

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re) AWA Docket No. 93-33
)
WRIGHT STATE UNIVERSITY,)
)
Respondent) Complaint

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

JURISDICTIONAL ALLEGATIONS

1. Respondent Wright State University ("Wright State") is a private university whose address is 106 Oelman Hall, Dayton, Ohio 45435.
2. At all times mentioned herein, respondent Wright State was a research facility, as that term is defined in the Act and the regulations.

ALLEGED VIOLATIONS

1. On approximately October 1, 1992, respondent Wright State willfully violated section 2.40(b) of the Regulations, 9 C.F.R. § 2.40(b), by failing to provide adequate guidance to personnel involved in the care and use of animals regarding appropriate methods of euthanasia, in particular by permitting the use of expired drugs to euthanize animals.

2. Between approximately July 29, 1992, and August 2, 1992, respondent Wright State willfully violated the Regulations by failing to provide adequate veterinary care to the dog known as "Genessee." Specifically, Wright State

a. misdiagnosed the dog as having a dislocated hip, and failed to perform x-rays to confirm that diagnosis, in violation of section 2.33(b) (2) of the Regulations, 9 C.F.R. § 2.33(b) (2);

b. failed to respond appropriately to the dog's obvious pain and distress, in violation of sections 2.32(c) and 2.33(b) (2) of the Regulations, 9 C.F.R. §§ 2.32(c), 2.33(b) (2); and

c. failed to euthanize or administer a strong analgesic to the dog in accordance with accepted veterinary standards and practices, in violation of sections 2.32(c) and 2.33(b) (2) of the Regulations, 9 C.F.R. §§ 2.32(c), 2.33(b) (2).

3. Between approximately June 10, 1991, and June 19, 1991, respondent Wright State willfully violated the Regulations by failing to provide adequate veterinary care to the dog known as "Princess." Specifically, Wright State

a. failed to respond appropriately to the dog's obvious pain and distress, in violation of sections 2.32(c) and 2.33(b) (2) of the Regulations, 9 C.F.R. §§ 2.32(c), 2.33(b) (2);

b. failed to perform blood tests to properly diagnose the dog's loss of appetite and bloody diarrhea, in violation

of section 2.33(b) (2) of the Regulations, 9 C.F.R. § 2.33(b) (2); and

c. failed to euthanize the dog in accordance with accepted veterinary standards and practices, in violation of sections 2.32(c) and 2.33(b) (2) of the Regulations, 9 C.F.R. §§ 2.32(c), 2.33(b) (2).

4. Between approximately August 31, 1990, and January 22, 1991, respondent Wright State willfully violated the Regulations by failing to provide adequate veterinary care to the dog known as "Woodstock." Specifically, Wright State failed to treat the dog for hookworm, which resulted in the animal's death from severe hookworm anemia, in violation of sections 2.32(c) and 2.33(b) (2) of the Regulations, 9 C.F.R. §§ 2.32(c), 2.33(b) (2).

5. From approximately May 1990 through approximately January 1993, respondent Wright State willfully violated section 2.32(a) of the Regulations, 9 C.F.R. § 2.32(a), by failing to ensure that all scientists, research technicians, animal technicians, and other personnel involved in animal care, treatment and use were qualified to perform their duties.

6. From approximately May 1990 through approximately January 1993, respondent Wright State willfully violated section 2.32(c) of the Regulations, 9 C.F.R. § 2.32(c), by failing to instruct personnel to treat animals humanely, to use research methods that minimize animal use or distress, to use anesthetics, analgesics and tranquilizers properly, to report deficiencies in

animal care and treatment, and to use the available informational services.

7. From approximately May 1990 through January 1993, respondent Wright State, through its employee Dr. Robert Stuhlman, willfully violated the Regulations by significantly changing the care and use of animals in ongoing research, without the approval of the Institutional Animal Care and Use Committee (the "IACUC"). Specifically, respondent Wright State

a. violated section 2.31(d)(6) of the Regulations, 9 C.F.R. § 2.31(d)(6), from approximately June 10, 1991 through June 19, 1991, by failing to euthanize the dog known as Princess, in contravention of the approved protocol and as requested by the Principal Investigator, in order to conduct other independent research on the animal; and

b. violated section 2.31(d)(6) of the Regulations, 9 C.F.R. § 2.31(d)(6), from approximately May 1990 through January 1993, by failing to deworm dogs involved in the scabies studies, in contravention of the approved protocol and without the knowledge of the Principal Investigator, in order to conduct other independent research on the animals.

