

COONEY LAW OFFICES LLC

Benedum Trees Building, 223 Fourth Ave., 4th Floor, Pittsburgh, PA 15222
Phone: 412-392-0330 Fax: 412-392-0335

By Messenger

April 26, 2022

Allegheny County Health Department
Attention: Hearing Officer
542 Fourth Avenue
Pittsburgh, PA 15219

RECEIVED

APR 26 2022

**LEGAL SECTION
Allegheny County
Health Department**

In Re: The Crack'd Egg, LLC;
Appeal of Civil Penalty #161

Please find enclosed the Notice of Appeal to be filed on behalf of The Crack'd Egg, LLC in the above matter.

Very truly yours,


James R. Cooney

c: Kimberly Waigand
kimberlywaigand@gmail.com

c: Sy O Lampl

c: Ryan J. Cooney



Notice of Appeal

This form is used to file an appeal of an order, notice, decision, determination, or ruling by the Allegheny County Health Department. Please complete this form (use additional pages as necessary). If more than one person or entity is filing this appeal, please attach a separate form for each additional appellant. **A copy of the order, notice, decision, determination, or ruling must be attached to the Notice of Appeal.**

Name The Crack'd Egg

Mailing Address 2424 Custer Avenue

City Pittsburgh, State PA Zip 15227 Email kimberlywaigand@gmail.com

Phone 412-952-8055 Fax (optional) _____

If you are represented by an attorney, please provide contact information for your attorney:

Name James R. Cooney

Mailing Address 223 Fourth Avenue, 4th Floor

City Pittsburgh State PA Zip 15222 Email jcooney@cooneylawyers.com

Phone 412-392-0330 Fax (optional) 412-392-0335

Describe your objections to the Department's actions and a statement describing the relief you want the Hearing Officer to grant. *(The objections may be factual or legal and must be specific. If you fail to state an objection here, you may be barred from raising it later in your appeal. Use additional pages if necessary.)*

Appellant objects to the Civil Penalty #161 issued by Amanda Mator on March 30, 2022 (Exhibit "A").

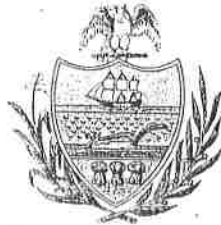
A Statement of Appellant's Objections is attached hereto as Exhibit "B".

By filing this Notice of Appeal with the Allegheny County Health Department, I hereby certify that the information submitted is true and correct to the best of my information and belief.

Signature *James R. Cooney* Date 4/26/2022

Appeals should be submitted in person or by mail to:
**Allegheny County Health Department
Attention: Hearing Officer
542 4th Avenue
Pittsburgh, PA 15219**

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

March 30, 2022

The Crack'd Egg, LLC
c/o Kimberly & Don Waigand
2924 Custer Avenue
Pittsburgh, PA 15227

Re: Civil Penalty #161
Client #201510290005
The Crack'd Egg
4131 Brownsville Road
- Brentwood

Dear Mr. & Mrs. Waigand:

You are hereby notified that you violated Article III, "Food Safety", of the Allegheny County Health Department Rules and Regulations. Said violations were as follows:

Date(s): August 26, 2020; August 31, 2020, December 14, 2020

Section 335: Allegheny County Health Department closure placard concealed or removed.

Date(s): In 2020, August 24-28, August 31, September 1-4, September 10-11, September 14-17, October 1, December 14, December 30, and; in 2021, January 25, February 21, March 1, May 10, June 28

Section 337: Operating a food facility with a suspended health permit.

As a result of the above violation(s), on behalf of the Director of the Allegheny County Health Department, it is hereby ordered that a civil penalty is being levied against you in the amount of **\$13,200.00** for the violation of said sections. In order to resolve these violations without burden of further litigation, said amount of **\$13,200.00** should be made payable to the "Food Safety Fund" and forwarded to the attention of Amanda Mator, Allegheny County Health Department, Food Safety Program, 2121 Noblestown Road, Suite 210, Pittsburgh PA 15205 no later than thirty (30) days after issuance of this notice. Failure to comply will result in further action including closure of your food facility.

If you need to further discuss the violations, payment schedule or settlement, please contact the Food Safety Program at the phone number below.

Pursuant to Article XI, entitled "Hearings and Appeals", you are hereby notified that you have thirty (30) days in which to file an appeal from the date of this notice. The appeal shall be filed in the office of the Director, 542 Fourth Avenue, Pittsburgh, PA 15219. In the event that an appeal is not filed within thirty (30) days from the date of this order, the within action shall become final.

If you have any questions regarding this matter, please do not hesitate to contact the undersigned.

Sincerely,

Amanda Mator
Program Manager
Food Safety Program

EXHIBIT A



DEBRA BOGEN, MD, FAAP, FABM, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT

FOOD SAFETY PROGRAM

2121 NOBLESTOWN ROAD • SUITE 210 • PITTSBURGH, PA 15205

PHONE: 412.578.8044 • FAX: 412.578.8190

WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



Advancing
public health

EXHIBIT "B":

STATEMENT OF OBJECTIONS TO CIVIL PENALTY #161

1. The civil penalty violates the Appellant's constitutional rights.
2. The Allegheny County Health Department (the Department) waived its right to seek penalties in proceedings before the Commonwealth Court of Pennsylvania as well as in proceedings before the United States Bankruptcy Court.
3. The Department issued the penalty in retaliation for the Appellant's valid exercise of its constitutional rights.
4. The Department has engaged in selective enforcement.
5. There is no factual or legal basis for imposition of the penalty.
6. There is no factual or legal basis for the amount of the penalty imposed.