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April 17, 2014

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Ladies/Gentlemen:

Please be advised our firm has been retained by the Performance Show Horse Association ("PSHA"), The Celebration, SHOW and numerous owners and trainers in connection with issues of concerns to the PSHA, its members and the Tennessee Walking Horse ("TWH") industry regarding the enforcement of the Horse Protection Act ("HPA") and the regulations previously adopted by the United States Department of Agriculture under the authority granted it by the HPA.

As you are aware, the USDA has oversight of Horse Industry Organizations, including SHOW, and inspections of the TWH industry. To enforce the law, the USDA has developed the Designated Qualified Person ("DQP") program. 9 C.F.R. § 11.7. The USDA has established, by regulation, the qualifications for DQPs and the requirements for organizations which certify DQPs. 9 C.F.R. § 11.7(a) and (b). DQPs are required to physically inspect every horse before it may be shown, exhibited or sold to determine if it is in violation of the HPA or regulations. 9 C.F.R. § 11.20 (b)(2).

Under the HPA the USDA has oversight of the horse industry organizations and inspections of the TWH industry. Unfortunately it appears that there may be a strategy or plan by the USDA to not only target the TWH industry but to use any method to eliminate the industry and decertify SHOW, Inc., one of the best Horse Industry Organizations (HIO) in the industry (according to the USDA itself), and its conflict-free DQP inspectors. We hope that in providing the following information the OIG and General Counsel's Office will initiate an investigation and provide the PSHA with a prompt and reasoned response. Specifically:

1. Beginning in mid-2012 the USDA Veterinary Medical Officers (VMOs) began to retaliate against SHOW by issuing an almost statistically impossible 29 scar violations for approximately 1200 horses versus only 1 in the first 2000 horses of 2012 by using a subjective inspection process, to find violations that are more than suspect. Mr. Eichler called this situation to the attention of the Secretary by letter dated August 14, 2012. A copy of this correspondence is enclosed. Unfortunately, the USDA merely dismissed the allegations without any investigation thereby sweeping it under the rug.

2. The USDA has previously been informed in letters in August 2012 to the Secretary, the Undersecretary Avalos and Mr. Kevin Shea that VMOs have made statements to SHOW and its DQPs that there was no longer a protocol to attempt to spread the skin with the thumbs for uniformly thickened epithelial and the horse would be called out on a scar rule violation. The SHOW DQPs were specifically told there would be a new interpretation of the "scar rule" and any change to the pastern area would now be called a violation and that VMOs could pick up a horse's foot and if it even "looked" abnormal they would call it out on a scar violation without even touching the pastern. Such changes are contrary to existing regulations and the USDA's established inspection protocol. These statements were made on at least 2 occasions - at the DQP training for the SHOW DQPs in December 2011 and at the July 4th, 2012 weekend shows. The enclosed affidavits of Mitchell Butler, Dr. Steve Mullins and John Paul Riner support this report of erroneous information provided by the VMOs.

3. Despite these previous disclosures to the USDA, the VMO for the SHOW DQPs training on March 8, 2014, advised the SHOW DQPs as follows:

- a) VMOs advised SHOW DQPs that there would be a new interpretation of the "scar rule" (established in 9 C.F.R. § 11.3) and any change to the pastern area would now be called a violation;
- b) VMOs could pick up a horse's foot and if it even "looked" abnormal they would call it out on a scar violation without even touching the pastern; and
- c) The use of the thermography would enable the VMOs to issue a scar violation without even picking up a horse's foot.

The first two changes to the scar rule noted above are inconsistent with existing regulation. The third is entirely new. It is clear the scar rule criteria have been established by the USDA via rulemaking. And no mention is made of thermography in the rules or statute. Thus, when the USDA engages in de facto rulemaking in the field by announcing a change in a validly enacted regulation without engaging in rulemaking, it does so in clear violation of the statute and the Administrative Procedures Act.

4. What is most concerning to the PSHA and its members, however, is that the VMO has threatened the DQPs at this year's training session on March 8, 2014. The VMO told the DQPs if they don't agree with the VMOs on a violation they will be issued a letter of warning. The enclosed affidavits of William Edwards and Mitchell Butler reflect these statements. And, on March 13-15, 2014 at the Trainers show, when the DQPs did not agree with the VMOs on the tickets they wrote they were told they would be receiving Letters of Warning as a result. We have significant concerns that such attempts at influencing the inspections of independent DQPs is a serious violation of the HPA and the regulations enacted thereunder and is an attempt to implement a recommendation of the OIG without Rulemaking and/or a blatant intimidation through threat to the employment of the DQP thereby impeding, intimidating, or interfering with their inspections under the HPA. As a result, PSHA is officially requesting an investigation of the VMOs at the Trainers Show held on March 13-15, 2014. Assuming the OIG, USDA, and General Counsel's Office disregard this request to investigate the

above violations of the HPA it should be understood that the PSHA and SHOW will vigorously defend the actions of the DQPs.

Needless to say the scar inspection protocol itself is the worst of the subjective inspections as documented in previous communications with the USDA and the USDA's own scar inspections. In order to ameliorate the risks of inconsistencies, two VMOs would previously inspect a horse for a scar violation. More recently, the USDA has now relied upon the inspection of only one VMO. As a result, the stage is now set for repeated disagreements between independent DQPs and VMOs. However, when DQPs are threatened with LOWs, and subsequent termination of their employment as DQPs, should they disagree with the VMOs, it is doubtful there can be any meaningful resolution of any such disagreements.

5. Finally, it is apparent the USDA has embarked upon a new policy – “Once sore, always sore.” The use of an iris scan before any inspection creates an improper presumption and predisposition of guilt and disqualification. It is only human for an inspector who checks the iris scan database and finds out the horse has been previously ticketed to consciously or subconsciously presume or be predisposed to guilt. Currently when a horse is preliminarily determined to be sore by the VMO, information is taken for further investigation and possible prosecution, and the horse is not allowed to show. With the USDA's new policy, any and all horses that have ever been preliminarily determined to be sore will never be allowed to show. That is the worst form of profiling and targeting.

The horses in the iris scan database are predominantly not sore. There has been no adjudication by the USDA that these horses are sore until a ticket is investigated and prosecuted. To predetermine otherwise is inappropriate, in violation of the USDA's own rules, perhaps unconstitutional and must be stopped immediately. It is also a form of illegal taking if a horse that is not allowed to show or is forever not allowed to show simply because of an illegal profiling.

