

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

UKEGAWA BROTHERS,)	
)	
Respondents, and)	Case Nos: 75-CE-59-R
)	75-CE-59-A-R
UNITED FARM WORKERS OF)	76-CE-18-R
AMERICA, AFL-CIO,)	76-CE-18-A-R
)	76-CE-49-R
Charging Party.)	
)	
)	
)	14 ALRB No. 15 (8
)	ALRB No. 90)

SUPPLEMENTAL DECISION AND CORRECTED ORDER

On August 16, 1988, the General Counsel filed a motion to correct a clerical error in the remedial order previously issued in this matter. (See Ukegawa Brothers (1932) 8 ALRB No. 90.) The motion alleges that the previous order incorrectly failed to name Ukegawa Brothers, a general partnership, as the respondent in this matter, naming instead Ukegawa Brothers, Inc. The General Counsel sought to add the partnership as a- respondent and to name it in our previously issued Order.

On the basis of the above and the record as a whole, we find that the following occurred. Unfair labor practice charges were filed in 1975 and 1976 by the United Farm Workers of America, AFL-CIO against Ukegawa Brothers, an entity not otherwise identified. A complaint issued on November 11, 1977, which named Ukegawa Brothers, Inc., as the Respondent. Ukegawa Brothers, a general partnership, filed an answer to the complaint on November 11, 1977, noting that the Respondent in the complaint was

misnamed as Ukegawa Brothers, Inc. Thereafter, pleadings and orders sometimes referred to the Respondent as Ukegawa Brothers, a general partnership (see, i.e., the General Counsel's motion to amend the complaint dated May 3, 1978) and sometimes as Ukegawa Brothers, Inc. (See, i.e., the Executive Secretary's Order regarding convening the hearing dated January 3, 1978.)^{1/} According to the attachment to the General Counsel's Motion to Correct the clerical error, articles of incorporation for Ukegawa Brothers, Inc., were filed with the Secretary of State of California on March 16, 1978.

Nothing in the original record in this matter shows that Ukegawa Brothers, Inc., was a participant in the events occurring in 1974-1976 that are the subject matter of this case. We will, therefore, correct the clerical error in our earlier Order and, sua sponte, correct the Decision, and delete any reference to Respondent being incorporated. Ukegawa Brothers, Inc., may have some derivative responsibility for the unlawful acts described in our earlier Order but clearly it was not a properly named respondent.

The previously issued Decision and Order is hereby corrected nunc pro tunc and that Order is replaced by the

^{1/}Indeed, in its Decision in 8 ALRB No. 90, the Board's caption refers only to Ukegawa Brothers. Moreover, in the same Decision, at page 1, the Board observed as follows:

Respondent Ukegawa Brothers is a four-person partnership comprised of Hiroshi and Joe Ukegawa, brothers, and their respective wives.

Thus, there should be no question as to the Board's understanding of the nature of the entity which was the subject of its Decision and Order in that case.

following.

ORDER

By authority of Labor Code section 1160.3, the Agricultural Labor Relations Board (Board) hereby orders that Respondents Ukegawa Brothers, its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Engaging in surveillance of employees' union activities .

(b) Interrogating any employee(s) concerning their union activities or the union activities of other employees.

(c) Soliciting any employee(s) to spy on the union activities of any other employee(s).

(d) Threatening employees with loss of work or other reprisals for joining or supporting the United Farm Workers of America, AFL-CIO (UFW) , or any other labor organization.

(e) Promising employees wage increases, more work, or other employment benefits to induce them to reject the UFW or any other labor organization.

(f) Discriminating against any agricultural employee in regard to assignment or transfer, or any other term or condition of employment, or demoting any employee, or isolating any employee from fellow workers because he or she has engaged in any union activity.

(g) Informing employees that they need not apply for work because of their union membership, union activities, or union sympathies.

(h) Discharging employees because of their

membership in or activities on behalf of the UFW or any other labor organization.

(i) 'Refusing to hire or rehire any agricultural employee because of his or her union membership, union activity, or union sympathies.

(j) In any other manner, interfering with, restraining, or coercing any agricultural employee(s) in the exercise of the rights guaranteed by Labor Code section 1152. 2. Take the following affirmative actions which are deemed necessary to effectuate the policies of the Agricultural Labor Relations Act (Act).

(a) Offer to Francisca Roman, who was discharged on September 23, 1975, and to the members of the Armenta tomato-harvest crew who were laid off on January 19, and 21, 1976, and whose names appear in the attached Appendix A, and to the employees who were discriminatorily refused rehire in 1976, and whose names appear in the attached Appendix B and Appendix C, immediate and full reinstatement to their former or substantially equivalent position(s), without prejudice to their seniority or other rights or privileges.

