

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) AWA Docket No. 90-28  
Delta 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.), hereinafter 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. Delta Airlines, Inc., hereinafter referred to as respondent, is a corporation with offices located at Law Department, Hartsfield International Airport, Atlanta, Georgia 30320.

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

II

On December 19, 1988, respondent accepted for transportation and transported, in commerce, one live cat as checked baggage on flight 1530 from Burbank, California, to Salt Lake City, Utah, in willful violation of section 2.100(b) of the regulations and the standards specified below:

A. The primary enclosure of the cat 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

B. Respondent failed to exercise care in the handling of the cat's primary enclosure in order to avoid physical or emotional trauma to the cat.

### III

On April 28, 1988, respondent transported, in commerce, at least two live dogs on flight 402 from Denver, Colorado, to Atlanta, Georgia, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and section 3.17(c) of the standards (9 C.F.R. § 3.17(c)), in that the primary enclosures were not secured during flight, resulting in their falling.

### IV

On November 17, 1987, at Ft. Lauderdale, Florida, respondent accepted for transportation and transported, in commerce, two live cats, on air waybill 006 2115 5820, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosure did not contain litter to absorb and cover excreta (9 C.F.R. §§ 3.11(b), 3.12(e)); and

B. 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)).

## V

On November 13, 1987, at Minneapolis/St. Paul, respondent accepted for transportation and transported, in commerce, four live foxes on air waybill 006 1834 1525, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosure was not marked with the words "Live Animal" or "Wild Animal" nor with arrows or other markings indicating the correct upright position of the container (9 C.F.R. §§ 3.136(b), 3.137(e)); and

B. Feed and water instructions were not affixed to the outside of the primary enclosure (9 C.F.R. § 3.139(e)).

## VI

On November 10, 1987, at Little Rock, Arkansas, respondent accepted for transportation and transported, in commerce, two live dogs to Atlanta, Georgia, on air waybills 006 2413 7890 and 006 2395 2235, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosure of one dog 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. The primary enclosures did not contain litter to absorb and cover excreta (9 C.F.R. §§ 3.11(b), 3.12(e));

C. The primary enclosures were 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

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

#### VII

On October 16, 1987, at Ft. Wayne, Indiana, respondent accepted for transportation, and on October 17, 1987, respondent transported, in commerce, to Seattle, Washington, three live rabbits on air waybill 006 2277 3940, in willful violation of section 2.100(b) of the regulations and the standards specified below:

A. The animals were accepted for transportation more than six hours prior to scheduled departure (9 C.F.R. § 3.60(a); and

B. The animals were accepted for transportation without an adequate supply of food and water.

#### VIII

On September 7, 1987, at Raleigh/Durham, North Carolina, respondent accepted for transportation, in commerce, one live non-human primate, on air waybill 066 1945 9812, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosure was not marked with the words "Wild Animal" nor with arrows or other markings indicating the

correct upright position of the container (9 C.F.R. §§ 3.85(b), 3.86(f));

B. Feed and water instructions were not affixed to the outside of the primary enclosure (9 C.F.R. § 3.88(d)).

#### IX

On July 23, 1987, at Minneapolis/St Paul, respondent accepted for transportation and transported, in commerce, fourteen live dogs to Atlanta, Georgia, on air waybills 006 7060 6303 and 006 7060 6314, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and sections 3.11(b) and 3.12(f) of the standards (9 C.F.R. §§ 3.11(b), 3.12(f)) in that the primary enclosures of the dogs were not marked on one more sides with the words "Live Animal" but were marked on the top only, nor were they marked with arrows or other markings indicating the correct upright position of the container.

#### X

On June 25, 1987, at Sacramento, California, the respondent placed live dogs (accepted for transportation on air waybill 006 2430 3742) in a holding area where the air temperature exceeded 85 degrees Fahrenheit, in willful violation of section 2.100 of the regulations and section 3.16 of the standards (9 C.F.R. §§ 2.100, 3.16),

#### XI

On June 19, 1987, at Tulsa, Oklahoma, respondent accepted for transportation and transported, in commerce, one live dog to

Atlanta, Georgia, on air waybill 006 2281 0642, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosure did not contain litter to absorb and cover excreta (9 C.F.R. §§ 3.11(b), 3.12(e)); and

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

## XII

On June 19, 1987, at Tulsa, Oklahoma, respondent accepted for transportation and transported, in commerce, one live dog to Daytona Beach, Florida, via Atlanta, Georgia, on air waybill 006 2281 0620, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. 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. The primary enclosure did not contain litter to absorb and cover excreta (9 C.F.R. §§ 3.11(b), 3.12(e)); and

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

## XIII

On May 29, 1987, at Montgomery, Alabama, respondent accepted for transportation and transported, in commerce, two live cats

on air waybill 006 2206 0861, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosure of the cat 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

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

#### XIV

On April 29, 1987, at Albuquerque, New Mexico, respondent accepted for transportation and transported, in commerce, two live non-human primates to Dallas/Ft. Worth, Texas, on air waybill 066 2 130 2293, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and section 3.85 of the standards (9 C.F.R. § 3.85) in that the primary enclosure did not have the required openings for ventilation.

#### XV

On March 24, 1987, at West Palm Beach, Florida, respondent accepted for transportation and transported, in commerce, one live cat on air waybill 006 1107 2961, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosure of the cat 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

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

XVI

On January 21 and 22, 1987, respondent accepted for transportation and transported, in commerce, three live dogs from Ireland to Florida, via Atlanta, Georgia, on air waybills 006 3595 6034 and 006 3595 6045, in willful violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. The primary enclosures did not have the required openings for ventilation (9 C.F.R. §§ 3.11(b), 3.12(a)(4));

B. The primary enclosures did not have the required projecting rims (9 C.F.R. §§ 3.11(b), 3.12(a)(5));

C. The primary enclosures did not have the required handholds or other devices for lifting without tilting (9 C.F.R. §§ 3.11(b), 3.12(a)(6));

D. The primary enclosures did not contain litter to absorb and cover excreta (9 C.F.R. §§ 3.11(b), 3.12(e));

E. The primary enclosures were 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));

F. Respondent failed to provide food and water to the dogs, as required (9 C.F.R. § 3.14(a)); and



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

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:

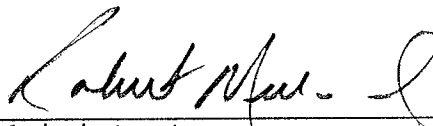
1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

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 23rd day of April, 1990



Acting Administrator  
Animal and Plant Health  
Inspection Service

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