8. From approximately May 1990 through approximately January 1993, respondent Wright State willfully violated section 10 of the Act, 7 U.S.C. § 2140 and sections 2.35(b) and 2.35(f) of the Regulations, 9 C.F.R. §§ 2.35(c) and 2.35(f), by failing to keep records and reports concerning dogs used in research facilities, and to maintain those records and reports for three years.

9. From approximately May 1990 through July 2, 1990, respondent Wright State, through its employee Dr. Larry Arlian, willfully violated section 2.31(d)(8) of the Regulations, 9 C.F.R. § 2.31(d)(8), by engaging in activities involving the care and use of animals before the IACUC had approved those activities.

10. On or about September 10, 1992, and October 7, 1992, respondent Wright State, through its IACUC, willfully violated section 2.31(d)(iv)(A) of the Regulations, 9 C.F.R. § 2.31(d)(iv)(A), by failing to ensure that researchers used sedatives, analgesics or anesthetics when they scraped scabies mites from rabbits' ears.

11. From approximately April 25, 1991, through approximately March 9, 1992, and from approximately August 19, 1992, through at least April 1993, respondent Wright State, through its IACUC, willfully violated section 2.31(c)(1) of the Regulations, 9 C.F.R. § 2.31(c)(1), by failing repeatedly to review its program for humane care and use of animals at least once every six months.

12. From approximately April 25, 1991, through approximately March 9, 1992, and from approximately August 19, 1992, through at least April 1993, respondent Wright State, through its IACUC, willfully violated section 2.31(c)(2) of the Regulations, 9 C.F.R. § 2.31(c)(2), by failing repeatedly to inspect its animal facilities at least once every six months.

13. From approximately April 25, 1991, through approximately March 9, 1992, and from approximately August 19, 1992, through at least April 1993, respondent Wright State, through its IACUC, willfully violated section 2.31(c)(3) of the Regulations, 9 C.F.R. § 2.31(c)(3), by failing repeatedly to prepare and submit to the Institutional Official a report of its IACUC evaluations at least once every six months.

14. On or about July 2, 1990, and July 6, 1992, and November 9, 1992, respondent Wright State, through its IACUC, willfully violated section 2.31(d)(1)(ii) of the Regulations, 9 C.F.R. § 2.31(d)(1)(ii), by approving proposals for scabies research that did not include a written description of alternatives to painful procedures for animals.

15. On or about July 2, 1990, and July 6, 1992, and November 9, 1992, respondent Wright State, through its IACUC, willfully violated section 2.31(d)(1)(iii) of the Regulations, 9 C.F.R. § 2.31(d)(1)(iii), by approving a proposal for scabies research that did not include written assurances that the procedures used would not unnecessarily duplicate previous experiments.

16. On or about July 2, 1990, and July 6, 1992, and November 9, 1992, respondent Wright State, through its IACUC, willfully violated section 2.31(e)(2) of the Regulations, 9 C.F.R. § 2.32(e)(2), by approving a proposal for scabies research that did not include a rationale for using animals and for using the specific numbers and species of animals.

17. On or about July 2, 1990, and July 6, 1992, and November 9, 1992, respondent Wright State, through its IACUC, willfully violated section 2.31(e)(4) of the Regulations, 9 C.F.R. § 2.31(e)(4), by approving a proposal for scabies research that did not contain a written description of the procedures designed to limit discomfort and pain to animals, including the use of analgesic, anesthetic, and tranquilizing drugs.

18. On or about July 2, 1990, and July 6, 1992, and November 9, 1992, respondent Wright State, through its IACUC, willfully violated section 2.31(e)(5) of the Regulations, 9 C.F.R. § 2.31(e)(5), by approving a proposal for scabies research that did not contain a written description of the euthanasia procedures that were to be used.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations 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 12th day of July, 1993


Acting Administrator
Animal and Plant Health
Inspection Service

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