

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 384
)
United Airlines, Inc.,)
)
Respondent) Complaint

There is reason to believe that the respondent 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 and standards (9 C.F.R. § 1.1 et seq.) issued thereunder, and therefore this complaint is issued alleging the following:

I

- (a) United Airlines, Inc. is a corporation and its mailing address is P.O. Box 66100, Chicago, IL 60666.
- (b) Respondent, at all times material herein, was engaged in the business of transporting animals for hire and was a carrier within the meaning of the Act.
- (c) Respondent, at all times material herein, was registered (No. IL-T1) under the Act.
- (d) At the time of respondent's application for registration, respondent was given a copy of the regulations and standards promulgated under the Act and respondent agreed in writing to comply with them.

II

- A. On April 22, 1985, the respondent, in Cleveland, Ohio, accepted a dog from Harriet Goldner for shipment and transported the dog in a shipping container with insufficient space in violation of 9 C.F.R. §§ 3.11(b) and 3.12(c).
- B. On April 22, 1985, in violation of 9 C.F.R. § 3.13(c), the respondent transported the above-described dog to San Francisco, California in airline

cargo space that did not provide sufficient air supply and the result was the death of the dog during transit.

III

A. On May 13, 1985, the respondent, in Chicago, Illinois, accepted two dogs from Rosa Lee Foster for shipment to Louisiana and Oklahoma respectively. The shipping kennels provided insufficient space for the dogs. Respondent's acceptance of the two dogs for shipment in undersized kennels was in violation of 9 C.F.R. §§ 3.11(b) and 3.12(c).

B. On May 13, 1985, the respondent shipped the Foster dogs in kennels without "Live Animal" markings on the sides in violation of 9 C.F.R. §§ 3.11(b) and 3.12(f).

IV

On August 29, 1985, respondent, in Oakland, California, accepted a dog from Howard Mendelshon for shipment to Des Moines, Iowa. During a change of planes at Stapleton International Airport, Denver, Colorado, airline employees failed to properly handle the dog, resulting in the release of the dog and subsequent death in nearby highway traffic. Respondent, therefore, violated 9 C.F.R. 3.17(a) and (c).

V

On September 16, 1985, the respondent, in Chicago, Illinois, accepted a dog from Gordon Pirie for shipment to Greensboro, North Carolina. The dog was accepted for shipment and shipped in a container that did not provide sufficient space for the dog in violation of 9 C.F.R. §§ 3.11(b) and 3.12(b), (c).

VI

On September 26, 1985, the respondent's freight agent, Norman Schalk, refused to furnish to Animal and Plant Health Inspection Service employees an

airbill copy relating to the Pirie shipment above-described in violation of section 10 of the Act and 9 C.F.R. 2.78(a), (b).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully 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. 20250-1400, 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:

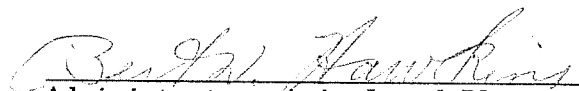
1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

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 31st day of January, 1986



Administrator, Animal and Plant
Health Inspection Service

HOWARD B. HAAS
Attorney for Complainant
Marketing Division
Office of the General Counsel
U.S. Department of Agriculture
Washington, D. C. 20250
Phone: (202) 447-4977