

# **Agricultural Labor Relations Board**

## **Report to the Legislature**



## **Fiscal Year 2010-2011**

### **Members of Board**

**Genevieve A. Shiroma, Chair<sup>1</sup>**  
**Cathryn Rivera-Hernandez**  
**Willie C. Guerrero<sup>2</sup>**  
**Carole Migden<sup>3</sup>**

**J. Antonio Barbosa, Executive Secretary**

**Michael Lee, General Counsel<sup>4</sup>**  
**Sylvia Torres-Guillén, General Counsel<sup>5</sup>**

**Date Submitted: December 9, 2011**

---

<sup>1</sup> Reappointed February 22, 2011; designated Chair July 22, 2011

<sup>2</sup> Separated December 21, 2010

<sup>3</sup> Appointed January 2, 2011

<sup>4</sup> Term expired August 4, 2011

<sup>5</sup> Appointed General Counsel August 23, 2011

*(This page left blank intentionally.)*

# Table of Contents

<b>Introduction.....</b>	<b>1</b>
<b>Decisions Issued By the Board in Fiscal Year 2010-2011.....</b>	<b>3</b>
<b>Board Administrative Orders.....</b>	<b>7</b>
<b>Litigation.....</b>	<b>9</b>
<b>Regional Office Activity .....</b>	<b>10</b>
<b>Remedies .....</b>	<b>17</b>
<b>Names, Salaries, Duties of ALRB Employees (separate cover)</b>	

*(This page left blank intentionally.)*

## **Introduction**

This report is being submitted pursuant to Labor Code section 1143, which mandates that the Agricultural Labor Relations Board (ALRB/Board) annually report to the Legislature and to the Governor on the cases heard; decisions rendered; the names, salaries, and duties of all employees and officers in the employ or under the supervision of the Board; and an account of moneys it has disbursed (monetary awards to farm workers in unfair labor practice cases). While this report covers activities for Fiscal Year 2010-11, of important note is that on October 9, 2011, Governor Edmund Brown, Jr. signed Senate Bill No. 126 (Steinberg) (SB 126). SB 126 makes significant changes to the Agricultural Labor Relations Act, which become effective January 1, 2012. As of this writing, the Board has initiated a regulatory process for adopting regulations to implement SB 126.

Since the Board's creation in 1975, its dedicated employees have continued to advance the agency's core mission under the Agricultural Labor Relations Act (Act). As the State of California has struggled in recent years with a constrained General Fund, so has the ALRB as an agency funded solely by the General Fund. As a result, the Board's efforts to administer and enforce the Act in an efficient manner that gives full effect to the rights afforded to over 800,000 agricultural employees and employers grows more difficult.

The Board is currently addressing the challenge of how to effectively educate a generation of farm workers who are spread out across the state, largely unaware of the Agricultural Labor Relations Act and its protections and who have little means to avail themselves of the ALRB's processes. Over half of farm workers are foreign born and do not speak or read English. There also has been an influx of indigenous peoples who speak numerous non-Spanish dialects that have no written language. This development, along with historical reductions in staff, makes outreach to the vast numbers of agricultural workers and employers dispersed throughout the state extremely difficult. To this end, the General Counsel's office is receiving assistance and resources from the Labor and Workforce Development Agency to increase education and outreach programs to both farm workers and employers, participating in cross-training with other labor agencies and working with the Mexican Consulate's offices to increase the number of entities that will share information regarding the ALRB. The Board continues to distribute Spanish Public Service Announcements (PSAs) to radio stations in agricultural areas, and these PSAs will also be translated into indigenous languages.

The General Counsel and the Board both remain focused on increasing efficiency by moving cases and complaints through the investigative and appellate processes as quickly as possible. The number of Unfair Labor Practice (ULP) charges filed remains steady, and policies implemented last year by the General Counsel

continue to result in more rapid investigation and disposition of charges. As a result, the General Counsel's Office completed the investigation and disposition of 102 ULP charges involving over 6,700 employees. The regional staff's work also resulted in a large number of settlements, thus avoiding protracted litigation and delayed remedies for workers.

The Board continues to focus its efforts on the efficient conduct of elections and the timely resolution of disputes. The number of elections held doubled from the previous year and involved a total of 1,865 employees. The Board ruled on a variety of cases, including those involving the retaliatory discharge of farm workers, the voter eligibility of employees on paid leave after an employer's issuance of notice of impending layoff pursuant to the federal and state Worker Adjustment and Retraining Notification Acts (WARN), as well as those on disability leave. In addition, the Board also ordered monetary remedies totaling \$697,351 for aggrieved workers.

In the coming year, the Board and General Counsel will work together to identify additional efficiencies to carry out our mission-critical duties. Among the continuing efforts will be the use of borrowed personnel from the National Labor Relations Board and sister State agencies to conduct large representation elections, the sharing of resources to continue educational outreach efforts, and the advancement of efforts to increase compliance with the Act.