We respectfully request a prompt and complete investigation regarding all the above.

Sincerely,

Phillip L. Kunkel
Attorney

Enclosures

August 14, 2012

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Vilsack:

It is my understanding that you have been contacted by Congressman Hal Rogers, Chairman of the House Appropriations Committee, who has requested that you meet with representatives of the Tennessee Walking Show Horse Organization (TWSHO) in order to discuss concerns and issues our organization and its members have with the current oversight approach being taken by officials at the Animal and Plant Health Inspection Service (APHIS). Our organization is appreciative of your consideration of Chairman Rogers' request on our behalf and, while I had hoped that our organization's first contact with you would focus on how we can work together to reform our industry, we are very concerned about the deleterious and immediate impact recent actions taken by APHIS are having and will have on our industry in the coming weeks.

I first want you to understand that we have attempted to have a good relationship with the APHIS in the past and we recognize that, to fully reform the walking horse industry, we must work together. In the last three years, the industry has made major strides in ridding the industry of soring trainers and we will not stop until all are gone from the business. Even APHIS inspections have shown that trainers have been compliant with federal regulations 98.5% of the time and we intend to do everything possible to make that number even better.

However, we have become extremely concerned about actions that APHIS has taken against the industry for reasons that are, in our opinion, beyond the reasonable interactions between regulators and the regulated industry. I have enclosed for your consideration several affidavits prepared by various members of our industry. These affidavits were prepared after considerable discussion amongst our organization. We feel, however, that you should know what we have been told by APHIS officials, what we have been threatened with by APHIS and why we have been threatened and retaliated against in the last few weeks. And, because of this retaliation, we are very concerned that these actions taken by APHIS will result in the end of our industry and the sport. In less than ten days, the industry will hold its National Celebration, an 11-day event that draws 100,000 attendees and serves as the sport's national championship. If we do not rectify some of the issues we are having with APHIS, we are very concerned that this World Championship event will be irreparably harmed and this horse and Industry will be severely damaged, costing thousands of jobs and ending the contributions that go to numerous charities as a result of our shows.

We have expressed these concerns to various officials at APHIS but to no avail. We recently met with Undersecretary Avalos and Kevin Shea and attempted to discuss our concerns. During that meeting, we attempted to explain our concerns related to the Department's actions undertaken since June 22nd when the Department was notified that SHOW Horse Industry Organization (HIO) would be filing a declaratory judgment action challenging the USDA's new Mandatory Penalties rule. When the issue of our concerns was raised, Mr. Shea responded "nothing has changed" and that he had issued his "directives" which were being carried out by the VMOs. Mr. Shea also stated that USDA inspectors had only been present at two (2) SHOW events since June 22nd. In fact, USDA VMOs have been at twelve (12) SHOW events since June 22nd, as compared to a total of seven (7) SHOW events in the first five (5) months of the 2012 show season.

Consequently, we feel it necessary to present you, as noted above, with evidence concerning the retaliation that has occurred at SHOW events since June 22nd, presumably as part of the “directives” issued by Mr. Shea. These examples include:

- Telling the industry that leaders should not talk to their representatives in Congress;
- VMOs advised SHOW DQPs that there would be a new interpretation of the “scar rule” and any change to the pastern area would now be called a violation;
- VMOs could pick up a horse's foot and if it even “looked” abnormal they would call it out on a scar violation without even touching the pastern;
- VMOs announced to SHOW DQPs and the show manager that no videotaping of VMO inspections would be allowed any longer;
- VMOs began checking horses outside the designated inspection area and outside the view of SHOW video equipment. When attempts were made to video VMO inspections, USDA security personnel blocked the view of the camera;
- While issuing a violation to a trainer, VMO stated “it was because SHOW had not signed the mandatory penalties” and that she (the VMO) “would encourage you (the trainer) to convince the industry to sign on” to the mandatory penalties;
- Threatening of SHOW DQPs with Letters of Warning for allegedly failing to properly inspect despite the fact there has been no change in SHOW HIO's inspection protocol and procedures since the filing of the lawsuit; and
- **Since our August 6th meeting with the Undersecretary and Mr. Shea, statements and threats have been received from inside the Department that the world championship event will be “shut down” and “good luck getting a horse through inspection” at the Celebration.**

Since the lawsuit was filed, there has been a 1200% increase in the number of tickets issued at SHOW events, and specifically, an increase from 1 scar violation for 1837 horses inspected pre legal action to 29 scar violations for 1126 horses inspected since the filing of the declaratory judgment request, close to a statistical impossibility unless the inspectors were directed pursuant to the statements above. In light of this information, Mr. Shea's statement during the meeting that the USDA has only been present at two (2) shows since June 22nd and his assurance that “nothing has changed” does not seem to be supported by the facts and data. We have also provided an attached spreadsheet of the information.

Also of serious concern is the Department's position regarding unaffiliated horse shows. As you are aware, horses shown at these events which choose not to affiliate with a USDA certified HIO are not subject to any inspection process whatsoever. Shockingly, APHIS personnel have not only ignored these shows in the past, but have now taken steps to actually encourage their existence and growth as evidenced by the following:

- Earlier this year, APHIS personnel attended a meeting of unaffiliated show managers in Jackson, Mississippi, and instructed them that not only was a standardized inspection process not required, but that any horses at those shows which were, or were suspected of, being sore should just be sent home with no further action. These directives from APHIS personnel are in direct contravention to the express language of the Horse Protection Act and its regulation and cannot be possibly said to be in the best interest of the horse;
- As was discussed in our meeting, just two (2) weeks ago, APHIS personnel attended an unaffiliated event in Shelbyville, Tennessee, were present for only a few classes, did not inspect a single horse, yet left that unaffiliated event and drove directly to a SHOW affiliated event nearby and began issuing violations;

- In the federal court proceeding challenging the new mandatory penalty rule, the USDA has recommended that the individual Plaintiffs in that suit should exhibit horses at unaffiliated events in order to avoid being subjected to mandatory penalties; and
- APHIS has continually failed to regularly attend unaffiliated events despite being provided with specific information concerning their date, location, time and list of classes which include horses covered by the HPA.

