

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE 2001 JUN -7 A 11: 28

In re:)	AWA Docket No. 01-	0038
)		RECEIVED
US AIRWAYS, INC.,)		
a Delaware 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 US Airways, Inc. ("US Airways"), is a Delaware corporation whose business address is 2345 Crystal Drive, Arlington, Virginia 22227. At all times mentioned herein, respondent US Airways was registered as a carrier as that term is defined in the Act and the Regulations, under registration number 52-T-0101.

2. On December 18, 2000, the respondent transported 48 ferret kits from Buffalo, New York, through Pittsburgh, Pennsylvania, and Indianapolis, Indiana, to Evansville, Indiana. Respondent did not document the animals' arrival at the Evansville, Indiana, airport, and transported the animals, in their enclosure, to respondent's cargo hold area, where they remained until December 26, 2000. By December 26, 2000, 44 of the animals had died. Two others died on December 26, 2000.

VIOLATIONS OF THE REGULATIONS AND STANDARDS

3. In 384 instances on eight separate days (December 18 through December 26, 2000), respondent US Airways 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 48 ferret kits as expeditiously and carefully as possible so as not to cause them trauma, behavioral stress, physical harm, and unnecessary discomfort.

4. In 32 instances on eight separate days between December 18 and December 26, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to attempt to notify the consignee of 48 ferrets of the animals' arrival in Evansville, Indiana, in contravention of section 3.136(d) of the Standards (9 C.F.R. § 3.136(d)).

5. On December 18, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to attach documents accompanying a shipment of 48 ferret kits to the outside of the primary enclosure in an easily accessible manner, in contravention of section 3.137(f) of the Standards (9 C.F.R. § 3.137(f)).

6. In 768 instances on eight separate days between December 18 and December 26, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to provide potable water to 48 ferrets in its custody at least once every 12 hours for eight days, in contravention of section 3.139(a) of the Standards (9 C.F.R. § 3.139(a)).

7. In 384 instances on eight separate days between December 18 and December 26, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to provide food to 48 ferrets in its custody for eight days, in contravention of section 3.139(b) of the Standards (9 C.F.R. § 3.139(b)).

8. In 384 instances on eight separate days between December 18 and December 26, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to observe 48 ferrets in its custody as frequently as circumstances allowed, and failed to determine whether the animals were in obvious physical distress, in contravention of section 3.140(a) of the Standards (9 C.F.R. § 3.140(a)).

9. In 48 instances between December 18 and December 26, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to provide needed veterinary care to 48 ferrets as soon as possible, or at all, in contravention of section 3.140(a) of the Standards (9 C.F.R. § 3.140(a)).

10. In 384 instances on eight separate occasions between December 18 and December 26, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways commingled a shipment of 48 live ferrets with inanimate cargo in its storage facility in Evansville, Indiana, where the animals remained for eight days, in contravention of section 3.141 of the Standards (9 C.F.R. § 3.141).

11. In 48 instances on December 18, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to move 48 ferret kits from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible, in contravention of section 3.142(a) of the Standards (9 C.F.R. § 3.142(a)).

12. In 384 instances on eight separate occasions between December 18 and December 26, 2000, respondent US Airways 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. §§ 3.136-3.142). Specifically, respondent US Airways failed to exercise care to avoid handling the primary enclosure housing 48 ferret kits in a manner that could cause physical trauma to the animals contained in the enclosure, in contravention of section 3.142(b) of the Standards (9 C.F.R. § 3.142(b)).

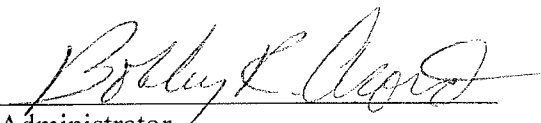
WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department 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 6th day of June, 2001



Administrator
Animal and Plant Health Inspection Service

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