .0210(c)  
)

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 Gilligan's Barkery and Dog Spa (the "kennel") is a boarding kennel licensed pursuant to N.C. Gen. Stat. §19A-28.
2. On July 15, 2016, AWS received a complaint concerning the death of a dog named Gunner that had boarded with the kennel from July 6, 2016 until July 8, 2016.
3. AWS opened an investigation and on July 20, 2016, AWS Animal Health Technician Patricia Sholar ("Inspector Sholar") conducted a site visit of the kennel. As part of the site visit, Inspector Sholar viewed the kennel and the pond, interviewed the kennel owner and staff and reviewed the kennel records.
4. Inspector Sholar also obtained and reviewed veterinary medical records for "Gunner."
5. The investigation revealed that:
  - a. On July 6, 2016 in the late afternoon, Gunner was brought to the kennel for boarding and appeared to be normal.
  - b. On July 7, 2016, Gunner was let out to play in the area with the pond in the afternoon. Gunner was noted to be vomiting, having diarrhea and generally not doing well.
  - c. In the evening of July 7, 2016, the kennel owners called the caretaker to inform her of Gunner's symptoms. The caretaker reportedly replied that this was not unusual for this dog and that she would call back in the morning for an update.
  - d. At approximately 7:00 AM on July 8, 2016, a kennel staff member noted Gunner showing weakness and other neurological signs. The kennel owner checked on Gunner at approximately 8:00 AM and also noted similar clinical signs. The kennel owner called the caretaker at approximately 8:41 AM.
  - e. The kennel staff noted deterioration of Gunner's condition through the morning and into the early afternoon. The kennel owner called the caretaker again about 1:47 PM (according to the caretaker) telling her that Gunner was non-responsive.
  - f. The caretaker had an acquaintance transport Gunner to a veterinarian.
  - g. According to the veterinary hospital records, Gunner arrived at the veterinary hospital

at approximately 2:00 PM. Gunner was non-responsive and severely neurologically compromised. Despite treatment, Gunner died at approximately 4:45 PM.

## CONCLUSIONS

As a result of this investigation, AWS, finds that the kennel, either by act or omission, violated the Title 02 of the North Carolina Administrative Code 52J .0210(c).

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

## CIVIL PENALTIES

As required by N.C. Gen. Stat. § 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, Gilligan's Barkery and Dog Spa is assessed a civil penalty of \$1000.00 for violation of 02 North Carolina Administrative Code 52J .0210(c)

\$1000.00 TOTAL AMOUNT ASSESSED

August 3, 2016  
Date

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

## Appendix

N.C. General Statutes 19A-40 and N. C. Administrative Codes 52J .0201 (j)

### **§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 .0210 VETERINARY CARE**

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

*History Note: Authority G.S. 19A-24;  
Eff. April 1, 1984;  
Amended Eff. March 23, 2009; January 1, 2005.*