(b) Make whole Francisca Roman and all employees whose names appear in Appendices A, B, and C, attached hereto, for all wage losses and other economic losses they have suffered during the period from the date of their termination, or Respondent's failure or refusal to rehire them, to the date on which Respondent offers them full reinstatement, together with interest on said sum computed in accordance with our Decision and

Order in Lu-Ette Farms, Inc. (Aug. 18, 1982) 8 ALRB No. 55, Backpay shall be computed in accordance with established Board precedents and shall begin: from their respective dates of termination for Francisca Roman and the members of the Armenta crew who are listed in Appendix A; from the respective dates on which they were discriminatorily refused rehire for the workers listed on Appendix B; and, from respective dates on which each of the workers listed in Appendix C would have been employed by Respondent absent its discriminatory hiring practices.

(c) Reimburse the workers designated as raiteros in Appendix A for all losses of wages and other economic losses they incurred as a result of their discharge by Respondent and their resultant inability to continue transporting other workers to and from the work site, plus interest on such amounts computed in accordance with our Decision and Order in Lu-Ette Farms, Inc. , supra, 8 ALRB No. 55.

(d) Make whole Juan Rubalcava, Elias Montoya, Francisco Carrillo and Jose Perez Serrano for all wage losses and other economic losses they have suffered as a result of their discriminatory demotion and/or transfer by Respondent, plus interest on such amounts computed in accordance with our Decision and Order in Lu-Ette Farms, Inc. , supra, 8 ALRB No. 55.

(e) Preserve, and upon request, make available to this Board or its agents, for examination, photocopying, and otherwise copying, all payroll records and reports, and all other records relevant and necessary to a determination, by the Regional Director, of the backpay period and amount of backpay due under

the terms of this Order.

(f) Sign the Notice to Agricultural Employees attached hereto and, after its translation by a Board agent into appropriate languages, reproduce sufficient copies in each language for the purposes set forth hereinafter.

(g) Mail copies of the attached Notice, in all appropriate languages, within 30 days after the date of the issuance of this Order, to all employees employed by Respondent at any time between August 28, 1975, and the date of the mailing. In the alternative, and at the discretion of the Regional Director, sponsor commercial radio announcements summarizing the contents of the attached Notice, including informing discriminatees of their right to reinstatement and backpay. Pursuant to a schedule to be determined by the Regional Director, spot announcements are to be broadcast three times daily during two one-week periods (which need not be consecutive but which should coincide with Respondent's major hiring seasons) on a radio station or stations which has or have a market or coverage area most conducive to maximizing the probability that such information will be received by Respondent's present and former employees.

(h) Post copies of the attached Notice in all appropriate languages for 60 days in conspicuous places on its premise, the period(s) and place(s) of posting to be determined by the Regional Director, and exercise due care to replace any Notice which has been altered, defaced, covered, or removed.

(i) Arrange for a representative of Respondent or a Board agent to distribute and read the attached Notice, in all

appropriate languages, to all of its agricultural employees on company time and property at time(s) and place(s) to be determined by the Regional Director. Following the reading(s), the Board agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions employees may have concerning the Notice or their rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondents to all nonhourly wage employees to compensate them for time lost at this reading and during the question-and-answer period.

(j) Notify the Regional Director, in writing, within 30 days after the date of issuance of this Order, of the steps Respondent has taken to comply herewith, and continue to report periodically thereafter, at the Regional Director's request, until full compliance is achieved.

Dated: November 18, 1988

BEN DAVIDIAN, Chairman^{2/}

JOHN P. MCCARTHY, Member

GREGORY GONOT, Member

IVONNE RAMOS RICHARDSON, Member

^{2/} The signatures of Board Members in all Board Decisions appear with the signature of the Chairman first, if participating, followed by the signatures of the participating Board Members in order of their seniority.

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the San Diego Regional Office of the Agricultural Labor Relations Board (ALRB or Board), the General Counsel of the ALRB issued a complaint alleging that we, Ukegawa Brothers, had violated the law. After a hearing at which each side had an opportunity to present evidence, the Board found that we did violate the law by practicing surveillance, interrogating employees, threatening reprisals against employees who supported the United Farm Workers of America, AFL-CIO, (UFW) and promising benefits to employees who rejected the UFW. In addition, the Board found that we isolated employees, discharged or laid off employees, and refused to rehire employees because of their union activities, and thereby interfered with, restrained, and coerced employees in the exercise of the rights guaranteed them by Labor Code section 1152 of the Agricultural Labor Relations Act (Act). The Board has ordered us to post and publish this Notice. We will do what the Board has ordered us to do. We also want to tell you that:

The Agricultural Labor Relations Act is a law that gives you and all other farm workers in California these rights:

1. To organize yourselves;
2. To form, join or help unions;
3. To vote in a secret ballot election to decide whether you want a union to represent you;
4. To bargain with your employer about your wages and working conditions through a union chosen by a majority of the employees and certified by the Board;
5. To act together with other workers to help and protect, one another; and
6. To decide not to do any of these things.