This latest tactic by APHIS, “endorsing” but not inspecting unaffiliated horse shows, clearly contravenes the purposes of the Horse Protection Act.

Unfortunately there are other instances of this type of behavior including deliberate editing of scar pictures that were placed on the APHS website evidently to inflame the HSUS and other outsiders (I’ve attached 1 example), misstatements by APHIS regarding what is “required” under the HPA causing the HIOs to incur additional unnecessary expenses, only to be told later that it is only “recommended” and other concerns.

Despite statements by APHIS officials that “we will regret” involving you, Members of Congress and other elected officials in helping us, we believe it is the right thing to do for this industry and the Tennessee Walking Horse and, quite simply, you are, in some respects, the Court of last resort.

Please keep in mind, as we expressed to the Undersecretary, we also are continuing to reform the Industry as quickly and as effectively as possible. We have previously initiated and completed numerous reform efforts including:

- Establishing an HIO and based its structure and protocols on the AAEP White Paper with an AAEP veterinarian as its President;
- eliminated DQPs with any conflict of interest, a significant criticism under the OIG Audit;
- issued over 2200 violations in a little over 3 years;
- issued one year or greater suspensions to over 180 trainers;
- implemented inspection protocols which exceed those required by the Horse Protection Act and its regulations; and
- requested input from APHIS on their foreign substance baseline to utilize in initiating an Industry swabbing protocol.

We are continuing to look at all avenues to eliminate the sore horse and the soring trainer from our Industry. However when our efforts are not supported or are undermined or blocked by APHIS, it is virtually impossible to be successful at self- regulating the Industry and ensuring compliance with the HPA.

I want to thank you in advance for your time and attention to this letter and to the enclosed material. Our organization wants to work with APHIS in order to insure the integrity of our industry and sport and, most importantly, insure the well-being of the horse. We must, however, ask for your assistance regarding these serious issues with APHIS and we look forward to meeting with you in the near future to discuss the best path forward. If you have any questions or need additional information, please do not hesitate to contact me at your earliest convenience at 303-809-4534.

Sincerely yours,

Frank Eichler
Chair, Tennessee Walking Show Horse Organization

CC: Todd Batta, Senior Advisor to Secretary Tom Vilsack, USDA
Krysta Harden, Chief of Staff, USDA

AFFIDAVIT OF MITCHELL BUTLER

STATE OF TENNESSEE
COUNTY OF BEDFORD

The undersigned having been duly sworn, states on his oath the following:

1. I am over the age of twenty-one (21), of sound mind and body and fully competent to testify to the matters set forth herein below.
2. I have been a certified Designated Qualified Person ("DQP") with SHOW, Inc., since February 8, 2010 and have inspected approximately 45 horse shows.
3. On Friday, June 22, 2012, I was assigned to inspect the Guntown Lions Club Horse Show in Guntown, Mississippi.
4. Prior to the beginning of the horse show, I was approached by Dr. Hammel, a Veterinary Medical Officer ("VMO") with the United States Department of Agriculture ("USDA") who informed me that beginning that evening there would be a change in the USDA's inspection protocol concerning the "scar rule". Dr. Hammel stated that, during the week preceding the June 22d horse show, the VMOs had been instructed to change their enforcement procedures for the "scar rule". He stated the VMOs were told to start enforcing the scar rule "as written" and that any uneven or abnormal skin on the back or sides would now be considered a violation and the horse would not be allowed to show. I asked Dr. Hammel that if the skin on a horse's pastern could be flattened out, if that horse would be considered to be compliant with the "scar rule" and he responded "no". Dr. Hammel also said that if he could see or feel any change to a horse's pastern, that horse would be called out as a violation.
5. The information we received from Dr. Hammel on the evening of June 22, 2012, was a change from the scar rule protocol which I have been trained to follow since I began serving as a DQP in 2010 and does not follow what is my understanding of the scar rule regulation as written. My SHOW DQP training and our joint training with the USDA has always been that if any wrinkles on the back of a horse's pastern will flatten out and is smooth and is absent any signs of past or present inflammation, that horse was not in violation of the scar rule.
6. I have worked side by side with Dr. Hammel and other VMOs many times since February 2010 and the protocol outlined in paragraph no. 5 has been followed by both the DQPs and VMOs until the evening of June 22, 2012, when Dr. Hammel announced the change.

7. Also present during the conversation with Dr. Hammel on June 22nd prior to the beginning of the Guntown Horse Show were DQP John Paul Riner and VMO Dr. Clem Dussault.

FURTHER AFFIANT SAYETH NOT.

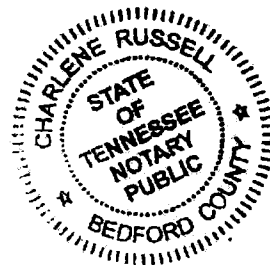

MITCHELL BUTLER

Subscribed and sworn to before me in my jurisdiction, by MITCHELL BUTLER

on this the 23 day of July, 2012.

Notary Public Charlene Russell

My Commission Expires: July 19, 2014 Notary Seal/Stamp:



AFFIDAVIT OF STEPHEN MULLINS, DVM

STATE OF TENNESSEE
COUNTY OF BEDFORD

The undersigned having been duly sworn, states on his oath the following:

1. I am over the age of twenty-one (21), of sound mind and body and fully competent to testify to the matters set forth herein below.
2. I have been a licensed veterinarian since 1980 and a member of the American Association of Equine Practitioners ("AAEP") since 1980.
3. In June 2009, I accepted the part-time position of Co-Coordinator of SHOW, Inc., along with Dr. John Bennett.
4. In October 2009, I closed my veterinary practice and accepted the full-time position of CEO of Show, Inc. In my role as CEO, I am responsible for the operation of the HIO, training and supervision of all Designated Qualified Persons (DQPs) and ensuring the SHOW program and its inspections are conducted in a manner consistent with our Rulebook and applicable sections of the Horse Protection Act and its Regulations.
5. The information contained in this Affidavit is based upon my personal knowledge and/or observations during my tenure with SHOW HIO and includes examples of actions taken and statements made by USDA employees charged with enforcing the Horse Protection Act.

