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**UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE**

In re:

AWA No. 07- 0198

CONTINENTAL AIRLINES, INC., a
Delaware domestic corporation
authorized and registered to transact
business in Texas,

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. §§ 2131-2159) (the "Act"), and the regulations and standards (9 C.F.R. §§ 1.1-3.142) (the "Regulations" and "Standards") issued pursuant to the Act. Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging as follows:

ALLEGATIONS

1. Respondent Continental Airlines, Inc., is a Delaware domestic corporation that holds a certificate of authority to transact business in Texas, and whose agent for service of process is CT Corporation System, 1021 Main Street, Suite 1150, Houston, Texas 77002.
2. At all material times alleged herein said respondent was registered as a carrier as that term is defined in the Act and Regulations and held Animal Welfare Act registration 74-T-0016.

ALLEGATIONS REGARDING THE SIZE OF RESPONDENT'S BUSINESS,
THE GRAVITY OF THE ALLEGED VIOLATIONS, AND
RESPONDENT'S COMPLIANCE HISTORY AND GOOD FAITH

3. Respondent operates a large business. According to respondent's 2006 Annual Report, respondent is the world's fifth largest airline and earned \$13,128 million in revenue.

4. The gravity of the violations alleged in this complaint is great. They include instances in which respondent's failure to comply with the Act's minimal standards resulted in death or serious injury for no fewer than three animals.

5. Respondent has a history of violating the Act and the Regulations issued thereunder.

6. On or about January 3, 1992, respondent was found to have violated the Animal Welfare Act regulations by handling a primary enclosure containing a dog in a manner so as to cause the escape and death of the animal, in *In re Continental Airlines, Inc.*, 51 Agric. Dec. 484 (1992).

7. As a result of the findings and conclusions in *In re Continental Airlines, Inc.*, 51 Agric. Dec. 484 (1992), respondent was assessed a civil penalty of \$2,000, and ordered to "cease and desist from failing to exercise care to avoid handling any primary enclosure in such a manner that may cause physical harm or emotional trauma to the live dog or cat contained therein."

8. On or about June 1, 1992, respondent was found to have violated the Animal Welfare Act regulations by placing six dogs in an unventilated and uncooled cargo compartment, which was not adequate to protect the health and ensure the safety and comfort of the dogs under the circumstances, and by failing to observe the dogs while the aircraft was delayed, in *In re Continental Airlines, Inc.*, 51 Agric. Dec. 1256 (1992).

9. Respondent's failure to comply with the Act and Regulations in *In re Continental Airlines, Inc.*, 51 Agric. Dec. 1256 (1992), resulted in the death of one dog.

10. As a result of the findings and conclusions in *In re Continental Airlines, Inc.*, 51 Agric. Dec. 1256 (1992), respondent was assessed a civil penalty of \$2,000, and ordered to “cease and desist from failing to exercise care to protect animals from excessive heat.”

11. On or about November 17, 1995, a consent decision and order was issued as to respondent in *In re Continental Airlines, Inc.*, 54 Agric. Dec. 1176 (1995), and respondent was ordered to pay a civil penalty of approximately \$4,500.

12. On or about September 12, 2001, a consent decision and order was issued as to respondent in *In re Continental Airlines, Inc.*, 60 Agric. Dec. 722 (2001), and respondent was ordered to pay a civil penalty of \$1,000.

13. In addition to the Decisions and Orders issued as to respondent, as described above in paragraphs 6-12, complainant and respondent have entered into stipulations, pursuant to 9 C.F.R. § 4.11, to resolve violations documented in animal welfare investigations.

14. In 2000, complainant and respondent entered into two stipulations in which respondent paid monetary penalties of \$3,125, to resolve the violations documented in animal welfare investigations NJ 99-031, FL 99-047, NJ 00-002, and NJ 00-007.

15. In 2005, complainant and respondent entered into a stipulation in which respondent paid monetary penalties of \$688, to resolve the violations documented in animal welfare investigation MO 05-005.

16. In addition, respondent’s conduct over the period described herein reveals a consistent disregard for, and unwillingness or inability to abide by, the requirements of the Act and the Regulations and Standards.

17. Accordingly, respondent’s ongoing pattern of violations establishes a “history of previous violations” for the purposes of section 19(b) of the Animal Welfare Act (7 U.S.C. § 2149(b)), and a lack of good faith.

