

May 9, 2013

By Facsimile and First Class Mail

Honorable Robert E. Cooper, Jr.
Attorney General, Tennessee
Office of the Attorney General and Reporter
P.O. Box 20207
Nashville, TN 37202-0207

Re: Deceptive “Swabbing Initiative” at the 2012 Tennessee Walking Horse National Celebration

Dear Attorney General Cooper:

I am writing on behalf of The Humane Society of the United States and our thousands of members and supporters in Tennessee to ask that you open an investigation into misleading public statements made by the Walking Horse Trainers Association Enforcement Initiative, Tennessee Walking Show Horse Organization (TWSHO) and the Tennessee Walking Horse National Celebration (TWHNC). Specifically, these groups publicized promises to swab every horse participating in the 2012 Tennessee Walking Horse National Celebration (“the Celebration”) and conduct testing on the swab samples to detect the presence of foreign substances used in the unlawful and inhumane practice of soring as well as to mask pain and to block thermographic inspection. As explained below, these promises, along with other announced reforms, appear to have gone unfulfilled to the detriment of both exhibitors and attendees who were led to believe that they could expect a horse show operating in compliance with the law.

This failure to deliver on these well publicized assurances is extremely troubling, especially in light of recently released United States Department of Agriculture (“USDA”) documents showing that 65% of horses tested by the agency at 24 horse shows last year tested positive for prohibited foreign substances, and that 76% of horses tested at the 2012 Celebration tested positive.¹ In contrast, at the conclusion of the Celebration, the TWHNC issued a press release touting a “98.1% compliance rate” with the Horse Protection Act.² The Office of the Attorney General should investigate the public deception associated with the industry’s announcements concerning its swabbing program at the Celebration, and ensure accountability of the organizations. Indeed, the misleading statements likely induced consumers to purchase tickets to the event or led horse owners and exhibitors to believe that they were competing on a fair and level playing field.

The Tennessee Walking Horse National Celebration is an annual event held in Shelbyville, Tennessee, known as the “premier event for the Tennessee walking horse.”³ The 74th Annual Celebration took place from August 22, 2012 through September 1, 2012 and drew in 165,000 people, who paid between \$7.00

¹ USDA, *Horse Protection Program 2012 Foreign Substance Results*, available at http://www.aphis.usda.gov/animal_welfare/hp/downloads/show%20tally%202012%20for%20web.pdf.

² Press Release, Tennessee Walking Horse Show Organization, *Celebration Releases Final Attendance and Horse Safety Compliance Numbers*, available at www.twhnc.com/news_articles.htm.

³ Scott Sutton, *Walking Horse Celebration Lauds Attendance, Crowns Champion*, WSMV News, Sep 17, 2012, <http://www.wsmv.com/story/19442227/walking-horse-celebration-attendance>.

and \$350 for admission and weekly parking fees of \$87.50.⁴ The Walking horse industry has been subject to public outcry following the exposure and prosecutions of trainers Jackie McConnell and Barney Davis for violations of the federal Horse Protection Act⁵. Other events, including a recent investigation into soring allegedly committed by Larry Wheelon, a Walking horse trainer who until the investigation was a AAA-rated judge for the horse industry organization SHOW, a director of the Walking Horse Trainers' Association and sat on the organization's Ethics Committee, continue to demonstrate that this illegal and inhumane practice persists in the industry.⁶

In response to the public outcry, and in a clear attempt to preserve the popularity of the event, TWSHO, in conjunction with the Board of Directors of the Celebration, announced new inspection and enforcement policies to be enacted at the 2012 Celebration. TWSHO announced its promises in a series of press releases shortly before the 2012 Celebration publically stating that in addition to adhering to the WHTA's promise to swab and test "every horse" participating in the event, that the "swabbing results will be made public during the event"⁷ and that "violations will be punished severely by suspending trainers' licenses, disqualifying horses, [and] removing ribbons, trophies, and prize monies," in multiple press releases before and during the event.⁸ We believe that numerous consumers purchased tickets to the event, and exhibitors participated, based on these assurances.

Unfortunately for the consumers and the horses, these promises appear to have gone unfulfilled. The press releases plainly implied to consumers that every horse allowed in the ring would have been swabbed, that each swab would be tested for the presence of foreign substances, and that all individual results of the swabs would be made public. But instead of publishing the full swabbing results as promised, the TWSHO only issued sporadic press releases providing a general summary of the alleged swab results. In five of their releases, TWSHO announced only that "there were no violations to report from [this round] of swabs."⁹ In two of the releases, TWSHO announced that one violation had been

⁴ *Ticket Information-The Celebration*, TENNESSEE WALKING HORSE NATIONAL CELEBRATION, <http://www.twhnc.com/tickets-celebration.htm>; *Celebration Offers Three-Night Box Seat Combination for 2012*, TENNESSEE WALKING HORSE NATIONAL CELEBRATION, http://www.twhnc.com/news_articles.htm#CELEBRATION%20OFFERS%20TICKET%20COMBINATION.

⁵ *McConnell Gets \$75,000 Fine, 3 Years Probation In Horse Abuse Case*, THECHATTANOOGAN.COM, Sept. 18, 2012, <http://www.chattanooga.com/2012/9/18/234572/McConnell-Gets-75000-Fine-3-Years.aspx>; Interview with Barney Davis, The Humane Society of the United States, (Aug. 28, 2012), available at http://www.humanesociety.org/news/press_releases/2012/08/exclusive_barney_davis_video_082812.html.

