

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

R. ALEXANDER ACOSTA, Secretary of Labor,)	OSHRC DOCKET NO.
United States Department of Labor,)	
)	
)	17-2231
Complainant)	
)	
v.)	REGION IV
)	
CARL CANNON, INC.,)	
)	
Respondent)	INSPECTION NO. 1239537

STIPULATION OF SETTLEMENT
AND MOTION TO WITHDRAW NOTICE OF CONTEST

The parties, as evidenced by the signatures of their respective representatives hereto affixed, intending to fully and finally settle the above action and citations alleged therein, stipulate and agree to resolve this matter without the necessity of further pleadings as follows:

1. In response to the Complaint filed by the complainant, the respondent contested Citation No. 2 of the Citations and Notifications of Penalty. Citation 1, Item Nos. 1 and No. 2 were not contested.
2. Citation 1, Item Nos. 1 and 2, alleging serious violations of 29 C.F.R. §§ 1910.106(d)(5)(vi)(b), and 1910.307(c) respectively remain as issued and the penalties remain unchanged.
3. Citation 2, Item No. 1 alleging a willful violation of 29 C.F.R. § 1910.1200 (e)(1) remains as issued and the penalty is reduced to \$88,724.25.
4. The total effect of the stipulation of the parties on the assessed penalties for these alleged violations is a reduction of the total penalty from \$152,099.00 to \$114,074.25.

5. Respondent will pay the penalty, as amended, pursuant to the following payment plan:

a. Respondent agrees to pay \$22,810.41 representing roughly 20% of the amended penalty upon execution of the settlement;

b. Respondent agrees that the remaining balance (minus the 20% initial payment made upon execution) will be paid in 24 equal monthly installments of \$3,802.66 with the first installment to be paid within 60 days after the date this Stipulation is approved by a final order of the Commission. The remaining 23 monthly installments of \$3,802.66 will be payable the first business day of every month thereafter to: DOL-OSHA, 950 22nd Street North, Suite 1050, Birmingham, Alabama 35203 and referencing Inspection No. 1239537.

c. Respondent agrees that in the event of default of the monetary provisions contained herein by the respondent, a judgment in the amount of the balance shall become due and payable immediately, with no further notice or demand required, and post judgment interest shall be assessed against such remaining unpaid balance, in accordance with 28 U.S.C. § 1961, from the date of default until paid in full. "Default" will have occurred when respondents fail to post in the United States mail or otherwise deliver to DOL-OSHA the payment due more than three days past any due date.

6. Respondent represents that all violations alleged in the Citations and Notifications of Penalty, have been and will remain abated.

7. Respondent hereby withdraws the Notice of Contest as to the Citations and Notifications of Penalty.

8. Respondent will comply with all applicable abatement verification provisions of 29 C.F.R. § 1903.19, including but not limited to, all certification, documentation,

and posting requirements. Abatement certification shall be accomplished within ten calendar days after the abatement date by mailing a letter to the Occupational Safety and Health Administration Area Office that issued the Citations, stating that abatement has been completed, the date and method of abatement, and that affected employees and their representatives have been informed of the abatement. Any required abatement documentation shall be submitted along with the abatement certification.

9. Each party hereby agrees to bear its own fees (including attorney fees) and other expenses incurred by such party in connection with any stage of this proceeding.

10. The employer agrees to continue to comply with the applicable provisions of the Occupational Safety and Health Act of 1970, and the applicable safety and health standards promulgated pursuant to the Act.

11. None of the foregoing agreements and statements is intended as an admission by Respondent of the allegations contained within the Citations and Notifications of Penalty, as amended. The agreements herein are not intended to be used for purposes other than actions or proceedings arising under the Occupational Safety and Health Act of 1970.

13. Respondent certifies that on June 6, 2018 notice of the foregoing was given to employees by posting a true copy (as executed by respondent) of this Stipulation, in accordance with Commission's Rule 7(g) and 100(c), 29 C.F.R. §§ 2200.7(g) and 2200.100(c).

ACCORDINGLY, the parties jointly move the Commission for an Order appropriate for final disposition of the matter.

Respectfully submitted,

KATE S. O'SCANNLAIN
Solicitor of Labor

STANLEY E. KEEN
Regional Solicitor

THERESA BALL
Associate Regional Solicitor

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