



VIA: USPS Certified Mail
Shipping Event: 1st

December 13, 2011

Texas Biomedical Research Institute
P.O. Box 760549
San Antonio, Texas 78245

Jean Frazier
7620 N.W. Loop 410
San Antonio, TX 78227

SETTLEMENT AGREEMENT

Dear Sir or Madam:

Why You Are Receiving This Letter

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described in the attached Settlement Agreement. Our agency, the Animal and Plant Health Inspection Service (APHIS), is responsible for enforcing the AWA, and other agriculture laws that help prevent the spread of animal and plant pests and diseases, and ensure the welfare of animals.

After providing you with an opportunity for a hearing, we may impose civil penalties of up to \$10,000, or other sanctions, for each violation described in this Settlement Agreement. We are offering you the opportunity to resolve this matter by paying an amount that is much lower than the maximum civil penalty.

What You Need To Do Immediately

You should review the information in this Settlement Agreement, including the citation and notification of penalty.

- If you agree to waive your right to a hearing and pay the penalty, then do the following:
 - Pay the amount due, \$25,714, by **January 26, 2012**. You can pay by check, money order, or credit card. For your convenience, we have included additional instructions for making payments.



- If you are unable to pay the full amount due by **January 26, 2012**, you may be eligible for a payment plan. To request a payment plan, you must use the enclosed form to submit a written response to this letter by **January 26, 2012**, that indicates you wish to pay the penalty and waive your right to a hearing. You must also submit a copy of your most recent federal tax return. As part of your response, please include a phone number and an email address so that we may contact you.
- If you do not agree with the terms of this Settlement Agreement, submit a written request for a hearing, with your Reference Number, to our office by **January 26, 2012**, at 4700 River Rd., Unit 85, Riverdale, MD, 20737.

If We Do Not Hear From You

If we do not receive a payment or hearing request from you by **January 26, 2012**, we will forward this matter to our Office of the General Counsel for litigation.

What To Do If You Need Help

If you have any questions concerning this letter, contact Deborah Press at (301) 734-4969, or call our main office at (301) 734-8684.

CITATION AND NOTIFICATION OF PENALTY

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described below.

Date of Violation: November 30, 2009

9 C.F.R. § 3.80(a)(2)(iii) Primary enclosures

Your facility failed to construct and maintain enclosures so that they contain nonhuman primates securely and prevent accidental opening of the enclosures, including opening by the animal. A juvenile rhesus macaque escaped its enclosure and spent the night outdoors in cold weather. The animal was euthanized due to its weakened condition.

Date of Violation: May 10, 2010

9 C.F.R. § 2.131(b)(1) Handling of animals

Your facility failed to handle all animals as expeditiously and carefully as possible in a manner that does not cause trauma, behavioral stress, physical harm, or unnecessary



discomfort. Two baboons escaped an enclosure and injured an employee.

Date of Violation: May 10, 2010

9 C.F.R. § 3.80(a)(2)(iii) Primary enclosures

Your facility failed to construct and maintain enclosures that contain nonhuman primates securely and prevent accidental opening of the enclosures, including opening by the animal. The lock design in a nonhuman primate facility allowed two baboons to escape the immediate enclosure.



How To Pay The Penalty

You may pay your penalty immediately through secure online transactions or phone using American Express, Discover, Diners Club, Master Card, and Visa, or by U.S. Mail using a check, cashier's check, or money order.

Online. Pay.gov allows you to make deferred and recurring credit card payments through secure online payments. To submit your credit card payment online:

1. Log on to <https://www.pay.gov>.
2. Click on Agency List.
3. Click on "A" in Index.
4. Click on Agriculture Department.
5. Click on Department of Agriculture.
6. Click on Animal and Plant Health Inspection Service – APHIS Customers (2nd listing).
7. Complete the required information and submit the form.
8. Enter payment information and submit your payment.
9. Print confirmation screen as your receipt.

Phone. To make a credit card payment by phone:

1. Call (612) 336-3253 and speak to a Debt Management Specialist.
2. State your Reference Number TX11167-AC.
3. Submit your credit card information.

U.S. Mail. To make a payment by check, cashier's check, or money order:

1. Make the check, cashier's check, or money order payable to the Treasurer of the United States.
2. Write the Reference Number TX11167-AC on your check, cashier's check, or money order.
3. Mail your payment to:
USDA – APHIS – GENERAL TX11167-AC
P.O. Box 979043
St. Louis, MO 63197-9000

If You Are Unable To Pay In Full

Complete the attached form and return it to our office to request a payment plan. Please be prepared to provide us with copies of your most recent federal tax return so that we may determine whether you are eligible for a payment plan.



**AGREEMENT TO PAY AND
REQUEST FOR PAYMENT PLAN**

If you agree with the terms in this Settlement Agreement but cannot pay the penalty in full at this time, select one of the options below, sign the form, and return it to the following address prior to the due date of **January 26, 2012**:

USDA, APHIS, IES (General) TX11167-AC
4700 River Road, Unit 85
Riverdale, MD 20737

I understand that by signing this Settlement Agreement, I waive my right to a hearing. I agree to pay the penalty of \$25,714, but I am requesting a payment plan because of financial hardship. I have enclosed a copy of my most recent federal tax return. I have indicated below if I have enclosed other documents to show financial hardship:

_____ Bankruptcy filing

_____ Other (describe): _____

Signature: _____ Date: _____

Street Address: _____

City: _____ State: _____ Zip code: _____



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 Author: Deborah Press at (301) 734-4969

CC to IES Regional Directors
 and Area Managers:

- W. Harris, IES, ER
- R. Broyles, IES, ER
- T. Fordahl, IES, WR
- E. Nickerson, IES, WR
- J. Rood, IES, ER
- S. Santiago, IES, ER
- H. Jordan, IES, ER
- W. Reinburg, IES, ER
- W. Swartz, IES, ER
- J. Freeman, IES, WR
- K. Kraubner-Lucas, IES, WR
- M. McCann, IES, WR
- E. Kelpis, IES, WR
- L. Carson, IES, WR

CC to Others: R. Gibbens, AC WR;
 C. Jones, AC;
 M. Smith, IES;
 L. Blanton, AC WR;
 K. March, AC WR

Final Processing: Ember Smootz

Production Notes: [\[Production Notes\]](#)

T04A Settlement Agreement (10-11)

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