⁶ Press Release, The Humane Society of the United States, *Maryville Horse Trainer's Horses Seized in Soring Investigation*, available at http://www.humanesociety.org/news/press_releases/2013/04/maryville-tenn-walking-horse-rescue-042513.html.

⁷ E.g., TWHNC, *Tennessee Walking Horse National Celebration Announces Historic Reforms on Eve of 74th Annual Celebration*, Aug. 21, 2012, no longer available on line, on file with HSUS; *Tennessee Walking Horse Celebration Underway In Shelbyville*, WTVF-TV NEWS, Aug 22, 2012,

<http://www.newschannel5.com/story/19339282/tennessee-walking-horse-celebration-underway-in-shelbyville>; Josh Devine, *Celebration Changes Testing To Detect Horse Abuse*, WSMV NEWS, last updated Sep. 3, 2012, <http://www.wsmv.com/story/19323467/celebration-changes-testing-to-detect-horse-abuse>.

⁸ *Tennessee Walking Show Horse Organization Announces First Round of Swabbing results from 74th Annual Celebration*, <http://www.walkinghorsechat.com/wp/2012/08/24/tennessee-walking-show-horse-organization-announces-first-round-of-swabbing-results-from-the-74th-annual-celebration/> This press release was followed by a series of press releases on August 26, August 29, August 31, September 1, September 2, and September 14 exhibiting similar language touting the reformed swabbing program with published results.

⁹ TWSHO Press Releases: Aug. 24, 2012 <http://twsho.com/2012/08/celebration-first-round-swabbing/>, Aug. 27, 2012 <http://twsho.com/2012/08/twsho-announces-second-round-of-swabbing-results-from-the-74th-annual->

found. However, none of these releases provided the actual swabbing results.¹⁰ The TWHNC had clearly implied that it would publish the actual swabbing results, likely under the hope and expectation that consumers would be relying on those promises in deciding whether or not to attend the Celebration.

After the conclusion of the Celebration, the TWHNC issued a press release touting a “98.1% compliance rate” with the Horse Protection Act, and asserting that due to the industry’s renewed emphasis on inspections and safety measures, attendance at the Celebration was up.¹¹ In stark contrast to the TWHNC’s findings, the USDA’s own independent swabbing of horses at the Celebration found that of 190 randomly tested horses, 145 were positive for prohibited foreign substances, or 76%.¹² Because TWHNC did not comply with its implied promise to publish *all* of the results of the swab tests that it promised to perform on *every* participating horse, it cannot be confirmed that every single participating horse was in fact swabbed and tested as promised by the Celebration. However, the contrast between the industry results and the USDA results certainly suggests that this was not done. Indeed, officials on an industry chat list have indicated that while all horses were swabbed, only first place winners and some randomly chosen horses’ swabs were actually tested for the presence of illegal foreign substances. Additionally, the list of foreign substances being tested for was never made public, nor was the TWHNC’s protocol for handling samples, including who would handle the samples, conduct the testing, or review the results, and whether or not samples were retained should further investigation be required. It was even suggested that a group of trainers (several of whom may have past histories of Horse Protection Act violations) was empanelled to review the results and determine whether to impose any penalties for positive swab tests.

We are concerned that attendees [?] at the Celebration were falsely assured that all steps to ensure complete compliance with the Horse Protection Act were being taken, when in reality show organizers failed to do so. Indeed, we are doubtful that the organizers ever intended to implement a sincere effort to address the presence of sore horses at the Celebration, using false promises of a thorough swabbing and testing program as a public relations tool designed to offset media attention and public criticism of industry self-regulation policies.

We respectfully request that you open an investigation into false public promises and misleading statements made by the WHTA Enforcement Initiative, TWSHO, and the Celebration concerning their program to swab and testing all horses for illegal foreign substances.

[celebration/](http://twsho.com/2012/08/twsho-announces-third-round-of-swabbing-results-from-the-74th-annual-celebration/), Aug. 29, 2012 <http://twsho.com/2012/08/twsho-announces-third-round-of-swabbing-results-from-the-74th-annual-celebration/>, Aug. 31, 2012 <http://twsho.com/2012/08/twsho-announces-fourth-round-of-swabbing-results-from-the-74th-annual-celebration/>, and Sep. 14, 2012 <http://twsho.com/2012/09/twsho-announces-sixth-round-of-swabbing-results-from-the-74th-annual-celebration/>.

¹⁰ Press Release, Tennessee Walking Show Horse Organization, *TWSHO Announces Fifth Round of Swabbing Results from the 74th Celebration*, available at: <http://twsho.com/2012/09/twsho-announces-fifth-round-of-swabbing-results-from-the-74th-annual-celebration/>; Press Release, Tennessee Walking Show Horse Organization, *TWSHO Announces Seventh Round and Final Round of Expedited Swabbing Results from the 74th Annual Celebration*, available at: <http://twsho.com/2012/09/twsho-announces-seventh-round-and-final-round-of-expedited-swabbing-results-from-the-74th-annual-celebration/>.

¹¹ Press Release, Tennessee Walking Horse Show Organization, *Celebration Releases Final Attendance and Horse Safety Compliance Numbers*, available at www.twhnc.com/news_articles.htm.

¹² USDA, *Horse Protection Program 2012 Foreign Substance Results*, available at http://www.aphis.usda.gov/animal_welfare/hp/downloads/show%20tally%202012%20for%20web.pdf.

Sincerely,

A handwritten signature in cursive script that reads "Leighann McCollum". The signature is written in black ink and is positioned centrally below the word "Sincerely,".

Leighann McCollum,
Tennessee state director,
The Humane Society of the United States