

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

ELAINE L. CHAO, Secretary of Labor, United States Department of Labor,)	OSHRC DOCKET NO.
)	
Complainant)	06-1449
)	
v.)	REGION IV
)	
GOLDKIST, INC.,)	
)	
Respondent)	

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 citation alleged therein, stipulate and agree as follows:

1. In response to the Complaint filed by the complainant, the respondent contested Item Nos. 1-21 of Citation and Notification No. 1, Items 1-2 of Citation and Notification No. 2, and Item 1 of Citation and Notification No. 3.
2. Item No. 3 of Citation 1 shall be amended to show a reduced penalty from \$2,500 to \$2,000.
3. Item No. 4 of Citation 1 shall be amended to show a reduced penalty from \$5,000 to \$4,000.
4. Item Nos. 6, 7 and 8 shall be grouped as follows:

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Item 6 shall become 6a. Item No. 7 shall become 6b. Item No. 8 shall become 6c. The penalties for Item Nos. 7 and 8 shall be deleted. Item 6 shall show a civil penalty of \$5,000.

5. Item No. 9 shall become Item No. 7.

6. Item No. 10 of Citation 1 shall be deleted

7. Item No. 11 of Citation 1 shall be amended to be Item No. 8 with a reduced penalty from \$5,000 to \$4,000.

8. Item No. 12 of Citation 1 shall be amended to be Item No. 9 with a reduced penalty from \$5,000 to \$3,000.

9. Item Nos. 13 and 14 shall be grouped as follows:

Item 13 shall become 10a. Item No. 14 shall become 10b. The penalties for Item No 14 shall be deleted. Item 10 shall show a civil penalty of \$1,000.

10. Item No. 15 shall become Item No. 11.

11. Item Nos. 16, 17, and 18 shall be grouped as follows: Item No. 16 shall become Item 12a. Item No. 17 shall become Item 12b. Item No. 18 shall become Item 12c. The civil penalties for 17 and 18 shall be deleted. The civil penalty for the grouping of Item 12 shall be \$5,000.

12. Item Nos. 19 and 20 shall be grouped as follows: Item No. 19 shall become Item 13a. Item No. 20 shall become Item 13b. The penalty for Item 20 shall be deleted. The civil penalty for the grouping of Item 13 shall be \$5,000.

13. Item No. 21 shall become Item 14.

14. The penalty for Item 1 of Citation and Notification No. 2 shall be reduced from \$25,000 to \$17,000.

15. The penalty for Item 2 of Citation and Notification No. 2 shall be reduced from \$25,000 to \$17,000.

16. The penalty for Item 1 of Citation and Notification No. 3 shall be deleted. The following language shall be deleted from the citation "in the fields labeled numbers 14 and 15".

17. The total effect of the stipulation of the parties on the assessed penalties for this alleged violation is a reduction from \$140,000 to \$85,500.

18. Respondent represents that it has evaluated the alleged condition cited by the Occupational Safety and Health Administration and taken appropriate actions as to the alleged conditions with the exception of Items 2, 5, 12c, and 14 of Citation and Notification 1. Respondent will abate these violations within 90 days and submit certification of abatement to the OSHA district office of the completion of abatement.

19. Respondent 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.

20. Respondent agrees to conduct regular inspection of the workplace and to correct safety deficiencies found.

21. Respondent agrees to adopt at the Russellville facility the safety sanitation program previously adopted at other locations throughout the Goldkist, Inc. Corporation.

22. Respondent agrees to submit a quarterly report of the results of the adoption of the program listed in no. 21 for the Russellville, Alabama facility to the OSHA District office in Birmingham, Alabama for a one year period following its adoption.

23. Respondent will furnish the results of the lockout tag out inspection and audit of procedures for the Russellville, Alabama facility to the OSHA district office in Birmingham, Alabama.

24. Respondent agrees to have an annual review of the Russellville, Alabama facility lockout tag out procedures and inspection by a safety official within the corporation working at another Goldkist facility.

25. All maintenance and sanitation employees working at the Russellville, Alabama facility will receive retraining in lockout tagout procedures including both classroom and hands on training.

26. One safety official from Goldkist Inc. employed at the Russellville facility will receive the OSHA 5000 Train the Trainer training. The three chair of the Russellville, Alabama safety committee will receive the 30 hour OSHA class training, and all members of the Russellville, Alabama safety committee will receive the ten hour OSHA course.

27. Goldkist corporation officials agree to meet with OSHA Regional officials concerning potential involvement of a Goldkist facility in the OSHA VPP program.

28. Goldkist agrees to arrange for OSHA to present the VPP program to the poultry board.

29. By entering into this agreement, Respondent does not admit any violation of the Act. None of the foregoing agreements, statements, findings, stipulations, and/or actions ("agreements") shall constitute any evidence or admission by Respondent of the allegations contained within the Citations and Notifications of Penalty. Furthermore, none of the foregoing agreements, statements, findings, stipulations, and actions shall be admitted into evidence, in whole or in part, in any proceeding or litigation in any court, agency or forum, except in actions brought directly by the Secretary of Labor arising under the Act. The agreements herein are made solely for the purpose of settling this matter economically and amicably and to avoid protracted and expensive litigation. The agreements herein are not intended to be used for any other purpose, nor shall they constitute an admission by Respondent that any of the conditions alleged in the Citation existed or were the cause, or a cause, approximate or otherwise, of any accident, or damages, if any, resulting there from.

30. 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.

31. Respondent certifies that on JAN. 17, 2007, 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).

32. 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 (10) calendar days after the abatement date by mailing a letter to the Occupational Safety and Health Administration Area Office that issued the Citation, 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.

33. Respondent will pay the penalty, as amended, within 30 days after the date this Stipulation is approved by a final order of the Commission.

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


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

Respectfully submitted,

HOWARD M. RADZELY
Solicitor of Labor

STANLEY E. KEEN
Regional Solicitor

THERESA BALL
Associate Regional Solicitor



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