2011 CELEBRATION

6. During the Friday, August 26, 2011, preshow meeting, at the 2011 Celebration we were told by VMO Baker the following:
 - (1) SHOW DQPs would not be allowed to re-check horses the USDA called out on sensitivity saying "we will not allow you guys to showboat behind us."; and
 - (2) USDA personnel would not be allowed to pray with the SHOW DQPs prior to the show because "it sends the wrong message"

On the first Saturday night of the 2011 Celebration, August 27, 2011, Tony Edwards, DQPs assigned to the show and I saw the USDA VMOs and their technicians coming out of a meeting held in Calsonic arena prior to inspections starting that evening. Dr. Baker, a VMO, had four (4) entry numbers written on the back of his hand and another VMO, Dr. Southerland had entry numbers

written in a notebook which identified the trainer, owner and horse. Tony Edwards, our other DQPs and I observed Dr. Southerland checking his notebook as each horse came into the inspection area. When a horse with an entry number corresponded to a number in Dr. Southerland's notebook, he would proceed to check the horse.

On several occasions that evening, Tony Edwards, SHOW DQPs, SHOW personnel, and I observed USDA technical personnel looking at the Walking Horse Report daily magazines identifying specific horses in classes that evening and then those horses would be inspected by VMOs with an unusually high percentage of those horses being turned down following the VMO inspection. (See attachment 1 hereto - Nightly Turn Down Percentage)

On Saturday morning I spoke with Dr. Gipson on the cell phone of Victor Gibson. That evening, I was told by Tony Edwards that Dr. Cezar had asked him to relate that if I ever called Dr. Gipson again, she "would bring Dr. Earnst Johnson in and shut down the Celebration."

During the course of the evening show on Saturday, August 27, 2011, the thermograph and swabbing station USDA employees were seen checking back numbers and motioning to VMOs prior to swab or thermo. Each horse they pointed out was then checked by a VMO after passing DQP inspection.

During the final two (2) classes of Saturday, August, 27th, the Aged Stallion preliminary classes – the preliminary to the World Grand Championship - an unusually high percentage of the horses were turned down by VMOs. (See attachment 2 hereto, Doc.8272011) One particular horse, Ted Williams, was passed by SHOW DQP Mitchell Butler. The horse was then checked by VMO Southerland while SHOW DQPS, SHOW staff and I watched the inspection and it was videoed as well. The horse was compliant with the scar rule and never reacted to palpation when VMO Sutherland performed his inspection. VMO Sutherland completed his inspection and then walked over to Dr. Cezar and had a quick conversation. When VMO Southerland returned to the horse, he informed the trainer "your horse is not in compliance with the HPA". The trainer asked what was wrong with the horse. The only thing VMO Southerland would say is "your horse is not in compliance with the HPA." The USDA nightly sheet says entry number 902 was issued a ticket for bilateral sensitivity. (See Attachment 1 hereto.) I asked to re-check two of the horses turned down by the USDA, Ted Williams and Dark and Shady, and was not allowed to do so by VMO Baker. The reason VMO Baker gave was that he did not want us to try and show him up.

Prior to the beginning of the show on Wednesday, August 31, 2012, I observed VMO Kingston and a female USDA technician coming out from Calsonic with a copy of that day's Walking Horse Report. The female technician had entry numbers written on her arm. This was observed by Tony Edwards and other SHOW DQPs.

On Friday, September 2, 2011, prior to the beginning of the show, a USDA technician (male, balding from Abilene, Texas) asked SHOW DQP John Paul Riner to help him read a list of names of trainers because he did not know the names and could not read the handwriting. He told DQP Riner that he had been instructed to get a list of entry numbers for those trainers for that night. DQP Riner recorded a list of the names he requested in his cell phone.

On the last night of the 2011 Celebration, Saturday, September 3, 2011, the USDA swabbed and thermographed and VMOs checked every entry in the World Grand Championship class based on a rotation of every third horse given the three (3) VMOs present that evening (VMOs Kingston, Hammel and Baker). When a horse owned by Mike McGartland came to inspection, after being passed by the SHOW DQP, VMO Baker got up – out of the rotation order – and announced “I got this one” to the VMO who was to check the horse according to the rotation order. VMO Baker inspected the horse and proceeded to turn the horse down on scar rule. DQP Coordinator Edwards and I had a discussion with VMO Baker concerning the turn down and explained that the skin on the back of the horse’s pastern were soft and smooth and would flatten out. Consequently, that horse should have been called in on scar rule. Dr. Baker responded with the exact words “I don’t care, I got to call him out on Scar Rule.” I then asked Dr. Gipson to come to the inspection area and explained the situation to him. Dr. Gipson said he could not and would not change a thing despite my argument that that the VMOs were being unjust and unfair and very inconsistent and their agenda was very obvious.

NOVEMBER 2011

7. Shortly before the Tunica horse show in the fall of 2011, Tony Edwards informed me that he had received a phone call from Julie McMillan with the USDA. She had asked if SHOW was going to allow Jackie McConnell to show at the Tunica horse show. I told Tony that I had no choice since Jackie McConnell was no longer on federal suspension. I was told by Tony that Julie McMillan told him that if Jackie McConnell was allowed to show, the USDA would come to the show and be hard on the show. I reiterated that the USDA had let him off suspension and that I had no choice.

2010

8. At the 2010 Celebration, on August 28, 2010, VMO Ernest Johnson was assigned as one of the inspectors for the USDA. Within the first hour, VMO Johnson had amassed a turn down rate of over 56.5%. He checked a total of 26 horses and turned down 14. All of this was within a span of 10 classes, Class 76 to Class 85. (See attachment 3 hereto: Doc. 82810) Dr. Gipson was present at the show that evening so I approached Dr. Gipson to discuss the incompetent nature of VMO Johnson’s inspections. I reminded Dr. Gipson that each of the horses VMO

Johnson called out would not be allowed to show for the entire Celebration even though the horses were not sore or scarred. Dr. Gipson told me not to worry about it and that it would end soon. Dr. Gipson stated that VMO Johnson was doing what he was told to do. Approximately an hour later, Dr. Johnson was removed from the VMO rotation and did not inspect any more horses that evening. Later that evening Dr. Gipson blamed Dr. Cezar for VMO Johnson's behavior saying that Dr. Cezar had "turned him loose" without Dr. Gipson's knowledge.