The names, salaries, and duties of ALRB personnel are provided under separate cover and can be obtained through a written request to the Executive Secretary.

## **Decisions Issued By the Board in Fiscal Year 2010-2011**

The Board issued four (4) decisions in fiscal year 2010-2011. A list of decisions with brief summaries follows (the full text of decisions can be found on the ALRB website: [www.alrb.ca.gov](http://www.alrb.ca.gov)).

### **TEMPLE CREEK DAIRY, INC., 36 ALRB No. 4**

#### **Background**

On August 5, 2010, an Administrative Law Judge (ALJ) issued a decision in which he concluded that Temple Creek Dairy, Inc. (Employer) violated section 1153(a) of the Agricultural Labor Relations Act (ALRA) by discharging Jose Luna and disciplining and discharging Juan Manuel Pacas in retaliation for their protected concerted activities. The ALJ dismissed an additional allegation that the Employer unlawfully refused to rehire Raymundo Hernandez due to his protected activity. The General Counsel filed exceptions to the failure to find a violation regarding the failure to rehire Hernandez. The Employer did not file exceptions to the findings of violations regarding Luna and Pacas. Accordingly, that portion of the ALJ's decision became final and the Board's decision addressed only the findings and conclusions relevant to the failure to rehire Hernandez.

#### **Board Decision**

The Board summarily affirmed the ALJ's decision to dismiss the allegation that Hernandez was unlawfully refused rehire. The Board agreed with the ALJ that the record evidence was insufficient to establish any of the recognized exceptions to the general rule in failure to rehire cases that the employee must apply for rehire at a time when work is available. Specifically, it was not proven that the Employer failed to follow an established rehire practice or otherwise made an effort to conceal the job openings so that Hernandez would not learn of them.

### **SOUTH LAKES DAIRY FARM, 36 ALRB No. 5**

#### **Background**

On July 12, 2010, a petition for certification was filed by the United Food and Commercial Workers Union, Local 5 (Union or UFCW) to represent the agricultural employees of South Lakes Dairy Farm (Employer). An election was held July 19, 2010, and the initial tally of ballots was as follows: "union" 23; "no union" 26, and 9 unresolved challenged ballots.

After an investigation of the challenged ballots, the Visalia Regional Director (RD) issued a challenged ballot report recommending that the challenge to an alleged confidential employee be overruled because her job was limited to clerical duties. The RD recommended that the opening of ballots of three employees be held in abeyance because they (Gabriel Julian Saucedo, Adolfo B. Cuevas, and Juan Pablo Mayo Suastegui) had filed ULP charges related to their terminations and the charges were still under investigation. The RD recommended that the challenge to one individual be

overruled as the RD concluded that but for a work-related injury, he would have worked during the eligibility period. The RD recommended sustaining the challenge to one individual because it was concluded that he was not employed by the dairy. Finally, the RD recommended that the challenges to three individuals be sustained because the RD concluded that they were ineligible statutory supervisors.

### **Board Decision**

The Employer did not except to the RD's recommendation to overrule the challenge to the alleged confidential employee, nor did the Employer except to the RD's recommendation to hold in abeyance the ballots of three workers pending the resolution of their ULP charges, and the UFCW filed no exceptions at all. Therefore, the RD's recommendations as to these four individuals became final. The Board affirmed the recommendation as to the individual found not to be working because he was on disability leave, concluding that the evidence provided by the Employer during the RD's investigation failed to raise a material factual dispute. The Board overturned the RD's recommendation as to the individual who was allegedly not employed by the Dairy because the Board found there were disputed material issues of fact requiring an evidentiary hearing to resolve. Similarly, the Board found that there were disputed facts as to the status of the three alleged supervisors, and ordered that a hearing be held to determine whether their duties and responsibilities make them ineligible statutory supervisors.

## **NURSERYMEN'S EXCHANGE, INC., 36 ALRB No. 6**

### **Background**

On July 26, 2010, the United Farm Workers of America (UFW) filed a Petition for Certification to represent the agricultural employees of Nurserymen's Exchange, Inc. (Employer). On August 2, 2010, a representation election was held, and the Tally of Ballots showed the following result: "union" 3; "no union," 58; and 107 unresolved challenged ballots.

Thirteen employees were challenged as commercial workers but the UFW later withdrew these challenges. Ninety-four employees were challenged by the employer as not eligible to vote because they had received 60-day notices of layoff on July 1, 2010 pursuant to the federal Worker Adjustment and Retraining Notification Act (the "WARN Act") and its state equivalent. Employer argued that these employees were effectively relieved of their duties on July 1, 2010, and remained on the payroll solely for purposes of WARN Act compliance. Employer further argued since they performed no work during the applicable payroll period and there was no reasonable expectation of employment for them, they were not "currently employed" under Labor Code section 1156.3(a)(1) and not eligible to vote under Labor Code section 1157.

