



**Steven W. Troxler**  
Commissioner

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

**Christina L. Waggett**  
Assistant Commissioner  
for Consumer Protection

**Michael Martin, DVM**  
State Veterinarian

August 25, 2022

Kimberly Bailey  
Owner  
The Grooming Lady, LLC  
2637 Hull McGinnis Road  
Lincolnton, North Carolina 28092

**NOTICE of CIVIL PENALTY**

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

**AWS-CP-2022-10**

**Facility: The Grooming Lady, LLC**  
**Unlicensed**

Dear Ms. Bailey:

Pursuant to NCGS § 19A-40, I am issuing this notice that you, as owner of The Grooming Lady, LLC, 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.

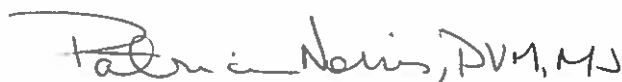
You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Jonathan Lanier  
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  
North Carolina Department of Agriculture & Consumer Services

**Attachment: Notice of Violations, Assessment of Civil Penalty**

**cc: Michael Martin, DVM, State Veterinarian;  
Jonathan Lanier, 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	)	NOTICE OF VIOLATION and
KIMBERLY BAILEY	)	ASSESSMENT of CIVIL PENALTY
OWNER OF	)	for VIOLATION of N.C. GENERAL
THE GROOMING LADY, LLC	)	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 The Grooming Lady, LLC, (the "kennel") located at 1573 N Aspen St., Lincolnton, NC 28092, or the Bailey residence ("the residence kennel") located at 2637 Hull McGinnis Road, Lincolnton, NC 28092, which both offered boarding and dog day care services to the public for a fee, licensed pursuant to N.C.G.S. § 19A-28.
2. On July 27, 2022, AWS received a complaint alleging that these facilities were unlicensed boarding kennels and that a Miniature Schnauzer dog, named Rambo, died while boarding at the residence kennel. 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 and the residence kennel on August 1, 2022. This site visit revealed the following:
  - a. 2 dogs were boarding at the residence kennel and noted to be comingling in the outside fenced area unsupervised in violation of 02 NCAC 52J .0201(h) as this area did not have a separate perimeter fence;
  - b. the fenced area had wooden structures to which the dogs had access and had areas of bare dirt in violation of 02 NCAC 52J .0203(a);
  - c. the owner admitted that on July 20, 2022, she left Rambo unsupervised in the outside fenced area from 10:00 AM until 6-6:30 PM when she found Rambo deceased;
  - d. the kennel owner stated that Rambo had access to the inside of the residence through a dog door, but the dog's owner stated that he believed that Rambo did not know how to use a dog door;
  - e. the kennel owner stated she did not seek veterinary care for Rambo as she knew he was deceased because he was in rigor mortis. This statement is inconsistent with the kennel owner's assertion that she rubbed Rambo and blew into his nostrils for approximately 3 hours after finding him;
  - f. rather than protecting Rambo's body prior to the necropsy, the kennel owner left the body outside in the heat;
  - g. the inside of the residence was not in compliance with AWA and its associated rules as most of the surfaces with which the animals have contact were not impervious to moisture and no sanitation or twice-daily cleaning protocols compliant with the rules were in place; and
  - h. at the kennel, the Inspector noted a large decal on the front window advertising boarding services at the facility; and
  - i. the kennel owner noted that it was common practice to intake the boarding animals at the

kennel (The Grooming Lady facility) and then transport the animals to the residence kennel at the end of the business day. The complainant confirmed that he dropped Rambo off at the kennel and was aware that his animals were transported and boarded at the residence kennel;

4. A review of relevant documents revealed that:
  - a. the high temperature for July 20, 2022 for Lincolnton, NC was 96°F;
  - b. the necropsy was unable to determine a cause of death due to advanced autolysis of Rambo's body. The Comments section noted that the necropsy could not rule out hyperthermia or toxin ingestion and that there is no specific necropsy test that can provide the diagnosis of hyperthermia;
  - c. on July 20, 2022, the website for The Grooming Lady facility advertised boarding and dog daycare services to the public; and
  - d. a review of AWS records did not reveal any boarding kennel license or application for either the kennel or the residence kennel.

## 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 two boarding kennels without obtaining licenses granted by the AWS Director to operate such an establishment. One kennel was located at 2637 Hull McGinnis Road Lincolnton, North Carolina 28092 and the other kennel was located at 1573 N Aspen St. Lincolnton, NC 28092.

In addition, AWS finds that the Miniature Schnauzer named Rambo died while in the care and custody of these unlicensed boarding kennels.

## 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, Kimberly Bailey, as owner of The Grooming Lady, LLC, is hereby assessed a civil penalty for the following violation:

\$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)

August 25, 2022  
Date

  
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.

#### **02 NCAC 52J .0201 GENERAL**

(h) A separate five-foot perimeter fence is required if any animals have access to an outdoor enclosure, including unsupervised exercise areas.

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

#### **02 NCAC 52J .0203 OUTDOOR FACILITIES**

(a) In outdoor facilities that are subject to the Animal Welfare Act, primary enclosures and walkways with which an animal comes in contact shall be constructed of sealed concrete or other surfaces impervious to moisture. Gravel may be used if maintained at a minimum depth of six inches and kept in a sanitary manner.

(b) Dogs and cats kept outdoors shall be provided housing to allow them to remain dry and comfortable during inclement weather. Housing shall be constructed of material which is impervious to moisture and which can be disinfected. One house shall be available for each animal within each enclosure except for a mother and its unweaned offspring.

(c) In addition to housing, the enclosure shall provide protection from excessive sun and inclement weather.

(d) Animal owners shall be advised at the time of reservation and admission if the animal will be kept in outside facilities.

(e) A suitable method of drainage shall be provided.

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

#### **02 NCAC 52J .0204 PRIMARY ENCLOSURES**

(a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

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

#### **02 NCAC 52J .0207 SANITATION**

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

- (1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.
  - (2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.
  - (3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by:
    - (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or
    - (B) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or
    - (C) cleaning all soiled surfaces with live steam.
  - (4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.
  - (5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.
  - (6) Any area accessible to multiple animals shall be kept clean and sanitary.
- (c) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the animals.
- (d) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

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