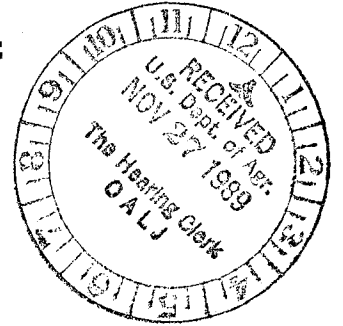


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) AWA Docket No.
) *90-4*
United Airlines, Inc.,)
)
Respondent) Complaint

There is reason to believe that the respondent named herein has willfully 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. United Airlines, Inc., hereinafter referred to as respondent, is a corporation whose mailing address is Post Office Box 66100, Chicago, Illinois 60666.

B. The respondent, at all times material herein, was a registered carrier under the Act.

II

A. On October 9, 1988, at Tampa, Florida, respondent accepted for transportation and transported, in commerce, one live dog to Portland, Oregon, on air waybill 016-TPA 5824 7206,

in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

1. The primary enclosure of the dog was not marked with the words "Live Animal" nor with arrows or other markings indicating the correct upright position of the container

(9 C.F.R. §§ 3.11(b), 3.12(f));

2. Feed and water instructions were not affixed to the outside of the primary enclosure (9 C.F.R. § 3.14(d)); and

3. The primary enclosure was not large enough to allow the dog to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position (9 C.F.R. §§ 3.11(b), 3.12(c)).

B. On October 9, 1988, at Chicago, Illinois, respondent failed to visually observe the dog referred to in subparagraph A above, in order to determine whether all applicable standards were being complied with and to determine whether the dog was in obvious physical distress, in willful violation of section 2.100(b) of the regulations and section 3.15(a) of the standards (9 C.F.R. §§ 2.100(b), 3.15(a)).

III

A. On February 12, 1989, at Fargo, North Dakota, respondent accepted for transportation and transported, in commerce, one live dog to Boston, Massachusetts, on air waybill

016-FAR 5891 0165, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

1. The primary enclosure of the dog was not marked with arrows or other markings indicating the correct upright position of the container (9 C.F.R. §§ 3.11(b), 3.12(f));
2. Feed and water instructions were not affixed to the outside of the primary enclosure (9 C.F.R. § 3.14(d)); and
3. The primary enclosure was not large enough to allow the dog to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position (9 C.F.R. §§ 3.11(b), 3.12(c)).

B. On February 12, 1989, at Chicago, Illinois, respondent failed to visually observe the dog referred to in subparagraph A above, in order to determine whether all applicable standards were being complied with and to determine whether the dog was in obvious physical distress, in willful violation of section 2.100(b) of the regulations and section 3.15(a) of the standards (9 C.F.R. §§ 2.100(b), 3.15(a)).

IV

A. On February 12, 1989, at Denver, Colorado, respondent accepted for transportation and transported, in commerce, as checked baggage, one live dog on flight 162 to New York, New

York, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

1. The primary enclosure of the dog was not marked with the words "Live Animal" nor with arrows or other markings indicating the correct upright position of the container (9 C.F.R. §§ 3.11(b), 3.12(f)); and

2. Feed and water instructions were not affixed to the outside of the primary enclosure (9 C.F.R. § 3.14(d)).

B. On February 15, 1989, at New York, New York, respondent accepted for transportation and transported, in commerce, as checked baggage, the same live dog referred to in subparagraph A above, on flight 227 to Denver, Colorado, in willful violation of section 2.100(b) of the regulations and the standards specified below:

1. The primary enclosure of the dog was not marked with the words "Live Animal" nor with arrows or other markings indicating the correct upright position of the container (9 C.F.R. §§ 3.11(b), 3.12(f)); and

2. Feed and water instructions were not affixed to the outside of the primary enclosure (9 C.F.R. § 3.14(d)).

C. On February 15, 1989, upon the arrival of flight 227 at Denver, Colorado, respondent failed to visually observe the dog referred to in subparagraphs A and B above, in order to determine whether all applicable standards were being complied with and to

determine whether the dog was in obvious physical distress, in willful violation of section 2.100(b) of the regulations and section 3.15(a) of the standards (9 C.F.R. §§ 2.100(b), 3.15(a)).

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:

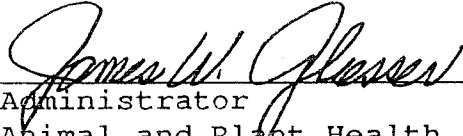
1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

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 20th day of November, 1989



Administrator
Animal and Plant Health
Inspection Service

M. BRADLEY FLYNN
Attorney for Complainant
Office of the General Counsel
United States Department of
Agriculture
Washington, D.C. 20250-1400
Telephone 447-4631