The Salinas Regional Director (RD) found that Employer failed to prove these employees had separated or been terminated during the applicable payroll period. The RD stated

that Employer acknowledged that the employees in question were not terminated until at least August 31, 2010, in order for Employer to avoid WARN Act penalties. The RD rejected the argument that the employees were not eligible to vote because they had been on paid administrative leave, citing the ALRB Election Manual for the proposition that employees who were absent from work during the applicable payroll period but who received pay for that period from the employer were eligible to vote. The RD also stated there was no reason to treat this group of employees any differently than employees on sick leave or paid vacation who are also allowed to vote, as they were on the payroll and had not been discharged or laid off.

### **Board Decision**

The Board affirmed the recommendations of the RD to overrule the challenges because it saw no reason to deviate from well-established precedent that employees on paid leave are eligible to vote without inquiry into whether they had a reasonable expectation to return to work. The Board pointed out that it is only in cases where employees *were not* on the payroll that the Board has looked to other factors and that in those instances it was solely to determine if there was an employment relationship during the applicable payroll period. The Board also held that there is no conflict with the federal WARN Act, as that statute specifically states that it is not intended to supplant rights under state law. Lastly, the Board noted that the ALRB Election Manual is merely a guide based on existing law and should not be cited as legal authority.

## **NURSERYMEN'S EXCHANGE, INC., 37 ALRB No. 1**

### **Background**

On May 16, 2011, the Salinas Regional Director dismissed an election petition in this matter after the election occurred and before the commencement of a hearing on election objections on the grounds that the requirement for peak employment had not been met. On May 17, 2011, the United Farm Workers of America (UFW) filed an "Opposition to Regional Director's Purported Dismissal of Election Petition," which the Board construed as a Request for Review pursuant to Labor Code section 1142.

### **Board Decision**

The Board granted the UFW's request for review and overruled the Regional Director's dismissal of the election petition as exceeding the authority provided the Regional Director under section 20300(i)(1) of the Board's regulations. The Board held that neither the regulation nor any of the Board's regulations or case law provides that the authority of the Regional Director to dismiss an election petition continues after an election is held; to permit otherwise would allow the Regional Director to unilaterally set aside an election without the benefit of an evidentiary hearing, threatening due process. Since an evidentiary hearing on an election objection was scheduled in this matter, the Regional Director would have the opportunity to appear and present evidence on the prior peak employment determination.

The Board rejected Employer's argument that there was no time limit under Labor Code section 1156.4 on the Regional Director's authority to investigate an election petition. The investigation of the petition and direction of election had already occurred, and what the Employer was advocating was the re-investigation of the election petition and resulting invalidation of the election results without due process. The Board held that conferring such broad authority on the Regional Director would override the mandate of Labor Code section 1156.3 that the Board certify an election unless there were sufficient grounds not to do so.

## **Board Administrative Orders**

<b>Administration Order Number</b>	<b>Case Name</b>	<b>Case Number</b>	<b>Issue Date</b>	<b>Description</b>
2010-14	San Joaquin Tomato Growers, Inc.	93-CE-38-VI	07/02/10	Order Denying Employer Request For Review Of Regional Director's Decision Not To Approve Proposed Settlement Agreement
2010-15	San Joaquin Tomato Growers, Inc.	93-CE-38-VI	07/13/10	Order Granting Withdrawal of Motion To Close Case And Order Canceling Hearing
2010-16	Ace Tomato Company, Inc.	93-CE-37-VI	10/11/10	Order Affirming Decision Of The ALJ: Order Denying Motion To Close
2011-01	Nurserymen's Exchange Inc.	2010-RC-003-SAL	01/07/11	Order Denying Motion For Reconsideration
2011-02	Nurserymen's Exchange Inc.	2010-RC-003-SAL	03/10/11	Order Denying Employer's Request For Review; Order Denying Union's Request For Review
2011-03	South Lakes Dairy Farms	2010-RC-002-VIS	03/25/11	Order Denying Parties' Motion For Approval Of Stipulation
2011-04	Lassen Dairy, Inc., dba Meritage Dairy	07-CE-37-VI	03/30/11	Order Approving Formal Bilateral Settlement Agreement
2011-05	Lu-Ette Farms et al.	80-CE-263-EC	03/30/11	Order Requesting Additional Information On Regional Director's Motion To Make Cases Eligible For Pay Out From The Agricultural Employee Relief Fund And Motion To Close Cases
2011-06	South Lakes Dairy Farms	2010-RC-002-VIS	03/30/11	Order Directing The Opening And Counting of Ballots; Order Directing The Executive Secretary To Take Hearing Off Calendar
2011-07	San Joaquin Tomato Growers, Inc.	93-CE-38-VI	04/27/11	Order To Show Cause Why Hearing Should Not Be Continued To June 14, 2011

