

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:

DELTA AIR LINES, INC.,
a Georgia corporation.

Respondent.

) AWA Docket No.

2001 JUN -5 P 3:41
01-0037

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) 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. On May 3, 2000, respondent Delta transported a female Yorkshire Terrier dog from Fort Myers, Florida, to Atlanta, Georgia. Respondent Delta checked the animal in at Fort Myers, Florida, at approximately 1:15 p.m., for flight 689 to Atlanta, Georgia, and connecting to flight 130. The animal, which weighed approximately 13 pounds, was transported in a carrier measuring approximately 11" (height) by 11" (width) by 20" (length). Delta flight 689 departed four minutes early, at 2:36 p.m., but did not arrive in Atlanta until 5:01 p.m., 16 minutes after schedule.

Respondent Delta did not deliver the dog to Delta flight 130, which departed Atlanta at 5:51 p.m., in time for it to be loaded onto the plane. Respondent Delta then booked the dog onto Delta flight 66, which was scheduled to depart later that evening, and held the animal in its international bag room until it could be loaded onto that flight. While respondent Delta was in the process of loading the dog into the cargo hold of flight 66, the animal died.

VIOLATIONS OF THE REGULATIONS AND STANDARDS

4. On May 3, 2000, respondent Delta violated sections 2.100(b) and 2.131(a)(1) of the Regulations (9 C.F.R. §§ 2.100(b), 2.131(a)(1)) by failing to handle a Yorkshire Terrier dog so as not to cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.

5. On May 3, 2000, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the Standards governing the humane transportation of dogs (9 C.F.R. §§ 3.13-3.19). Specifically, respondent Delta accepted for transportation a Yorkshire Terrier dog in a primary enclosure that did not conform to the requirements of section 3.14 of the Standards, in contravention of section 3.13(d) of the Standards (9 C.F.R. § 3.13(d)).

6. On May 3, 2000, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the Standards governing the humane transportation of dogs (9 C.F.R. §§ 3.13-3.19). Specifically, respondent Delta transported a Yorkshire Terrier dog in a primary enclosure that was too small to allow the animal contained within to turn about normally while standing, to stand and sit erect, and to lie in a natural position, in contravention of section 3.14(e) of the Standards (9 C.F.R. § 3.14(e)).

7. On May 3, 2000, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the Standards governing the humane transportation of

dogs (9 C.F.R. §§ 3.13-3.19). Specifically, respondent Delta failed to determine whether the Yorkshire Terrier was in obvious physical distress while in respondent Delta's custody, in contravention of section 3.17(b) of the Standards (9 C.F.R. § 3.17(b)).

8. On May 3, 2000, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the Standards governing the humane transportation of animals (9 C.F.R. §§ 3.13-3.19). Specifically, respondent Delta failed to observe a female Yorkshire Terrier dog in its custody as frequently as circumstances allowed, and failed to observe the dog during loading and unloading and whenever the animal cargo space was accessible to ensure that the dog had sufficient air, that the cargo area met the heating and cooling requirements, and the other Standards, in contravention 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)).

9. On May 3, 2000, respondent Delta violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the Standards governing the humane transportation of animals (9 C.F.R. §§ 3.13-3.19). Specifically, respondent Delta failed to handle a female Yorkshire Terrier dog as quickly and efficiently as possible, in contravention of section 3.19(a) of the Standards (9 C.F.R. § 3.19(a)).

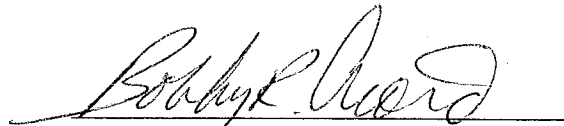
WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department 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 5th-day of June, 2001



Administrator
Animal and Plant Health Inspection Service

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