



United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Washington, DC
20250

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TO: Ann M. Coffey
Special Agent-in-Charge
Investigations Liaison and Special Operations Division, OIG

FROM: Marilyn L. Holland *Marilyn L. Holland*
Deputy Administrator *6/17/2013*
MRP – Business Services

SUBJECT: OIG Hotline Complaint PS-3301-0201
Earnest Johnson
Veterinary Medical Officer (VMO), GS-12
Houston, Texas -- MISCONDUCT

This is in regards to the subject OIG Hotline Complaint dated August 29, 2012. An anonymous complainant alleged that Dr. Johnson (since passed away) unfairly tests horses in order to solicit a reaction and routinely treats the Walking Horse Industry in a biased manner. According to the complainant, Dr. Johnson did this on August 27, 2012, by using his thumbnail to reach the nerve of the pastern in a deliberate effort to seek a response from the horse. This was done following the prior testing procedures which did not solicit a reaction in the horse. The use of his thumbnail instead of the "flats" of his thumbs, is not a normal practice and one only he uses. He freely admitted to following his "own directions."

In response to the allegations, an investigative fact finding was conducted and as a result an Animal Care (AC) program official stated that Dr. Johnson's duties included the enforcement of the Horse Protection Act (HPA) through overseeing the industry Designated Qualified Persons (DQPs) inspecting horses at horse shows. Dr. Johnson also conducted examinations to inspect horses for signs of soring and to prevent identified sore horses from showing.

The Horse Protection Act assignments for USDA officials includes physical examinations of horses. These examinations may include the digital palpation technique that involves using the flat part of your thumb to apply enough pressure to blanch the thumbnail in order to accurately diagnose abnormal sensitivity or pain in a horse's leg that may be indicative of soring. Annual required training for all Horse Protection employees has always included reviewing of these examination procedures.

Dr. Johnson was assigned to attend the Tennessee Walking Horse Celebration in Shelbyville, Tennessee held from August 23 through 28, 2012. According to AC, after reviewing the videos that were collected for evidence of HPA violations, it was found that there was no evidence of Dr. Johnson using his thumb nail to get a response from the horses. It was observed that Dr Johnson merely applied enough pressure to blanch

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the thumbnail in order to accurately diagnose sensitivity in a horse's leg that may be indicative of soring as he was trained annually. In addition to reviewing the video, the Horse Protection National Coordinator spoke with Mr. Robert Markmann, an AC inspector, and Dyrk Schlingman, a Veterinary Medical Officer who was assigned to work with Dr. Johnson for this horse show concerning the complaints which they received. They both attested that they did not observe any unprofessionalism or misconduct from Dr. Johnson.

Based upon the above, there is insufficient evidence to substantiate the allegations therefore; we are closing this case file. If you have any questions or need additional information, please contact Marjorie Bolden, Chief, Administrative Investigations and Compliance Branch, HRD, at (301) 851-2945.

cc:
J. Taylor, OIG, Washington, DC
Hotline Responses



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20250

TO: Ann M. Coffey
Special Agent in-Charge
Investigations Liaison and Special Operations Division, OIG

FROM: Joanne L. Munno *Joanne Munno*
Deputy Administrator *3/20/11*
MRP-Business Services

SUBJECT: OIG Hotline Complaint - PS-3301-0133
Earnest H. Johnson, Veterinary Medical Officer, GS-12
Houston, Texas--**MISCONDUCT**

This is in response to the subject OIG Hotline Complaint dated October 15, 2010. A confidential complainant alleged that Dr. Johnson treated him very rudely for no reason. Further, Dr. Johnson had the complainant escorted out of a charity horse show held in Springfield, Missouri, on September 23, 2010, by two Highway Patrol Officers. Presumably, this was done because the complainant was asking questions about why horses were being disqualified after they were already shown. It is alleged that when the complainant asked Dr. Johnson for his name, Dr. Johnson told him it was none of his business. In addition, the complainant alleged that when he asked Dr. Johnson for his business card, Dr. Johnson said no. Furthermore, the next day when the complainant arrived at the building where Dr. Johnson was inspecting horses the officers escorted him out. According to the complainant, the officers stated, "Weren't you involved in a confrontation last night with the inspector?"

In response to the allegations, Animal Care (AC) advised that Dr. Johnson's duties include the enforcement of the Horse Protection Act (HPA) through overseeing the industry Designated Qualified Persons (DQPs) inspecting horses at horse shows. Dr. Johnson also conducts examinations to inspect horses for signs of soring and to prevent identified sore horses from showing. Soring is defined as a cruel and abusive practice used to accentuate a horse's gait. It may be accomplished by irritating or blistering a horse's forelegs through the application of chemicals such as mustard oil or the use of mechanical devices. Inspections to enforce the HPA have generally not been appreciated by the industry, and USDA officials always have to be accompanied by security personnel because of multiple personal threats in the past. All USDA officials are required to be professional and respectful; however, they are advised not to engage in dialogue regarding policy issues and violations concerns. They are to direct those questions to the Horse Protection National Coordinator, Dr. Rachel Cezar.



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According to AC, Dr. Johnson has been actively involved in enforcing the HPA for multiple years and has served as lead and trainer for DQPs. On September 23, 2010, Dr. Johnson was assigned to oversee DQPs and perform inspections of horses at the charity horse show held in Springfield, Missouri. After reviewing the videos that were collected for evidence of HPA violations, it was found that Dr. Johnson showed no unprofessionalism or misconduct when discussing the violations found with horses at the show. In addition to reviewing the videos, Mr. Robert Whiteley, an AC inspector who was assigned to assist Dr. Johnson, attested that he did not observe any unprofessionalism or misconduct from Dr. Johnson.

Dr. Johnson advised that he was not unprofessional at any time with the complainant and that he followed proper protocol. According to Dr. Johnson, the proper protocol is for the DQPs to inspect all horses pre-show while being observed by the VMO, Dr. Johnson. Then post-show the horse that comes in 1st place is re-inspected by the DQPs, the horse that comes in 2nd and 3rd place is inspected by the VMO. Dr. Johnson further stated that it is possible to inspect and approve a horse for show and then re-inspect it and find something unacceptable after the horse has shown.

According to Dr. Johnson, the complainant was in the inspection area where the public is not allowed, questioning exhibitors, trying to cause confrontations and interfering with the inspections. Therefore, Dr. Johnson requested that he be escorted out of the inspection area. Dr. Johnson stated that he was approached very unprofessionally by the complainant, however, he did provide him with the necessary information, his name and then referred him to Dr. Cezar, as instructed. Dr. Johnson also stated that he did not provide a business card because he does not carry them to horse shows. In addition, Dr. Johnson stated that he never told the complainant that it was none of his business.

AC advised that Dr. Johnson, who has always followed the required protocol for horse inspections, has been advised to continue to conduct himself in a professional manner and to direct any adverse reactions from exhibitors to Dr. Cezar.

Based upon the above information, there was insufficient evidence to substantiate the allegations, therefore no further action will be taken and we are closing this case file. If you have any questions or need additional information, please contact Marjorie Bolden, Chief, Administrative Investigations and Compliance Branch, Human Resources Division, on 301-851-2945.