9. In April 1-3, 2010 at the Mississippi Charity Horse Show in Jackson, Mississippi, the USDA sent VMO Bart Southerland, who was new to the department and had never checked a horse show. VMO Southerland was accompanied by USDA investigator Steve Fuller who is assigned to horse shows on a regular basis by the USDA. VMO Southerland was clearly unfamiliar with proper inspection techniques. He proceeded to inspect a horse which tied first in a class, normally inspected by a DQP, and insisted that the horse walk the figure-eight cones while still wearing his action devices – a clear violation of inspection protocol. The trainer holding the horse finally asked VMO Southerland if he should remove the action devices.

Additionally, at the same horse show, USDA investigator Steve Fuller repeatedly pointed out horses trained by one particular trainer to VMO Southerland and would say "there is the horse you need to check". Within two (2) nights, VMO Southerland had written that trainer several violations. This targeting by investigator Steve Fuller and VMO Southerland was also witnessed by SHOW DQP Coordinator Tony Edwards.

2009

10. At the 2009 Celebration, Dr. Bennett and I approached Dr. Gipson to discuss the number of unjustified violations which were being written by the USDA VMOs. I asked Dr. Gipson if the USDA was trying to scare the trainers into not presenting horses for inspection. Dr. Gipson responded that it was part of the USDA's "strategy" because the less horses which showed, meant fewer sore horses would be shown. Dr. Bennett and I attempted to argue with Dr. Gipson that the "strategy" meant that innocent horses and trainers were unjustly being written up as violations and prevented from showing. Dr. Bennett and I also pointed out that we could not catch soring trainers if they did not present the horses for inspection. Dr. Gipson ignored the arguments Dr. Bennett and I made and the unjustified turn downs continued. At the 2009 Celebration the USDA VMO turndown rate was 405 out of 2544 entries presented for inspection as compared to Celebration 2010 where the USDA VMO turndown rate was 210 out of 2564 entries presented for inspection as further compared to Celebration 2011 where the USDA VMO turndown rate was 26 out of 2427 entries presented for inspection.

Additionally, at the 2009 Celebration, there were documented cases several horses which were turned down by a VMO for scar rule one evening and then rechecked by the same VMO the following evening and passed. One particular horse, *Honor My Cash* was inspected by a lady VMO (think Kingston) preshow and passed and then inspected post show and passed by Dr. Hammel. The horse then went outside the inspection area, had its picture taken in the Winners' Circle area, and immediately reentered the inspection area to be re-inspected for its next class. The horse was passed again by a SHOW DQP but then turned down by VMO Ernest Johnson as a scar rule violation. The horse showed again the following evening and was passed by a USDA VMO. Subsequently, the 2010 Points of Emphasis issued by the USDA in early 2010 mandated that if a horse is turned down for any HPA violation at a multnight horse show that horse would not be allowed to show for the remainder of that event.

11. In December 2009 at a SHOW Farriers' Clinic held in Franklin, Tennessee, I asked Dr. Cezar for the pictures taken in connection with the USDA's 2009 Celebration scar rule violatons. There were a total of 223 scar rule violations written by the USDA during the 2009 Celebration. Dr. Cezar responded that she would give them to me, but she had not had time to "edit" all the pictures. I asked what she meant by "edit" and she said they still had the entry numbers of the horse on the pictures and she needed to remove those. I told her it did not matter to me, so she agreed and downloaded her copy of the photographs to an external hard drive I had in my laptop case.

Later that winter, Dr. Bennett, Tony Edwards and I were making a presentation at the Kentucky Racing Commission in connection with KEEPS program. Also present was Mark Matson. Mr. Matson was arguing as to why SHOW HIO should not be allowed to check horses for the KEEPS program. As part of his presentation, Mr. Matson presented a copy of what purported to be the 2009 Celebration scar rule photographs. However, the photos had been drastically changed by adding red and brightening the pictures.

I later talked to Dr. Cezar by phone and asked what she had done to the pictures and she said all she did was brighten them a bit and remove the entry numbers. A copy of Dr. Cezar's "edited" version of the pictures was also posted to the USDA APHIS website.

Attachment 4 hereto entitled "edited scar rule 2009twhnc" shows the dramatic change Dr. Cezar made to the photographs through her "edit".

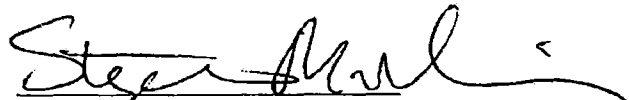
OTHER:

12. Dr. Gipson has told me on several occasions, once in a 2 hour meeting of just the two of us at the 2010 AAEP Annual Convention, in Baltimore, Maryland, not to worry about the Mandatory Penalty issue because eventually the attorneys from

both sides would work it out. Dr. Gipson has consistently told me that SHOW should just keep checking horses and continuing to do a good job. He told me on a phone call during the 2011 Celebration that he and I would sit down and work out the penalty structure as he knew it was too severe. I consistently asked for this meeting to occur by phone and through Dr. Gipson's friend, Victor Gibson, but it was never granted. Instead, the Department proceeded with rulemaking to have the penalty structure made mandatory or face decertification. As recently as last week, I received a message through Victor Gibson that the USDA attorneys were allegedly still working out some issues related to the mandatory penalties and as soon as the attorneys were finished, Dr. Gipson and I would come to a compromise on the issue.

13. I have been told by Dr. Gipson many times that I should stay out of the inspection area because the VMOs do not like my presence. I have told Dr. Gipson that I was in charge of SHOW's inspections and needed to be there. However, he continues to insist that things would go more smoothly if I was not present. The directive by Dr. Gipson places me in a difficult situation since it is my job to ensure the DQPs perform inspections properly. Nevertheless, when VMOs retaliate against my presence in the inspection area, there is the increased likelihood that unjustified violations will be written by the VMOs against innocent trainers, owners and horses.

FURTHER AFFIANT SAYETH NOT.

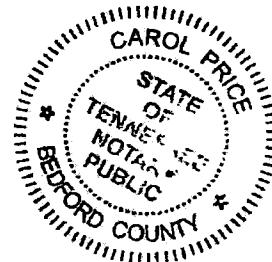

STEPHEN MULLINS, DVM

Subscribed and sworn to before me in my jurisdiction, by STEVE MULLINS

on this the 2 day of August, 2012.

