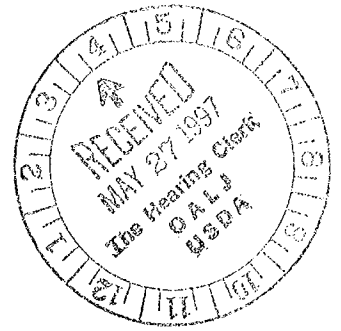


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE



In re: ) AWA Docket No. 97-0032  
USAir, Inc., )  
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.), hereinafter 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. USAir, Inc., hereinafter referred to as the respondent, is a corporation and the address of its principal place of business is 2345 Crystal Drive, Arlington, Virginia 22227.

B. The respondent, at all times material hereto, was registered and operating as a carrier as defined in the Act and the regulations.

II

On June 24, 1995, the respondent accepted a shipment of meadow voles from Wilkes-Barre, Pennsylvania, to Memphis, Tennessee. During the course of the shipment the animals were subjected to overheating, in violation of section 2.100(b) of the regulations and section 3.140(a) of the standards (9 C.F.R. §§ 2.100(b) and 3.140(a)).

## III

On May 12, 1994, at St. Louis, Missouri, the respondent accepted a dog for transportation in violation of section 2.100(b) of the regulations (9 C.F.R. § 2.100(b)) and the standards specified below:

A. A certification that the dog had been offered food and water during the 4 hours before delivery, and instructions for food and water were not attached to the primary enclosure (9 C.F.R. § 3.13(c); and

B. The primary enclosure did not contain absorbent litter (9 C.F.R. § 3.14(a)(9)).

## IV

On April 7, 1993, at Buffalo, New York, and on April 9, 1993, at Windsor Locks, Connecticut, respondent accepted a dog for shipment in a primary enclosure which did not provide adequate space for the dog to stand erect, in violation of section 2.100(b) of the regulations and section 3.13(e) of the standards (9 C.F.R. §§ 2.100(b) and 3.13(e)).

## V

On March 30, 1993, at Dover, Delaware, the respondent accepted a dog for transportation to St. Petersburg, Florida, in 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 which did not provide adequate space (9 C.F.R. § 3.13(e)); and

B. The primary enclosure did not contain receptacles for both food and water (9 C.F.R. § 16(c)).

#### VI

On December 29, 1992, at San Francisco, California, the respondent failed to use care in handling a primary enclosure containing a live cat, by loading it so that it was crushed by other cargo, in violation of section 2.100(b) of the regulations and section 3.19(b) of the standards (9 C.F.R. §§ 2.100(b), 3.19(b)).

#### VII

On July 4, 1992, at Miami, Florida, California, the respondent failed to use care in handling a primary enclosure containing a live cat, by placing it on a conveyor which was not attended at both ends, in violation of section 2.100(b) of the regulations and section 3.19(b)(1) of the standards (9 C.F.R. §§ 2.100(b), 3.19(b)(1)).

#### VIII

On January 21, 1992, at Seattle, Washington, the respondent subjected a river otter to surrounding air temperatures below 45°F. for more than 45 minutes, in violation of section 2.100(b) of the regulations and section 3.142(a) of the standards (9 C.F.R. §§ 2.100(b), 3.142(a)).

#### IX

On November 26, 1991, at Philadelphia, Pennsylvania, the respondent accepted a dog for transportation. The respondent accepted and handled the dog in 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 receptacles for food and water (9 C.F.R. § 16(c)); and

B. The dog was exposed to an ambient temperature below 45°F for a period of more than 45 minutes (9 C.F.R. § 3.19(a)(3)).

X

On September 30, 1991, at Memphis, Tennessee, the respondent accepted a capybara for shipment to Charlotte, North Carolina, in 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 have sufficient openings for ventilation (9 C.F.R. §§ 3.136(b), 3.137(a)); and

B. Written instructions for food and water requirements were not affixed to the primary enclosure (9 C.F.R. § 3.139(e)).

WHEREFORE, it is hereby ordered that, for the purpose of determining whether the respondent has in fact willfully violated the Act and 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. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq. (1993)). 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:

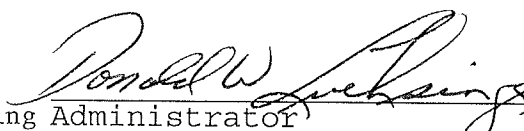
1. That, unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

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 21st day of May, 1997

  
Acting Administrator  
Animal and Plant Health  
Inspection Service

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