<b>Administration Order Number</b>	<b>Case Name</b>	<b>Case Number</b>	<b>Issue Date</b>	<b>Description</b>
2011-08	San Joaquin Tomato Growers, Inc.	93-CE-38-VI	05/03/11	Order Overruling Executive Secretary's Order Denying Respondent's Request For Reconsideration; Order Directing ALJ To Conduct A Conference Call For The Purpose of Setting Hearing Date
2011-09	Lu-Ette Farms	80-CE-263-EC	05/05/11	Order Granting Motion To Make Case Eligible For Payout From The Agricultural Employee Relief Fund; Order Granting Motion To Close
2011-10	Lu-Ette Farms	79-CE-7-EC	05/05/11	Order Consolidating Cases; Order Granting Motion To Close Cases
2011-11	Nurserymen's Exchange Inc.	2010-RC-003-SAL	05/18/11	Order Setting Response Deadline
2011-12	Nurserymen's Exchange Inc.	2010-RC-003-SAL	6/7/2011	Order Denying Employer's Request for Reconsideration; Order Denying Regional Director's Request for Reconsideration And/Or Amendment

## **Litigation**

Parties to decisions of the Board may file petitions for review in the Courts of Appeal, pursuant to Labor Code section 1160.8. If a party seeks review, the Board's workload is comprised of writing and filing appellate briefs and appearing for oral argument in those cases. At times, the Board is also required to defend against challenges to its jurisdiction and other types of collateral actions in both state and federal courts.

The following case was on the Board's litigation docket for fiscal year 2010-2011:

### **ACE TOMATO COMPANY, CASE NO. C066574**

On March 4, 2010, the Board issued Administrative Order No. 2010-06 which directed that an evidentiary hearing be held for factual findings on laches, unclean hands, and any equitable defenses to proceeding with enforcement and compliance with the Board's prior orders in *Ace Tomato Company, Inc.* 93-CE-37-VI (20 ALRB No. 7). The hearing was held on July 20, 2010, and the Administrative Law Judge (ALJ) issued his decision on August 23, 2010. The ALJ stated at the outset of his decision that Employer's defiance of the Board's order by refusing to produce and then destroying the payroll records was conduct in itself that constituted ample grounds to reject the Employer's equitable defenses. However, the ALJ went on to analyze each of Employer's defenses in turn, found them without merit, and held that the equitable defenses raised by the Employer did not preclude further compliance proceedings in this case.

The Employer sought review of the ALJ's decision with the Board, and on October 11, 2010, the Board issued Administrative Order 2010-16. The Board affirmed the ALJ's finding that equity did not preclude pursuing compliance with the Board's order.

On November 10, 2010, Employer filed a Petition for Writ of Review (Petition) of Administrative Order 2010-16 in the Court of Appeal. Employer purportedly sought review of a final order of the Board pursuant to Labor Code section 1160.8. However, the Board argued that section did not provide for review at this point in the case, as Employer was actually seeking intermediate review of a non-final Board order. The certified record and the Board's preliminary opposition were filed November 19, 2010. On December 8, 2010, the Court, pursuant to the stipulation of the parties, dismissed the petition. Jurisdiction was then re-vested in the Board to pursue compliance in this case.

## **Regional Office Activity**

In fiscal year 2010-2011, eighty-six (86) ULP charges were filed involving 5,914 employees.

### *Visalia Regional Office:*

- Forty-two (42) ULP Charges Filed Against Employers

### *Salinas Regional Office:*

- Thirty-four (34) ULP Charges Filed Against Employers
- Ten (10) ULP Charges Filed Against Labor Organizations

Overall, the ALRB settled, dismissed, withdrew or sent to complaint a total of one hundred and two (102) charges involving 6,725 employees during fiscal year 2010-11. The complaints issued or settlements were achieved as follows:

Five (5) new complaints issued encompassing ten (10) charges.

<b>#</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Complaint Date</b>	<b>Status</b>
1.	2009-CE-069-VIS 2010-CE-013-VIS 2010-CE-014-VIS 2010-CE-015-VIS 2010-CE-017-VIS	H & R Gunlund Ranches, Inc., a California Corporation	07/26/10	Charges were withdrawn 4/4/11 due to Private Party Settlement. Case No. 2010-CE-017-VIS was consolidated with Case No. 2009-CE-063-VIS.
2.	2008-CL-005-VIS	United Farm Workers of America (UFW)	11/23/10	Pending hearing
3.	2009-CE-066-VIS	Oasis Holsteins, a California Partnership	02/08/11	Settled 5/6/11
4.	2010-CE-050-SAL	D'Arrigo Bros. Co. of California, a California Corporation	02/24/11	Hearing Opened 6/13/11
5.	2011-CE-005-VIS 2011-CE-006-VIS	Tony P. Cardoza Dairy	03/15/11	Pending hearing