Notary Public Carol Price

My Commission Expires: 7/16/13 Notary Seal/Stamp:



AFFIDAVIT OF JOHN PAUL RINER

STATE OF TENNESSEE
COUNTY OF MARSHALL

The undersigned having been duly sworn, states on his oath the following:

1. I am over the age of twenty-one (21), of sound mind and body and fully competent to testify to the matters set forth herein below.
2. I have been a certified Designated Qualified Person ("DQP") with SHOW, Inc., since February 8, 2010 and have inspected approximately 45 to 50 horse shows.
3. On Friday, June 22, 2012, I was assigned to inspect the Guntown Lions Club Horse Show in Guntown, Mississippi.
4. Prior to the beginning of the horse show, I was approached by Dr. Hammel, a Veterinary Medical Officer ("VMO") with the United States Department of Agriculture ("USDA") who informed me that beginning that evening there would be a change in the USDA's inspection protocol concerning the "scar rule". Dr. Hammel stated that, during the week preceding the June 22d horse show, the VMOs had been instructed to change their enforcement procedures for the "scar rule". He stated the VMOs were told to start enforcing the scar rule "as written" and that any uneven or abnormal skin on the back or sides would now be considered a violation and the horse would not be allowed to show. Mitchell Butler, another DQP assigned to the horse show, asked Dr. Hammel that if the skin on a horse's pastern could be flattened out, if that horse would be considered to be compliant with the "scar rule" and he responded "no". Dr. Hammel also said that if he could see or feel any change to a horse's pastern, that horse would be called out as a violation.
5. The information we received from Dr. Hammel on the evening of June 22, 2012, was a change from the scar rule protocol which I have been trained to follow since I began serving as a DQP in 2010 and does not follow what is my understanding of the scar rule regulation as written. My SHOW DQP training and our joint training with the USDA has always been that if any wrinkles on the back of a horse's pastern will flatten out and is smooth and is absent any signs of past or present inflammation, that horse was not in violation of the scar rule.
6. I have worked side by side with Dr. Hammel and other VMOs many times since February 2010 and the protocol outlined in paragraph no. 5 has been followed by both the DQPs and VMOs until the evening of June 22, 2012, when Dr. Hammel announced the change.

7. Also present during the conversation with Dr. Hammel on June 22nd prior to the beginning of the Guntown Horse Show were DQP Mitchell Butler and VMO Dr. Clem Dussault.

FURTHER AFFIANT SAYETH NOT.


JOHN PAUL RINER

Subscribed and sworn to before me in my jurisdiction, by JOHN PAUL RINER

on this the 20th day of July, 2012.

Notary Public Susan Elaine VanHooser

My Commission Expires: 8-27-14 Notary Seal/Stamp:



| | 2012 USDA Entries | USDA Violations/ Total Entries | USDA Violations/ Total Inspected | VMO #1 | VMO #1 Tickets | Number Inspected by VMO #1 | VMO #2 | VMO #2 Tickets | Number Inspected by VMO #2 | VMO #3 | VMO #3 Tickets | Number Inspected by VMO #3 | SHOW Violations/ Total Inspected | Location | Date |
|--------------------------------|----------------------|--------------------------------------|--|------------|-------------------|----------------------------------|-------------|-------------------|----------------------------------|--------|-------------------|----------------------------------|--|-----------------|-----------|
| | | | | | | | | | | | | | | | |
| Mississippi Charity | 384 | | | | | | | | | | | | | Jackson | 3/29-3/31 |
| Entries | | | | | | | | | | | | | | | |
| Bilateral | | 2 | | Tamlin | 0 | | Southerland | 2 | | NA | | | 0 | | |
| Unilateral | | 0 | | Tamlin | 0 | | Southerland | 0 | | NA | | | 8 | | |
| Scar Rule | | 0 | | Tamlin | 0 | | Southerland | 0 | | NA | | | 1 | | |
| Percentage | | 0.5% | | | 0 | | | 2 | | | | | 2.3% | | |
| National Trainers' Show | | | | | | | | | | | | | | White Pines | 4/12-4/14 |
| Entries | 287 | | | | | | | | | | | | | | |
| Bilateral | | 1 | | Kingston | 0 | | Southerland | 1 | | NA | | | 0 | | |
| Unilateral | | 0 | | Kingston | 0 | | Southerland | 0 | | NA | | | 6 | | |
| Scar Rule | | 0 | | Kingston | 0 | | Southerland | 0 | | NA | | | 7 | | |
| Percentage | | 0.3% | | | 0 | | | 1 | | | | | 4.5% | | |
| Bedford County 4-H | | | | | | | | | | | | | | Bedford County | 4/20/2012 |
| Entries | 170 | | | | | | | | | | | | | | |
| Bilateral | | 0 | | R. Johnson | 0 | | Tamlin | 0 | | NA | | | 0 | | |
| Unilateral | | 0 | | R. Johnson | 0 | | Tamlin | 0 | | NA | | | 0 | | |
| Scar Rule | | 0 | | R. Johnson | 0 | | Tamlin | 0 | | NA | | | 1 | | |
| Percentage | | 0.0% | | | 0 | | | 0 | | | | | 0.6% | | |
| Gulf Coast Charity | | | | | | | | | | | | | | Panama City, FL | 4/26-4/28 |
| Entries | 211 | | | | | | | | | | | | | | |
| Bilateral | | 0 | | Baker | 0 | | Binkley | 0 | | NA | | | 0 | | |
| Unilateral | | 0 | | Baker | 0 | | Binkley | 0 | | NA | | | 4 | | |
| Scar Rule | | 1 | | Baker | 3 | | Binkley | 0 | | NA | | | 8 | | |
| Percentage | | 0.5% | | | 3 | | | 0 | | | | | 5.7% | | |
| Petersburg Lions Club | | | | | | | | | | | | | | Petersburg, TN | 5/18/2012 |
| Entries | 98 | | | | | | | | | | | | | | |
| Bilateral | | 1 | | R. Johnson | 1 | | | | | NA | | | 0 | | |
| Unilateral | | 0 | | R. Johnson | 0 | | | | | NA | | | 2 | | |
| Scar Rule | | 0 | | R. Johnson | 0 | | | | | NA | | | 0 | | |
| Percentage | | 1.0% | | | 1 | | | 0 | | | | | 2.0% | | |
| Spring Fun Show | | | | | | | | | | | | | | Shelbyville, TN | 5/24-5/26 |
| Entries | 430 | | | | | | | | | | | | | | |
| Bilateral | | 0 | | Baker | 0 | | Southerland | 0 | | NA | | | 0 | | |
| Unilateral | | 0 | | Baker | 0 | | Southerland | 0 | | NA | | | 12 | | |
| Scar Rule | | 0 | | Baker | 0 | | Southerland | 0 | | NA | | | 4 | | |
| Percentage | | 0.0% | | | 0 | | | 0 | | | | | 3.7% | | |
| Columbia Spring Jubilee | | | | | | | | | | | | | | Columbia, TN | 6/1/2012 |
| Entries | 257 | | | | | | | | | | | | | | |
| Bilateral | | 0 | | R. Johnson | 0 | | Kingston | 0 | | NA | | | 0 | | |
| Unilateral | | 0 | | R. Johnson | 0 | | Kingston | 0 | | NA | | | 7 | | |
| Scar Rule | | 0 | | R. Johnson | 0 | | Kingston | 0 | | NA | | | 5 | | |
| Percentage | | 0.0% | | | 0 | | | 0 | | | | | 4.7% | | |
| Guntown, MS | | | | | | | | | | | | | | Guntown, MS | 6/22/2012 |

