STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

COMMISSIONER OF LABOR
AND WORKFORCE DEVELOPMENT,
Complainant,

vs.

VALERO REFINING COMPANY-
TENNESSEE, LLC,
and its successors,
Respondents.

Docket No. 12-30
Inspection No. 316457092

SETTLEMENT AGREEMENT

Complainant, the Commissioner of Labor and Workforce Development, and Respondent, Valero Refining Company-Tennessee LLC, have reached a settlement of the citation issued as a result of Inspection Number 316457092. Notice of Contest and Notice to Employees were properly made, and affected employees have not filed objections to the reasonableness of the abatement date.

1. Jurisdiction over this matter is conferred upon the Commissioner by Tennessee Code Annotated (“T.C.A.”), Section 50-3-108.

2. An authorized representative of the Division of Occupational Safety and Health for the Tennessee Department of Labor and Workforce Development (“Division”)
conducted an inspection of Respondent's worksite located at 543 West Mallory Avenue, Memphis, Tennessee 38109. Thereafter, the Division issued its citation.

3. Respondent represents that the conditions alleged to be in violation of the Occupational Safety and Health Act of 1972 ("The Act"), as amended, T.C.A. § 50-3-101, et seq., and the regulations or standards issued thereunder, no longer exist and that abatement, if any was necessary, has been effected.

4. Complainant agrees to delete Citation 1, Items 2a, 3a, 3b, 4, 6, 7, and 8b. Complainant also agrees to re-word the alleged violation description for Citation 1, Item 1 to the following:

Citation 1 Item 1 29 CFR 1910.119(f)(4): The employer did not adequately implement safe work practices to provide for the control of hazards during operations such as lockout/tag-out and opening process piping.

Examples: The following safe work practices were not adequately implemented for the task of performing a first line break & installing a blind in the flange of the 36" outlet pipe from the knockout (KO) drum on the South Flare line located at the Valero Refinery in Memphis, Tennessee:

a. Safe procedures were not adequately implemented for the safe opening of process piping;

b. Adequate protection methods had not been implemented for a safe work-site prior to the signing of Safe Work Permits to proceed with the job;

c. Hazards were not adequately identified in the Job Safety Analysis and were not eliminated or controlled prior to the job.

5. Respondent agrees to tender payment in the amount of Sixty Three Thousand Dollars ($63,000.00) within sixty (60) days of the entry of this Settlement Agreement and Order Approving Settlement Agreement. This settlement agreement is binding upon the parties as well as any successors in interest of the parties.

6. Respondent has agreed to this settlement solely for the purpose of avoiding further litigation burdens, costs and expenses. The parties stipulate that no
findings or conclusions have been made by any trier-of-fact regarding the citation and penalty at issue herein or any issue related to whether Respondent is subject to the Act. Respondent has contested the citation and does not hereby admit that the alleged violations occurred or that it violated the Act, as amended, in any manner. The agreements, statements, findings, and actions taken herein shall not be used for any purpose whatsoever, except as herein stated, or admitted in any proceeding other than one between the parties.

7. Respondent promises to continue its good faith efforts to comply with the Act, as amended.

8. Respondent certifies that a copy of this Settlement Agreement and Notice of Employee Rights has been posted.

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

COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT

BY: Daniel A. Bailey, BPR # 19286
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DATE: June 11, 2014

VALERO REFINING COMPANY-TENNESSEE, LLC

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DATE: June 10, 2014