

(b)(5)



Animal and
Plant Health
Inspection
Service
Investigative and
Enforcement
Services

UNITED STATES
DEPARTMENT OF AGRICULTURE

EASTERN REGION
920 MAIN CAMPUS DRIVE, SUITE 200
RALEIGH, NC 27606
(919) 855-7080

July 5, 2007

To: Dr. Donald Evans, Acting AVIC
USDA APHIS Veterinary Services
2815 Old Jacksonville Rd, Suite 104
Springfield, Illinois 62704

Subject: Case No: IL07035-VS

Submitted for your information is a copy of the report of violation involving John Birdsong. On January 5, 2006, John Birdsong delivered a horse to Cavel International with a large hole on its side. The horse with tag#: USBI 7235 was not capable of exiting the trailer. The report documents violations of 9 CFR 88.4(a)(3)(vii), Requirements for transport and 9 CFR 88.4(b)(2), Requirements for transport.

This should conclude my investigation, if you need further assistance or any explanations please call me at: (b)(6),(b)(7)(C)

Individuals to be included in updates:

Dr. Donald Evans, Acting AVIC, USDA APHIS VS, IL
William Groce, Assistant Regional Director, Raleigh, NC
John Kinsella, Regional Director, Raleigh, NC

(b)(6),(b)(7)(C)

Investigator
USDA, APHIS, IES
Detroit, Michigan

Enclosure

Cc:

Allison Khroustalev, Assistant Director for Enforcement
Riverdale, MD, (Original copy to staff)

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
INVESTIGATIVE AND ENFORCEMENT SERVICES
EASTERN REGION
RALEIGH, NC

REPORT OF VIOLATION

Violator: **John Birdsong**
2961 E. Hwy, 166
Carrollton, GA 30116
770-832-8329

Case Number: IL07035-VS

Violation(s): 9 CFR 88

Investigator: (b)(6),(b)(7)(C)
920 Main Campus Drive
Suite 200
Raleigh, NC 27606

(b)(6),(b)(7)(C)

Date of Report: July 5, 2007

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without prior consent from USDA, APHIS, Investigative and Enforcement Services.

SYNOPSIS

Violator

Information: John Birdsong has been hauling horses to slaughter for years. And is not incorporated. John Birdsong buys horses for slaughter.

Previous

History:

John Birdsong has one Official Warning Letter for failure to correctly complete the VS form 10-13, (GA05012). One open case for not indicating an injured horse on VS form 10-13, (IL07036). And one open case for leaving horses at the slaughter plant after normal hours, (IL07037).

Violation

Events:

On January 5, 2006, John Birdsong delivered a horse to Cavel International with a large hole on its side. The horse with tag#: USBI 7235 was not capable of exiting the trailer

EXPLANATION OF THE EVIDENCE**January 5, 2006**

9 CFR

88.4a(3)(vii)

88.4(b)(2)

Requirements for transport.Requirements for transport.

On January 5, 2006, John Birdsong delivered a horse to Cavel International with a large hole on its side. The horse with tag#: USBI 7235 was not capable of exiting the trailer, as evidenced by:

Exhibit 1 - APHIS Form 7162, Affidavit of Doug Hoffman, dated 11/08/06, stating that John Birdsong told him that the horse was loaded onto the trailer injured.

Exhibit 2 - APHIS Form 7162, Affidavit of Renee S. Oleck, USDA FSIS Veterinarian, dated 5/30/07, stating that horse with tag#:7235, was severely injured.

Exhibit 3 - DVD of injured horse.

Exhibit 4 - VS Form 10-13, dated 1/4/06, with horse tag#: USBI 7235, listed.

Exhibit 5 - Carvel International Lot Sheet, dated 1/05/06, horse tag#: USBI 7235, is not listed.

Exhibit 6 - Copy of Carvel International check, dated 1/05/06, to John Birdsong for horses.

Exhibit 7 - Interview log by (b)(6),(b)(7)(C), Investigator, USDA APHIS IES of conversation with John Birdsong, dated 4/25/07.

OTHER EVIDENCE

Exhibit 8 - Personal Summary Report for John Birdsong.

AFFIDAVIT

I, Douglas S. Hoffman, being duly sworn on oath make the following statement: to (b)(6),(b)(7)(C) who has identified himself as an investigator with the USDA/APHIS Investigative Enforcement Services.

My name is Douglas S. Hoffman and I am currently employed as an Animal Health Technician for the USDA/APHIS Veterinary Services located at 2815 Old Jacksonville Rd. Suite 104, Springfield, Illinois 62704, Ph.217-241-6689 for the three years.

