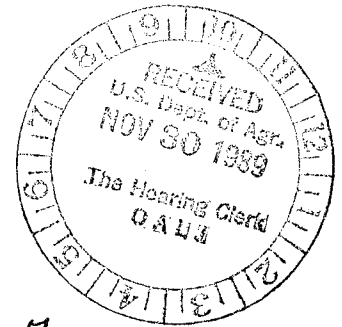


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE



In re: ) AWA Docket No. 90-7  
)  
Ronald Wagner, Jeri )  
Wagner, Northwest )  
Airlines, Inc., and )  
Aircraft Service )  
International, Inc., )  
)  
Respondents ) Complaint

There is reason to believe that the respondents named herein have willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), herein referred to as the Act, and the regulations and standards (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:

I

A. Respondents Ronald Wagner and Jeri Wagner are individuals whose address is Route 5, Box 4, Watertown, South Dakota 57201. At all times material herein, they were licensed and operating as a dealer as defined in the Act and the regulations.

B. Respondent Northwest Airlines, Inc., is a corporation with offices at Minneapolis-St. Paul International Airport,

St. Paul, Minnesota 55111. At all times material herein, it was registered and operating as a carrier as defined in the Act and the regulations.

C. Respondent Aircraft Service International, Inc., is a corporation with offices at 1302 N. Perimeter Road, West Palm Beach, Florida 33406. At all times material herein, it was operating as an intermediate handler as defined in the Act and the regulations.

## II

On December 4, 1986, at Sioux Falls, South Dakota, respondents Ronald and Jeri Wagner offered 12 dogs, two each in six primary enclosures, to a carrier for transportation, in commerce, in willful violation of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and section 3.12(c) of the standards (9 C.F.R. § 3.12(c)), in that three of the primary enclosures were not large enough to allow the dogs to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position.

## III

A. On December 4, 1986, at Sioux Falls, South Dakota, respondent Northwest Airlines, Inc., accepted for transportation and transported, in commerce, to West Palm Beach, Florida, 12 live dogs, two each in six primary enclosures, in willful

violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(a)) and sections 3.11(b) and 3.12(c) of the standards (9 C.F.R. §§ 3.11(b), 3.12(c)), in that three of the primary enclosures were not large enough to allow the dogs to turn about freely in a standing position using normal body movements, to stand and sit erect, and to lie in a natural position. (Air Waybill No. 012-2256-3693)

B. Respondent Northwest Airlines, Inc., also willfully violated section 13(h) of the Act (21 U.S.C. § 2143(h) and section 2.80 of the regulations (9 C.F.R. § 2.80) by accepting live animals for transportation, as described in subparagraph A above, on a C.O.D. basis, without obtaining from the consignor a written guarantee for payment of transportation expenses and reimbursement of any feeding, storage, or housing expenses.

C. Respondent Northwest Airlines, Inc., is also responsible and liable for the willful violations of its agent, Aircraft Service International, Inc., as set forth in subparagraph IV A below.

#### IV

A. On December 4, 1986, at West Palm Beach, Florida, respondent Aircraft Service International, Inc., accepted, as an intermediate handler, the shipment of live dogs described in subparagraph II A above, and placed them in the closed premises

of another intermediate handler, 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 dogs were not provided with water, as required (9 C.F.R. § 3.14(a));
2. The dogs were not provided with food, as required (9 C.F.R. § 3.14(b));
3. The dogs were not provided with fresh air in the holding area, as required (9 C.F.R. § 3.16); and
4. The consignee was not notified at least once in every six hour period following arrival of the shipment (9 C.F.R. § 3.11(d)).

B. Respondent Aircraft Service International, Inc., engaged in business as an intermediate handler, without being registered, in willful violation of section 6 of the Act (7 U.S.C. § 2136) and section 2.25 of the regulations (9 C.F.R. § 2.25).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations and standards issued pursuant to the Act, this complaint shall be served upon the respondents. The respondents 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:

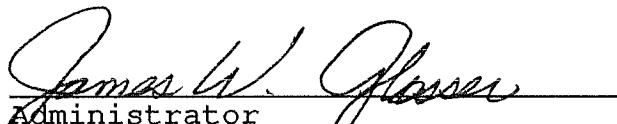
1. That unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

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 respondents to cease and desist from violating the Act and the regulations and standards issued thereunder; and

(b) Assessing civil penalties against the respondents  
in accordance with section 19 of the Act (7 U.S.C. § 2149); and

Done at Washington, D.C.  
this 27th day of November, 1989

  
\_\_\_\_\_  
Administrator  
Animal and Plant Health  
Inspection Service

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