During the fiscal year, the ALRB held two (2) hearings on the following complaint cases:

#	Case No.	Respondent Name	Hearing Opened	Hearing Closed
1.	2009-CE-021-VIS	Martin Hein Ranch Company, a California Corporation	02/10/11	02/10/11
2.	07-CL-5-SAL 07-CL-6-SAL 07-CL-7-SAL	United Farm Workers of America	04/19/11	04/20/11

During the fiscal year, the Board held one (1) hearing on the following compliance case:

#	Case No.	Respondent Name	Hearing Opened	Hearing Closed
1.	93-CE-37-VI	Ace Tomato Company, Inc.	07/20/10	07/20/10

During the fiscal year, twenty-one (21) settlements were achieved which encompassed twenty-seven (27) charges; of these settlements two (2) were achieved pre-complaint, three (3) were achieved at the complaint stage, one (1) was achieved at the compliance stage, and fifteen (15) were private party settlements.

#### Settlements – (Pre-Complaint)

#	Case No.	Respondent Name	Settlement Type	Settlement Date
1.	2008-CL-064-SAL	United Farm Workers of America	Informal	09/23/10
2.	2010-CE-032-VIS	Grower’s Choice, Inc., a California Corporation	Informal	12/17/10

#### Settlements – (Complaint)

#	Case No.	Respondent Name	Settlement Type	Settlement Date
1.	07-CE-17-SAL 07-CE-18-SAL 07-CE-21-SAL 07-CE-22-SAL	The Hess Collection Winery	Informal	09/08/10
2.	2009-CE-035-VIS	MDR Farming, a Partnership	Informal	02/16/11
3.	2009-CE-066-VIS	Oasis Holsteins, a California Partnership	Informal	05/06/11

**Settlements – (Compliance)**

#	Case No.	Respondent Name	Settlement Type	Settlement Date
1.	07-CE-37-VI 07-CE-48-VI	Lassen Dairy, Inc., dba Meritage Dairy	Formal	3/30/11

**Settlements – (Private Party)**

#	Case No.	Respondent Name	Withdrawal Date
1.	2010-CE-008-VIS	Farm Land Management	07/14/10
2.	2010-CE-009-VIS	Farm Land Management	07/14/10
3.	2010-CE-010-VIS	J & A Contracting	07/14/10
4.	2010-CE-011-VIS	J & A Contracting	07/14/10
5.	2008-CE-032-SAL	Reiter Berry Farms, Inc.	12/30/10
6.	2008-CE-046-SAL	Reiter Berry Farms, Inc.	12/30/10
7.	2008-CE-047-SAL	Reiter Berry Farms, Inc.	12/30/10
8.	2010-CE-040-VIS	Foster's Wine Estates Americas Co.	01/21/11
9.	2010-CE-042-VIS	Foster's Wine Estates Americas Co.	01/21/11
10.	2010-CE-021-VIS	Hall Management	01/21/11
11.	2010-CE-022-VIS	Hall Management	01/21/11
12.	2010-CE-023-VIS	Hall Management	01/21/11
13.	2010-CE-041-VIS	Foster's Wine Estates Americas Co.	01/21/11
14.	2009-CE-024-SAL	Saini Farms, Inc.	02/15/11
15.	2009-CE-069-VIS 2010-CE-013-VIS 2010-CE-014-VIS 2010-CE-015-VIS	H & R Gunlund Ranches, Inc., a California Corporation	04/04/11

## Election Activity

During fiscal year 2010-2011, labor organizations filed thirty-one (31) notices of intent to take access (NA) and nine (9) notices of intent to organize (NO). During fiscal year 2010-2011, labor organizations or farmworkers filed seven (7) election petitions, including representation (RC) and decertification (RD) petitions.

