

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) AWA Docket No. 01- 0015
)
DELTA AIR LINES, INC.,)
a Georgia corporation,)
)
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.)(the "Act"), and the regulations and standards issued pursuant thereto (9 C.F.R. § 1.1 et seq.)(the "Regulations" and the "Standards"). The Administrator of the Animal and Plant Health Inspection Service therefore issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent Delta Air Lines, Inc. ("Delta"), is a Georgia corporation whose business address is Hartsfield-Atlanta International Airport, 1010 Delta Boulevard, Post Office Box 20706, Atlanta, Georgia 30320-6001.

2. At all times mentioned herein, respondent Delta was registered as a carrier, as that term is defined in the Act and the Regulations.

3. Between December 30, 1999, and January 3, 2000, respondent Delta transported a six-year old live boxer dog named "Rex" from Frankfort, Germany, to Tucson, Arizona.

VIOLATIONS OF THE REGULATIONS AND STANDARDS

4. On December 30, 1999, Rex's owners traveled on Delta flight 49 from Frankfort to Cincinnati, Ohio, and arrived in Tucson that same day on Delta flight 255. Officials of respondent Delta assured Rex's owners that he was (1) in the cargo hold on flight 49, and (2) was fine. In fact,

Rex was not on flight 49 at all. Respondent Delta transported Rex on Delta flight 15 from Frankfurt to Atlanta on or about January 2, 2000. Respondent Delta held Rex overnight in Atlanta. On January 3, 2000, respondent Delta transported Rex to Dallas, Texas, on Delta flight 17. Rex arrived in Tucson on January 3, 2000, on Delta flight 527, having lost ten pounds.

5. "Rex" died on February 11, 2000.

6. Between December 30, 1999, and January 3, 2000, respondent Delta failed to handle Rex so as not to cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort, in willful violation of section 2.131(a)(1) of the Regulations (9 C.F.R. § 2.131(a)(1)). Each day during which said respondent failed to comply with said Standard constitutes a separate violation.

7. Between December 30, 1999, and January 3, 2000, respondent Delta failed to notify, or to attempt to notify, Rex's owners upon arrival and at least once in every 6-hour period thereafter, in willful violation of section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), and section 3.13(f) of the Standards (9 C.F.R. § 3.13(f)). Respondent Delta failed to attempt to notify Rex's owners of his arrival in Atlanta, Georgia on January 2, 1999, or in Dallas, Texas. Respondent's repeated failures to attempt to notify Rex's owners constitute no fewer than five violations of section 3.13(f) of the Standards.

8. Between December 30, 1999, and January 3, 2000, while Rex was in the custody of respondent Delta, said respondent failed to provide proper care, feeding, and housing to Rex, and failed to maintain the dog in accordance with generally-accepted professional and husbandry practices, in willful violation of section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), and section 3.13(f) of the Standards (9 C.F.R. § 3.13(f)). Each day during which said respondent failed to comply with said Standard constitutes a separate violation.

9. Between December 30, 1999, and January 3, 2000, while Rex was in the custody of respondent Delta, said respondent failed to observe Rex as frequently as circumstances allowed, and failed to observe Rex during loading and unloading and whenever the animal cargo space was accessible to ensure that Rex had sufficient air, that the cargo area met the heating and cooling requirements, and the other Standards, in willful violation of section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), and section 3.17(b) of the Standards (9 C.F.R. § 3.17(b)). Each day during which said respondent failed to comply with said Standard constitutes a separate violation.

10. Between December 30, 1999, and January 3, 2000, while Rex was in the custody of respondent Delta, said respondent failed to determine whether Rex was in obvious physical distress, in willful violation of section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), and section 3.17(b) of the Standards (9 C.F.R. § 3.17(b)). Each day during which said respondent failed to comply with said Standard constitutes a separate violation.

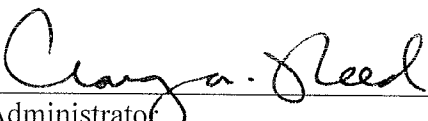
WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department 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 requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder; and 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 4th day of December, 2000



Administrator
Animal and Plant Health Inspection Service

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