On January 5, 2006, I was working inspecting horses at Cavel International located in Dekalb, Illinois. A load of horses shipped and driven by John Birdsong 2961 E. Hwy 166 Carrollton, GA. 30116 (770-832-8329) arrived. Mr. Birdsong approached me before his trailer was unloaded and stated "one of the horses on his trailer had gone to see Jesus". I quickly explained to Mr. Birdsong if there was a dead horse on his trailer that he would have to take the body to be examined. I asked what had happened and Mr. Birdsong told me that he noticed a large hole in the side of the horse before he left Chatanooga, TN where he had loaded. I told Mr. Birdsong he should have never left the sale barn with the injured horse on his trailer. I also asked why he did not unload it there and get a Veterinarian to examine and treat it (which is a requirement of the Commercial Transportation of Equines to Slaughter Regulation). Mr. Birdsong's response was that the trailer was already loaded and it would be hard to unload and take to much time. I explained told Mr. Birdsong that was a bad decision because the horse needed to be seen by a Veterinarian. After looking in the trailer and before Mr. Birdsong unloaded we than realized that the horse was not dead but down and in very bad shape. I immediately got Dr. Renee Oleck (FSIS Veterinarian in Charge at Cavel) I quickly explained the problem and asked her to write up an affidavit or some form of documentation, Dr. Oleck agreed to do this and her statement is attached. On the VS Form 10-13 Mr. Birdsong documented the injury to this horse back tag# USBI 7235 but chose to ship the horse anyway. This was very bad judgment on Mr. Birdsong's

(b)(6),(b)(7)(C)

SIGNATURE OF AFFIRANT

Subscribed and sworn to before me at Cavel International, 108 Harvestore Dr, Dekalb, IL 60115 On this 8th day of November, 2006.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete. (NOV 92)

(b)(6),(b)(7)(C)

AUTHORITY NO: (b)(6),(b)(7)(C)



AFFIDAVIT

I, Douglas S. Hoffman, being duly sworn on oath make the following statement: to (b)(6),(b)(7)(C) who has identified himself as an investigator with the USDA/APHIS Investigative Enforcement Services.

part and I believe he is responsible for this horse going down and suffering further. Dr. Oleck had the horse humanely euthinized on his trailer and disposed of. Mr. Birdsong has been transporting livestock for 20 years and hauling slaughter horses for over a year. I have explained the Commercial Transportation of Equines to Slaughter Regulation to Mr. Birdsong and he is quite aware of the requirements. Mr. Birdsong has been shipping/driving horses to Cavel for over a year.

(b)(6),(b)(7)(C)

SIGNATURE OF AFFIANT

Subscribed and sworn to before me at Cavel International, 108 Harvestore Dr, Dekalb, IL 60115 On this 8th day of November, 2006.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete. (NOV 92)

(b)(6),(b)(7)(C)



AUTHORITY NO (b)(6),(b)(7)(C)

AFFIDAVIT

I, Renee S. Oleck , being duly sworn on oath make the following statement to: (b)(6),(b)(7)(C) who has identified himself as an investigator with the USDA/APHIS Investigative Enforcement Services. .

My name is Renee S. Oleck and I am employed as a Public Health Veterinarian for the United States Department of Agriculture, Food Safety Inspection Service since July 1, 2004. Starting January 10, 2004, I became the Inspector In Charge at plant #15849, Cavel International Inc. located at 108 Harvestore Drive, Dekalb, Illinois 60115, phone 815-758-6061.

On January 5, 2006, I was alerted by Dog Hoffman, USDA APHIS animal health technician, that there was a horse down and unable to rise on one of the trailers. I was told that the shipper of this load was John Birdsong of Carrolton, Georgia. I was also informed that the shipper was aware that this horse had a wound on its right flank, and that the animal was not in good health prior to loading it on to the trailer.

I entered the trailer and identified an aged (approximately 20 years old according to dentition), female, palomino horse, USDA APHIS back tag # 7235, lying in right lateral recumbency. The mare was very near death. She was non-responsive/ moribund; cold to the touch, breathing infrequent shallow breathes, and had a putrid odor coming from her abdominal area. I had her humanely euthanized with a captive bolt pistol immediately. My brief post mortem examination revealed an approximately 4 inch long laceration in her right flank. Digital palpation revealed

(b)(6),(b)(7)(C)

GOVERNMENT EXHIBIT 2 110735 Page 1 of 2 APHIS FORM 7070 (MAR 95)

Subscribed and sworn to before me at 160 Worcester, Providence Trpk, Sutton, MA 01590 On this 30th day of May , 2007.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete. (NOV 92)

DESIGNATED OFFICIAL (b)(6),(b)(7)(C) ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS, AUTHORITY N (b)(6),(b)(7)(C)

AFFIDAVIT

I, Renee S. Oleck , being duly sworn on oath make the following statement to: (b)(6),(b)(7)(C) who has identified himself as an investigator with the USDA/APHIS Investigative Enforcement Services. .

the laceration had penetrated through the muscle layers and into her abdominal cavity. A putrid, rotten odor emanated through the wound. I diagnosed her with toxemia secondary to traumatic peritonitis. The body was condemned.

[A large, faint blue scribble or signature line spans across the middle of the page.]

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

GOVERNMENT EXHIBIT
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ILO7035
Page 2 of 2
APHIS FORM 7070 (MAR 99)

Subscribed and sworn to before me at 160 Worcester, Providence Trpk, Sutton, MA 01590
On this 30th day of May , 2007.

APHIS FORM 7162 Replaces VS Form 3-59G which is obsolete.
(NOV 92)

(b)(6),(b)(7)(C)

DESIGNATED PURSUANT TO 7 U.S.C. 2217 TO
ADMINISTER OATHS, AFFIDAVITS, AND AFFIRMATIONS,
AUTHORITY N (b)(6),(b)(7)(C)