<b>Date Filed</b>	<b>Type of Filing</b>	<b>Labor Organization</b>	<b>Employer</b>
07/07/10	NA	UFW	Nurserymen's Exchange, Inc.
07/12/10	NA	UFCW Local 5	South Lakes Dairy Farm
07/13/10	NA	UFW	Four Star Fruit Company
07/13/10	NA	UFW	Delano Farms
07/13/10	NA	UFW	A. Caratan & Sons
07/13/10	NA	UFW	Caliente Farms
07/13/10	NA	UFW	Anthony Vineyards
07/13/10	NA	UFW	Lucich Farms
07/13/10	NA	UFW	Sun View
07/13/10	NA	UFW	Castle Rock
07/13/10	NA	UFW	Hronis, Inc.
07/13/10	NA	UFW	Vincent B. Zaninovich & Sons
07/13/10	NA	UFW	RB Sandrini
07/14/10	NA	UFW	Sun Pacific Farming Co.
07/15/10	NA	UFW	Sun World
08/09/10	NA	UFW	Giumarra Vineyards Corporation
09/09/10	NA	UFW	Giumarra Vineyards Corporation
09/16/10	NA	UFW	Castle Rock Enterprises
09/16/10	NA	UFW	Vincent B. Zaninovich & Sons
09/16/10	NA	UFW	Delano Farms
09/16/10	NA	UFW	Four Star Fruit
09/16/10	NA	UFW	Giumarra Farms
09/16/10	NA	UFW	Kovacevich 5 Farms
09/20/10	NA	UFW	Kirshenman Enterprises
09/20/10	NA	UFW	Sun Pacific Farming
09/22/10	NA	UFW	Lamanuzzi & Pantaleo
09/30/10	NA	UFW	Anthony's Vineyards
10/13/10	NA	UFW	Fernandez Bros Inc.
10/14/10	NA	UFW	Ramco
02/01/11	NA	UFW	California Florida Plant Company

<b>Date Filed</b>	<b>Type of Filing</b>	<b>Labor Organization</b>	<b>Employer</b>
06/22/11	NA	UFW	T & R Berry Farms
07/12/10	NO	UFCW Local 5	South Lakes Dairy Farm
07/21/10	NO	UFW	Anthony Vineyards
07/28/10	NO	UFW	Sun World
08/09/10	NO	UFW	Giumarra Vineyards Corporation
09/16/10	NO	UFW	Giumarra Vineyards and Farms
09/20/10	NO	UFW	Castle Rock Enterprises
09/27/10	NO	UFW	Four Star Fruit
07/13/10	NO	UFW	Nurserymen's Exchange
02/01/11	NO	UFW	California Florida Plant Company
07/12/10	RC	UFCW Local 5	South Lakes Dairy Farm
07/26/10	RC	UFW	Nurserymen's Exchange, Inc.
07/27/10	RD	UFW	San Martin Mushrooms, Inc.
10/25/10	RD	UFCW Local 5	Henry A. Garcia Dairy
11/02/10	RD	UFW	D'Arrigo Bros. Co. of California, a California Corporation
11/10/10	RD	UFW	D'Arrigo Bros. Co. of California, a California Corporation
02/04/11	RC	UFW	California Florida Plant Company

During the fiscal year, the Board conducted six (6) elections and issued four (4) certifications.

<b>Election Date</b>	<b>Employer</b>	<b>Labor Organization</b>
07/19/10	South Lakes Dairy Farm	UFCW Local 5
08/02/10	Nurserymen's Exchange, Inc.	UFW
08/03/10	San Martin Mushrooms, Inc.	UFW
11/01/10	Henry A. Garcia Dairy	UFCW Local 5
11/17/10	D'Arrigo Bros. Co. of California, a California Corporation	UFW
02/11/11	California Florida Plant Company	UFW

<b>Certification Date</b>	<b>Type of Certification</b>	<b>Employer</b>	<b>Labor Organization</b>
08/16/10	Results of Election	San Martin Mushrooms, Inc.	UFW
09/03/10	Results of Election	Lassen Dairy, Inc.	UFWC Local 5
11/10/10	Results of Election	Henry A. Garcia Dairy	UFCW Local 5
04/11/11	Results of Election	South Lakes Dairy Farm	UFCW Local 5

During the fiscal year, the Board held two (2) hearings on the following election cases:

<b>#</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Hearing Opened</b>	<b>Hearing Closed</b>
1.	2010-RC-001-SAL	Kawahara Nurseries, Inc.	12/13/10	12/17/10
2.	2010-RD-004-SAL consolidated with 2010-CE-050-SAL	D'Arrigo Bros. Co. of California, a California Corporation	06/13/11	09/07/11

## Outreach Activities

Fiscal year 2010/11 proved to be a very positive year for outreach activities. Staff from both regional offices, the sub-regional office, and from the office of the General Counsel in Sacramento attended various events throughout California with the goal of informing workers about their rights under the ALRA and the role of the ALRB in enforcing such rights. ALRB staff distributed outreach materials, made presentations, answered workers' questions, and collaborated with other agencies in order to educate farm workers and others who serve the farm worker community about the availability of services from the ALRB. Highlights include:

