



United States Department of Agriculture
Animal and Plant Health Inspection Service
Investigative and Enforcement Services

Reference Number: AL10001-AC &
AL11008-AC
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April 24, 2012

Robert Keith McSwain
7855 Bethel Rd
Gainesville, GA 30506-3951

OFFICIAL WARNING

Re: Reference number AL10001-AC & AL11008-AC

Dear Sir or Madam:

Why You Are Receiving This Letter

We believe that you violated the Horse Protection Act (15 U.S.C. § 1821 et seq.) (HPA), as described in the attached Official Warning. Our agency, the Animal and Plant Health Inspection Service (APHIS), is responsible for enforcing the HPA, and other agriculture laws that help prevent the spread of animal and plant pests and diseases, and ensure the welfare of animals.

After providing you with an opportunity for a hearing, we may impose civil penalties of up to \$2,200, or other sanctions, for each violation described in this Official Warning. Although we generally pursue penalties for this type of violation(s), we have decided not to pursue penalties in this instance so long as you comply, in the future, with laws that APHIS enforces.

Consequences Of Continuing Non-Compliance

If you violate laws that APHIS enforces in the future, we may pursue criminal penalties, or we may pursue civil penalties for the violations described in this Official Warning, in addition to any penalties we may pursue for any future violations.

What To Do If You Have Questions

If you have any questions concerning this Official Warning, contact Jennifer Jones at (301) 851-2780 or call our main office number at (301) 851-2948.

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE



OFFICIAL WARNING
VIOLATION OF FEDERAL REGULATIONS

CASE NUMBER:
AL10001-AC & AL11008-AC

VIOLATOR:
Robert Keith McSwain

ADDRESS (*Street, City, State, ZIP Code*):
7855 Bethel Rd
Gainesville, GA 30506-3951

The U.S. Department of Agriculture has evidence that on or about the date(s) listed below, you or your organization committed the following violation(s) of Federal Regulations:

Date of Violation: September 5, 2009

15 U.S.C. § 1824(2) Prohibited Activities

“The (A) showing or exhibiting, in any horse show or horse exhibition, of any horse which is sore, (B) entering for the purpose of showing or exhibiting in any horse show or horse exhibition, any horse which is sore, (C) selling, auctioning, or offering for sale, in any horse sale or auction, any horse which is sore, and (D) allowing any activity described in clause (A), (B), or (C) respecting a horse which is sore by the owner of such horse.”

You entered “Victoria’s Secret” in the Annual Tennessee Walking Horse National Celebration, where the horse was found sore in violation of the scar rule.

Date of Violation: September 5, 2009

9 C.F.R. § 11.3 Scar rule

“The scar rule applies to all horses born on or after October 1, 1975. Horses subject to this rule that do not meet the...scar rule criteria shall be considered to be “sore” and are subject to all prohibitions of...the Act.”

Date of Violation: August 26, 2010

15 U.S.C. § 1824(2) Prohibited Activities

“The (A) showing or exhibiting, in any horse show or horse exhibition, of any horse which is sore, (B) entering for the purpose of showing or exhibiting in any horse show or horse exhibition, any horse which is sore, (C) selling, auctioning, or offering for sale, in any horse sale or auction, any horse which is sore, and (D) allowing any activity described in clause (A), (B), or (C) respecting a horse which is sore by the owner of such horse.”

Maisie McSwain showed or exhibited the horse, “Victoria’s Secret” in the Annual Tennessee Walking Horse National Celebration, where the horse was found sore and in violation of the scar rule.

Mandi McSwain allowed the showing or exhibiting of the horse, “Victoria’s Secret” in the Annual Tennessee Walking Horse National Celebration, where the horse was found sore and in violation of the scar rule.

Date of Violation: August 26, 2010

9 C.F.R. § 11.3 Scar rule

“The scar rule applies to all horses born on or after October 1, 1975. Horses subject to this rule that do not meet the...scar rule criteria shall be considered to be “sore” and are subject to all prohibitions of...the Act.”

The Animal and Plant Health Inspection Service (APHIS) created federal regulations to ensure the welfare of animals and help prevent the spread of animal and plant pests and diseases. Since violations of the regulations can have serious and costly impacts that are detrimental to the public interest, APHIS is providing you with an Official Warning for the violation(s) described above. Any further violation of these federal regulations may result in the assessment of a civil penalty, criminal prosecution, or other sanctions. If you have any questions concerning this Official Warning or violation(s), please contact the APHIS official listed in this notice.

APHIS OFFICIAL (Name):
Robert J. Huttenlocker

OFFICE ADDRESS:
4700 River Road, Unit 85
Riverdale, MD 20737

APHIS OFFICIAL (Title):
Director, Investigative and Enforcement Services

DATE ISSUED: 4/24/2012	TELEPHONE NUMBER: (301) 851-2948
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