AFFIDAVIT OF WILLIAM EDWARDS

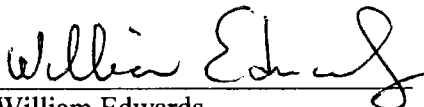
STATE OF Virginia
COUNTY OF Scott

The undersigned having been duly sworn, states on his oath the following:

1. I am over the age of twenty-one (21), of sound mind and body and fully competent to testify to the matters set forth herein below.
2. I have been a licensed Designated Qualified Person (DQP) for thirty (30) years and have worked over 450 shows during that period. The USDA was present for the majority of these shows. In almost 20 years I have not received a Letter of Warning nor been criticized by any USDA Veterinary Medical Office (VMO) for my performance.
3. On March 8, 2014, I was present for the SHOW HIO DQP training held in Shelbyville, Tennessee.
4. The USDA representative present at the DQP training was Dr. Jeff Baker.
5. Dr. Baker advised the method/protocol for evaluation for "scar rule" had also changed. He told the DQPs that if you looked at the back of a horse's pastern and could see wrinkles, then horse was out on scar rule. According to Dr. Baker, in checking for scar rule, we should no longer attempt to flatten the tissue to determine if any changes to pastern area were actually scar tissue. DQP John Paul Riner asked Dr. Baker about how he could determine whether any tissue changes were actually scar tissue without attempting to flatten out the skin. Dr. Baker did not give an explanation as to how we were to inspect for scar rule without physically attempting to flatten the skin on the back of the pastern and did not give a reason for the change in protocol.
6. Dr. Baker also informed us that DQPs must take all referrals, both pre-show and post-show, from the VMO. He stated that if the DQP did not issue a ticket to any horse referred back that the DQP would receive a Letter of Warning – whether the DQP agreed with the VMO's evaluation, or not.
7. I was assigned by SHOW HIO to inspect horses at the Trainers Show in Shelbyville, Tennessee, on March 13-15, 2014.
8. Prior to the show beginning on the evening of Thursday, March 13, 2014, Drs. Baker and Southerland called a pre-show meeting and reminded the DQPs that if we did not issue a ticket on a horse referred back to us by a VMO that we would receive a Letter of Warning.

9. Dr. Baker re-checked one of the first horses I inspected on Thursday night. Dr. Baker referred the horse back to me and told me the horse was out on scar rule. When I re-checked the horse, I saw no abnormal tissue, no swelling, no signs of inflammation and/or oozing from the skin and no areas of non-uniform thickened tissue. I told Dr. Baker that I could not agree with his assessment that the horse was out on scar rule. Dr. Baker took information on the horse for a federal ticket and then informed me, in a very condescending tone that I needed to "do better".
10. After re-examining the second horse Dr. Baker referred back to me as out on scar rule, I asked Dr. Baker to show me exactly what on the horse's pastern he considered to be in violation of the scar rule. Dr. Baker only rubbed the horse's pastern but would not, or could not, point to any particular area of the pastern as being out on scar rule.
11. Based on the horses which were referred back to the DQPs during the March 2014 Trainers' Show, it was clear that the VMOs were enforcing a different standard for scar rule violations than was used in previous years. Many horses which the VMOs called out on scar rule would never have been questioned in previous years and did not show any changes to their pasterns which could be considered in violation of the scar rule regulation as written.
12. On Saturday, March 15th, I inspected a horse which was brought to inspection from Charlie Green's trailer at Dr. Southerland's instruction. When I inspected the horse, I found him to have a grease type substance on his pastern area in violation of the foreign substance rule. Dr. Southerland then re-inspected the horse and wrote a ticket for foreign substance violation and bilateral soreness. The horse was not referred back to me for re-inspection.
13. I heard Dr. Southerland speaking to Charlie Green in a very threatening tone of voice. Dr. Southerland was upset about someone refusing to allow him to go into Charlie Green's trailer. Charlie Green tried to explain that he was not present when Dr. Southerland attempted to enter his trailer and had nothing to do with what had occurred. Dr. Southerland continued to blame Mr. Green for the incident and told him "this is a warning".
14. During the post-show meeting Saturday night, March 15th, Dr. Baker informed the DQPs he would be requesting a Letter of Warning because we did not write tickets on horses referred back to us by the VMOs. He told us that we should collect pictures and videos to defend ourselves. Suddenly, Dr. Southerland became very loud and told the DQPs to shut up and listen. Dr. Southerland said he was always right and that it didn't matter what the DQPs' opinions were. The remarks by Dr. Southerland were very disrespectful, inappropriate and unprofessional.

FURTHER AFFIANT SAYETH NOT.