ALLEGED VIOLATIONS

18. On or about May 13, 2005, respondent accepted a female domestic cat (“Buffy”) for transport in Dallas, Texas, on flight 414, and, in particular,

19. Respondent allowed Buffy to travel in an enclosure that failed to contain her securely and, in fact, allowed parts of the animal’s body outside of the enclosure in a manner that could, and did, result injury to the animal, to wit: a lip detached from her bottom jaw, in willful violation of section 2.100(a) of the Regulations and section 3.14(a)(3) of the Standards (9 C.F.R. §§ 2.100(a), 3.14(a)(3));

20. Respondent handled Buffy in a manner that failed to avoid causing physical harm and distress to the animal, and specifically, handled Buffy so as to cause her escape, injury, and/or distress in willful violation of section 2.100(a)(1) of the Regulations and section 3.19(b) of the Standards (9 C.F.R. §§ 2.100(a), 3.19(b)).

21. On or about June 6-7, 2005, respondent transported a dog from Santa Rita, Guam to Houston, Texas, and, in particular, respondent transported one dog in a non-permanently affixed enclosure with the “Live Animal” marking (on the enclosure’s top) entirely covered by an air waybill, in willful violation of section 2.100(a) of the Regulations and section 3.14(a)(6) of the Standards (9 C.F.R. §§ 2.100(a), 3.14(a)(6)).

22. On or about June 29, 2005, respondent accepted a female dog (“Sasha”) for transport from Washington, D.C., through Houston, Texas, and to Los Angeles, California, and, in particular,

23. Respondent allowed Sasha to travel in an enclosure that failed to contain her securely and comfortably and that could withstand the normal rigors of transportation and, in fact, during flight 159 from Washington, D.C., to Houston, Texas, Sasha escaped from her

enclosure and into the aircraft's cargo hold, in willful violation of section 2.100(a) of the Regulations and section 3.14(a)(3) of the Standards (9 C.F.R. §§ 2.100(a), 3.14(a)(3));

24. Respondent handled Sasha in a manner that failed to avoid causing physical harm and distress to the animal, and specifically, handled Sasha in manner that allowed her escape from her enclosure to the aircraft's cargo hold and then onto the hot tarmac where respondent's personnel pursued Sasha for approximately one hour and, as a result, Sasha suffered abrasions on her footpads, hyperthermia, exhaustion, and shock, and, ultimately, died, in willful violation of section 2.100(a)(1) of the Regulations and section 3.19(b) of the Standards (9 C.F.R. §§ 2.100(a), 3.19(b), 3.19(c)).

25. On or about August 1, 2005, respondent accepted a female dog ("Jeni") for transport from Oklahoma City, Oklahoma, through Houston, Texas, and to Geneva, Switzerland, and, in particular,

26. Respondent allowed Jeni to travel in an enclosure that failed to contain her securely and comfortably and that could withstand the normal rigors of transportation and, thus, shortly after arriving in Houston, Texas, Jeni escaped from her enclosure, in willful violation of section 2.100(a) of the Regulations and section 3.14(a)(3) of the Standards (9 C.F.R. §§ 2.100(a), 3.14(a)(3));

27. Respondent handled Jeni in a manner that failed to avoid causing physical harm and distress to the animal, and specifically, handled Jeni in manner that allowed her to escape from her enclosure and onto the hot tarmac where respondent's personnel pursued Jeni and, as a result, Jeni's footpads became raw and peeled, in willful violation of section 2.100(a)(1) of the Regulations and section 3.19(b) of the Standards (9 C.F.R. §§ 2.100(a), 3.19(b), 3.19(c)).

28. On or about May 13, 2005, June 29, 2005, and August 1, 2005, respondent knowingly failed to obey the cease and desist order issued by the Secretary under section

2149(b) of the Act, in *In re Continental Airlines, Inc.*, 51 Agric. Dec. 484 (1992), and, accordingly, said respondent “shall be subject to a civil penalty of [\$1,650] for each offense, and each day during which such failure continues shall be deemed a separate offense,” 7 U.S.C. § 2149(b).

WHEREFORE, it is hereby requested 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. 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 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 requiring respondent to cease and desist from violating the Act and the Regulations and Standards issued thereunder, and assessing civil penalties against respondent in accordance with section 2149 of the Act (7 U.S.C. § 2149).

this 17th day of September 2007

Acting Kevin Shea
Administrator
Animal and Plant Health Inspection Service

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