- Multiple community fairs and outreach events attended by over 4200 farmworkers including the *Feria Campesina* (Farmworkers Fair) in Oxnard, the Yuba-Sutter Multinational Family Health Fair in Yuba City, the Filmore Health Fair in Filmore, the Dairy Workers Appreciation Day in Tulare, the 10<sup>th</sup> Annual Bi-National Health Fair in Merced, Día del Trabajador Migrante in Coachella and the *Día del Trabajador Agrícola* (Day of the Farm Worker) in Greenfield, California.
- Numerous events held by the Mexican Consulate attended by nearly 1000 farmworkers including *La Semana de los Derechos Laborales* ("Labor Rights Week"), a week-long event sponsored by the Mexican Consulate that takes place throughout the State of California. ALRB staff participated in the event kick-off in Sacramento and throughout the state. In addition, ALRB staff attended *Consulado Móvil* events to highlight a mobile "office" of the Consulate that travels throughout rural areas in California to bring the Consulate's services to communities that do not have easy access to Consulate offices in urban areas. ALRB staff arranged to accompany *Consulado Móvil* staff on a number of outreach excursions.
- ALRB staff met with representatives of the Davis Migrant Housing Project to schedule outreach functions at several of the migrant housing communities.
- ALRB coordinated with Human Trafficking Coalition to provide training for staff, establish procedures for referral of potential victims, and establish contacts for future training and outreach.
- ALRB staff met with representatives of CRLA to train their staff on ALRB election and unfair labor practice procedures.

## **Remedies**

In fiscal year 2010-2011, the Board released for compliance one (1) case:

<b>Case No.</b>	<b>Respondent Name</b>	<b>Date to Compliance</b>	<b>Award Amount</b>
2009-CE-048-VIS, et al.	Temple Creek Dairy, Inc., a California Corporation	12/2/10	\$24,961

## **Monetary Remedies**

In fiscal year 2010-2011, the Board collected payments in thirteen (13) cases for a total Award Amount of \$697,351.

Payments were received in four (4) cases as a result of a Board Order:

<b>#</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Board Order No.</b>	<b>Award Amount (Type)</b>	<b>Net Amount</b>
1.	2003-MMC-01	Hess Collection Winery	29 ALRB No. 6	\$550,000 (Makewhole)	\$327,927
2.	07-CE-60-SAL, et al.	Mushroom Farms, A Division of Spawn Mate, Inc.	Administrative Law Judge Decision Final	\$52,500 (Back Pay)	\$31,316
3.	2009-CE-048-VIS, et al.	Temple Creek Dairy, Inc., a California Corporation	36 ALRB No. 4	\$24,961 (Back Pay)	\$24,961
4.	07-CE-37-VI, et al.	Lassen Dairy, Inc., dba Meritage Dairy	35 ALRB No. 7	\$10,000 (Back Pay)	\$10,000

Payments were received in nine (9) cases as a result of an Informal Settlement Agreement or Private Party Agreement.

<b>#</b>	<b>Case No.</b>	<b>Respondent Name</b>	<b>Settlement Type</b>	<b>Award Amount (Type)</b>	<b>Net Amount</b>
1.	2008-CE-001-VIS	Boschma & Sons Dairy, a Sole Proprietorship	Informal	\$9,000 (Back Pay)	\$4000*
2.	2009-CE-039-VIS	Quality Produce, LLC	Informal	\$1,000 (Back Pay)	\$1,000
3.	07-CE-64-VI	Giumarra Vineyards Corporation and Giumarra Farms, Inc.	Informal	\$263 (Back Pay)	\$263

#	Case No.	Respondent Name	Settlement Type	Award Amount (Type)	Net Amount
4.	07-CE-17-SAL et al.	The Hess Collection Winery	Informal	\$24,600 (Back Pay)	\$24,600
5.	2008-CL-064-SAL	United Farm Workers of America (UFW)	Informal	\$8,812 (Dues Reimbursement)	\$8,812
6.	2010-CE-032-VIS	Grower's Choice, Inc., a California Corporation	Informal	\$306 (Back Pay)	\$306
7.	2009-CE-024-SAL	Saini Farms, Inc.	Private Party	\$5,460 (Back Pay)	\$5,460
8.	2009-CE-035-VIS	MDR Farming, a Partnership	Informal	\$1,152 (Back Pay)	\$1,152
9.	2009-CE-066-VIS	Oasis Holsteins, a California Partnership	Informal	\$9,297 (Back Pay)	\$9,297

\*In Case No. 2008-CE-001-VIS, payments of \$500 were received in 18 monthly installments to cover from September, 2009 through February, 2011.

In fiscal year 2010-2011, the following amounts were paid to farmworkers as a result of findings of liability in unfair labor practice cases or as a result of settlement agreements:

#	Case No.	Respondent Name	Number of Checks Issued	Total Net Amount Issued
1.	2008-CE-001-VIS	Boschma & Sons Dairy	8	\$4,000
2.	2009-CE-039-VIS	Quality Produce	1	1,000
3.	99-CE-23-SAL	Hess Collection Winery	2	2,376
4.	07-CE-64-VI	Giumarra Vineyards	35	263
5.	2003-MMC-01	Hess Collection Winery	80	327,927
6.	07-CE-60-SAL	Mushrooms Farms	1	31,316
7.	07-CE-17-SAL	Hess Collection Winery	3	24,600
8.	2008-CL-064-SAL	UFW	54	8,812
9.	2010-CE-032-VIS	Grower's Choice	2	306
10.	2009-CE-024-SAL	Saini Farms	1	5,460
11.	2009-CE-035-VIS	MDR Farming	4	1,152
12.	2009-CE-048-VIS	Temple Creek Dairy	2	24,961
13.	07-CE-37-VI	Lassen Dairy	1	10,000
14.	2009-CE-066-VIS	Oasis Holsteins	2	9,297
	<b>TOTAL</b>		<b>196</b>	<b>\$451,470</b>

## Non-Monetary Remedies

In cases where a violation is found, the Board generally orders notice remedies in addition to monetary awards. A notice remedy requires the employer to post, mail and/or read a prepared notice to all agricultural employees so they can become aware of the outcome of the case.

A negotiated Informal Settlement signed by the parties can also include notice remedies in addition to monetary awards.

The following notice remedies occurred in fiscal year 2010-2011:

A notice reading was conducted in nine (9) cases involving 495 agricultural employees.

#	Case No.	Respondent Name	Date of Notice Reading	Number of Employees at Reading
1.	07-CE-28-SAL, et al.	Frog's Leap Winery	08/31/10	25
2.	07-CE-60-SAL, et al.	Mushroom Farms, A Division of Spawn Mate, Inc.	09/09/10	28
3.	07-CE-17-SAL, et al.	The Hess Collection Winery	09/22/10	40
4.	2008-CE-039-VIS	Rocking S Dairy, a Partnership	12/17/10	16
5.	2010-CE-032-VIS	Grower's Choice, Inc., a California Corporation	12/17/10	43
6.	2009-CE-004-SAL	S.M.D. Vineyards, Inc., a California Corporation	01/13/11	25
7.	2009-CE-048-VIS, et al.	Temple Creek Dairy, Inc., a California Corporation	01/25/11	14
8.	06-CL-12-SAL	UFW	02/03/11	293
9.	2009-CE-035-VIS	MDR Farming, a Partnership	03/25/11	11

A notice mailing was conducted in five (5) cases involving 457 agricultural employees.

#	Case No.	Respondent Name	Date of Notice Mailing	Number of Employees Receiving Mailing
1.	07-CE-60-SAL, et al.	Mushroom Farms, A Division of Spawn Mate, Inc.	10/14/10	22
2.	2009-CE-048-VIS, et al.	Temple Creek Dairy, Inc., a California Corporation	01/28/11	28
3.	07-CE-37-VI, et al.	Lassen Dairy, Inc. dba Meritage Dairy	04/25/11	34
4.	06-CL-8-SAL	UFW	05/13/11	53
5.	06-CL-12-SAL	UFW	05/23/11	320

A notice posting was completed in ten (10) cases.

#	Case No.	Respondent Name	Date of Notice Posting
1.	07-CE-60-SAL, et al.	Mushroom Farms, A Division of Spawn Mate, Inc.	07/01/10
2.	07-CE-28-SAL, et al.	Frog's Leap Winery	08/31/10
3.	07-CE-17-SAL, et al.	The Hess Collection Winery	09/09/10
4.	2008-CE-039-VIS	Rocking S Dairy, a Partnership	12/17/10
5.	2009-CE-004-SAL	S.M.D. Vineyards, Inc., a California Corporation	01/13/11
6.	2009-CE-048-VIS, et al	Temple Creek Dairy, Inc., a California Corporation	01/25/11
7.	06-CL-12-SAL	UFW	02/03/11
8.	2009-CE-035-VIS	MDR Farming, a Partnership	03/25/11
9.	06-CL-8-SAL	UFW	04/01/11
10.	2009-CE-066-VIS	Oasis Holsteins, a California Partnership	05/09/11

## **Agricultural Employee Relief Fund (Fund or AERF)**

The legislation creating the AERF took effect January 1, 2002. The administration of the AERF is governed by California Code of Regulations, title 8, section 20299. The Fund works as follows: Where the Board has ordered monetary relief but the employees cannot be located for two years after collection of monies on their behalf, those monies go into the Fund and are distributed to employees in other cases where collection of the full amount owed to them is not possible (*i.e.*, when their employer has gone out of business and is unable to pay, has had its debts discharged in bankruptcy, or otherwise has become judgment proof).

Pursuant to Regulation 20299, allocations are made annually within 90 days of the close of the fiscal year. There was no new allocation of money from the AERF in 2010, as no new cases were made eligible for payout during the 2009-2010 fiscal year and no additional amounts were allocated to the 2009 claimants, as they were allocated 100% of what they were owed in their first year of eligibility. Since the inception of the Fund, \$283,885 has been allocated to those eligible for payouts and \$248,743 actually has been disbursed to eligible claimants.