William Edwards
4-10-14

Date

AFFIDAVIT OF MITCHELL BUTLER

STATE OF Tennessee
COUNTY OF Bedford

The undersigned having been duly sworn, states on his oath the following:

1. I am over the age of twenty-one (21), of sound mind and body and fully competent to testify to the matters set forth herein below.
2. I have been a licensed Designated Qualified Person (DQP) for four (4) years and have worked over 113 shows during that period. The USDA was present for the majority of these shows. I have never received a Letter of Warning nor been criticized by any USDA Veterinary Medical Office (VMO) for my performance.
3. On March 8, 2014, I was present for the SHOW HIO DQP training held in Shelbyville, Tennessee.
4. The USDA representative present at the DQP training was Dr. Jeff Baker.
5. Dr. Baker announced several substantial changes to the inspection methods/protocols used in previous years.
6. On the issue of palpation, Dr. Baker advised us that a horse would no longer have to exhibit reaction with his leg or foot in response to palpation to be called out as "sore". He stated that if the horse flexed his abdominal muscles, tucked his flanks or tightened his leg muscle he would now be considered "sore".
7. We advised Dr. Baker that the standard for numerous years used by both the VMOs and DQPs was that if the horse reacted to palpation in the same spot three (3) times that it was called out. If the horse did not react consistently to palpation in the same area of the foot, the horse was considered inconsistent and allowed to show. Dr. Baker responded that was no longer the USDA's standard. He stated that the horse's reaction no longer must involve movement with his leg or foot and there is no longer a requirement that the reaction be consistent in order to be considered "sore". This is a vast change in the method/protocol utilized by both the USDA and DQPs for years.
8. Dr. Baker also advised the method/protocol for evaluation for "scar rule" had also changed. He stated the VMOs would no longer attempt to flatten the tissue to determine if any changes to pastern area were actually scar tissue. According to Dr. Baker, if a VMO could see or feel any changes under the horse's skin, the horse would be called out. When questioned by DQP Riner about how he could determine whether any tissue were changes were actually scar tissue without attempting to flatten out the skin, Dr. Baker responded "Because I'm telling you it is." DQP Riner asked how he could prove it was scar tissue and Dr. Baker replied, "I said it was. So if I can see it or feel it, it's out."

9. Dr. Baker told the DQPs that if they did not evaluate and call the scar rule using this new method, they would be issued a Letter of Warning.
10. On the issue of referrals back from the VMOs, Dr. Baker informed us that DQPs must take all referrals, both pre-show and post-show, from the VMO. He stated that if the DQP did not issue a ticket to any horse referred back that the DQP would receive a Letter of Warning – whether the DQP agreed with the VMO's evaluation, or not. I told Dr. Baker that if the DQP did not have proof of a violation, the ticket would not be upheld. He responded, that wasn't our problem and that it doesn't matter if the HIO can prosecute the ticket, we were required to write it.
11. During the hands-on portion of the training session, Bobby Hugh asked Dr. Baker about whether a particular horse would be considered out on scar rule. Dr. Baker told Mr. Hugh the horse was "close" and he would want to inspect the horse again after it showed. When discussing the same horse with only the DQPs, Dr. Baker told us we should consider the horse was an "easy" call as clearly out on scar rule and we should issue tickets to any such horses "every time".

There were two (2) flat shod horse brought for the hand-on training. Dr. Baker never inspected them nor discussed testing them with hoof testers.

12. On March 13, 2014, the Trainers Show began and Dr. Baker was in attendance. At the pre-show meeting between the DQPs and VMOs, Dr. Baker reviewed his instructions given to the DQPs at the March 8th training concerning the change in evaluation for the scar rule discussed above. He also reminded the DQPs he would request a Letter of Warning if the DQPs did not call the scar rule using the new standard.
13. During the show, Dr. Baker referred several horses back to me for re-inspection and informed me that I should write those horses a ticket even if I did not agree with his findings.
14. On Friday, March 14, 2014, prior to the beginning of the show, I asked to speak with Dr. Baker and Dr. Sutherland privately. I handed them a 2012 letter from Kevin Shea regarding the protocol for scar rule inspection. After reading the letter, Dr. Baker claimed they were inspecting using those same guidelines. When I questioned him about his statements during the DQP training and on the previous night that if you could see changes to the horse's pastern that it must be called out, he said he "misspoke". When I tried to confirm that we would attempt to flatten the tissue, Dr. Baker said "It's hardened." When I asked how he could determine if the tissue was hardened, Dr. Baker's response was "Because I said it is."
15. I noticed that VMOs called a horse out on scar rule they sometimes videoed the pastern area instead of taking still pictures. I saw Dr. Baker pointing to the pastern area of one horse and saying on camera that there was scar tissue under the horse's skin.
16. I also observed that on almost every occasion in which Dr. Turner performed a thermograph on a horse's pastern, the horse was subsequently called out on scar rule by a VMO. I

observed the VMOs looking at the thermography camera prior to performing their inspections.

17. During the show on Saturday night, a particular horse was brought to inspection. The horse had been inspected Thursday night, shown and placed second, and passed post-show inspection by a VMO. On Saturday night, the same horse was presented for inspection. The trainer was told the horse's thermograph was abnormal. VMO Sharon Tamplin informed the trainer the horse was "lit up with scar tissue" based on the thermography findings. Based on these statements, the trainer chose to not proceed with inspection and returned the horse to the trailer.
18. During the post-show meeting Saturday night, March 15th, Dr. Baker informed the DQPs he would be requesting a Letter of Warning because we did not write tickets to horses he referred back. VMO Sutherland became very loud and animated during the discussion. He told the DQPs "you will do as we say." He then became louder saying, "Shut your mouth, this conversation is over" and stormed away.
19. During my four (4) year tenure as a DQP, I have never been threatened with a Letter of Warning despite working dozens of shows with the USDA present. Between the DQP Training and the 2014 Trainers Show alone, Dr. Baker threatened me with a Letter of Warning approximately 8 times. And told me that if I or my DQPs did not write the violation the VMOs told us to, even if we disagreed with their findings, we would all be given Letters of Warning. I believe they were trying to intimidate the DQPs into writing whatever violations the VMOs found no matter whether we disagreed with their findings.

FURTHER AFFIANT SAYETH NOT.

Mitchell Butler
Mitchell Butler

4/8/14
Date

Subscribed and sworn to before me in my jurisdiction, by MITCHELL BUTLER on this the 8 day of April, 2014.

Notary Public *[Signature]*

My Commission Expires: May 16, 2017

Notary Seal/Stamp

