

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) AWA Docket No. **07-0187**
)
Emory University,)
)
Respondent) Complaint

There is reason to believe that the respondent named herein has violated the regulations and standards (9 C.F.R. § 1.1 et seq.), issued pursuant to the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), herein referred to as the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Emory University, hereinafter referred to as the respondent, is an educational institution whose address is 1440 Clifton Road NE, Atlanta, Georgia 30322.

B. The respondent, at all times material herein, controlled the operations and activities of the Yerkes Regional Primate Center, hereinafter referred to as Yerkes, a school operated within the respondent's educational institution.

C. The respondent, at all times material hereto, was registered and operating as a research facility as defined in the Act and the regulations.

II

A. From on or about January 17-20, 2006, APHIS inspected respondent's premises and records and found the following willful violations of section 2.38(k)(1) of

the regulations (9 C.F.R. § 2.38(k)(1)) and the standards specified below:

1. Surfaces in primary enclosures which come in contact with nonhuman primates are not readily cleaned and sanitized (9 C.F.R. § 3.80(a)(2)(ix));
2. Floors in the outdoor runs were not cleaned and sanitized (9 C.F.R. § 3.84(a)); and
3. An effective program for the control of insects, external parasites affecting nonhuman primates that are pests, was not established and maintained (9 C.F.R. § 3.84(d)).

III

A. On or about July 11, 2006, APHIS inspected respondent's premises and records in response to the death of a macaque nonhuman primate on June 23, 2006, and found that respondent failed to have the Institutional Animal Care and Use Committee (IACUC) of the research facility approve a modification in a protocol prior to its use, in violation of section 2.31(c)(7) of the regulations (9 C.F.R. § 2.31(c)(7)).

B. On July 11, 2006, APHIS inspected the respondent's premises and records in response to the death of a macaque nonhuman primate on June 23, 2006, and found the following willful violations of section 2.38(k)(1) of the regulations (9 C.F.R. § 2.38(k)(1)) and the regulations specified below:

- (1) Respondent failed to ensure that all scientists, technicians and other personnel involved in research were properly trained (9 C.F.R. § 2.32(a)); and
- (2) Respondent failed to ensure adequate veterinarian care insofar as it had improperly labeled equipment (9 C.F.R. § 2.33).

WHEREFORE, it is hereby ordered that for the purpose of determining whether

the respondent has in fact violated the regulations and standards issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:
 - (a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder; and

(b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149).

Done at Washington, D.C.
this 4th day of September, 2007

Acting Kevin Shea
Administrator
Animal and Plant Health
Inspection Service

Frank Martin, Jr.
Attorney for Complainant
Office of the General Counsel
United States Department of
Agriculture
Washington, D.C. 20250-1417
Telephone (202) 720-9242

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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) AWA Docket No. 07-0187
)
Emory University,)
)
)
Respondent) Consent Decision
and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent violated the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provision of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in paragraph I of the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Emory University, hereinafter referred to as the respondent, is an educational institution whose address is 1440 Clifton Road, NE, Atlanta, Georgia 30322.

2. The respondent, at all times material herein, controlled the operations and activities of the Yerkes National Primate Research Center, hereinafter referred to as Center, a school operated within the respondent's educational institution.

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3. The respondent, at all times material hereto, was registered and operating as a research facility as defined in the Act and the regulations.

Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

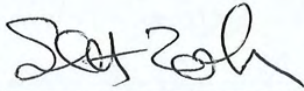
1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall not violate the regulations and standards under the Act.

2. Respondent is assessed a civil penalty of \$15,000.00, which shall be paid by a certified check or money order made payable to the Treasurer of the United States.

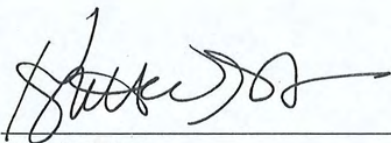
The provisions of this order shall become effective on the first day after service of this decision on the respondent.

Copies of this decision shall be served upon the parties.

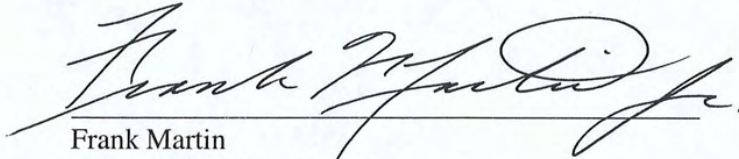
Emory University,
Respondent



Stuart Zola
Director, Yerkes National Primate Research Center
Emory University

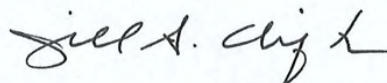


Kristin West
Attorney for Respondent



Frank Martin
Attorney for Complainant

Done at Washington, D.C.
this 25 day of September, 2007



Jill S. Clifton

Administrative Law Judge