Because this is true, we promise that:

WE WILL NOT do anything in the future that forces you to do, or stops you from doing any of the things listed above.

WE WILL NOT practice surveillance or interrogate employees about their union activities.

WE WILL NOT threaten employees with reprisals, or promise or grant benefits to employees, to induce them to reject the UFW or any other labor organization.

WE WILL NOT transfer or assign or isolate employees because of their union activities.

WE WILL NOT lay off, discharge, demote, or refuse to rehire any employee, or otherwise discriminate against any employee, because

of his or her membership in, or activity on behalf of, the UFW or any other labor organization.

WE WILL offer immediate reinstatement to the employees named below, without loss of seniority or other privileges, and we will reimburse them for any pay, or other money, plus interest, they have lost because we unlawfully terminated their employment:

Aguirre, Jose	Mejorado, Reymundo
Armenta, Francisco	Montoya, Elias
Avila Ortiz, Esteban	Moreno Garnica, Santiago
Carrillo Gutierrez, Francisco	Munoz Galvan, Aurelio
Chaires, Pedro	Palomarez, Adolfo
de Jesus Perez, Jose	Palomarez, Ernesto
Estrada, Apolonio	Perez, Francisco
Gonzales, Silvestre	Perez, Rosalio
Hernandez, Remigio	Ramirez Santana, Moises
Lopez Aguilar, Luis	Reyes, Gregorio
Lupercio Morales, Jesus	Rodriguez Gomez, Ildefonso
Manuel Estrella, Juan	Roman, Francisca

WE WILL offer immediate employment to the following employees, and reinstate them to their former or substantially equivalent positions, without loss of seniority or other privileges, and we will reimburse them for any pay, or other money, plus interest because we unlawfully refused to rehire them.

Ansaldo Carrillo, Jesus	Ramos, Esperanza
Flores, Efren	Ruelas Rodriguez, Jose Leonidas
de Arevalo, Matilde	Ruelas Saldana, Maria Esther
de Ruelas, Rosario S.	Ruelas, Maria Rosario
Diaz, Esperanza	Ruelas, Olivia Margarita
Garcia, Maria	Ruiz, Antonia
Miranda, Francisca	Serrano, Jose Perez
Moreno Villacana, Amparo	
Ortiz Muro, Angel	
Palamino, Anita	

WE WILL reimburse Juan Rubalcava, Elias Montoya, Francisco Carrillo, and Jose Perez Serrano for any pay, or other money, plus interest because we unlawfully demoted or transferred them.

If you have a question about your rights as farm workers or about this Notice, you may contact any office of the Agricultural Labor Relations Board. One office is located at 1350 Front Street, San Diego, CA 92101 and another located at 319 Waterman Avenue, El Centro, CA 92243. The telephone numbers are San Diego: (714) 237-7119; El Centro: (714) 353-2130.

This is an official Notice of the Agricultural Labor Relations Board, an agency of the State of California.

DO NOT REMOVE OR MUTILATE

APPENDIX A

Aguirre, Jose
Armenta, Francisco*
Avila Ortiz, Esteban
Carrillo Gutierrez, Francisco
Chaires, Pedro
de Jesus Perez, Jose
Estrada, Apolonio
Gonzales, Silvestre*
Hernandez, Remigio
Lopez Aguilar, Luis
Lupercio Morales, Jesus
Manuel Estrella, Juan
Mejorado, Reymundo*
Montoya, Elias
Moreno Garnica, Santiago
Munoz Galvan, Aurelio
Palomarez, Adolfo*
Palomarez, Ernesto
Perez, Francisco*
Perez, Rosalio
Ramirez Santana, Moises
Reyes, Gregorio
Rodriguez Gomez, Ildefonso*

*- Denotes raiteros.

APPENDIX B

Ansaldo Carillo, Jesus

Floras, Efren

Miranda, Francisca

Ortiz Muro, Angel

Ramos, Esperanza

Ruelas Rodriguez, Jose Leonidas

Ruelas Saldana, Maria Esther

Ruelas, Maria Rosario

Ruelas, Olivia Margarita

Ruiz, Antonia

Serrano, Jose Perez

APPENDIX C

de Arevalo, Matilda

Diaz, Esperanza

Garcia, Maria

Moreno Villacana, Amparo

Palamino, Anita

CASE SUMMARY

UKEGAWA BROTHERS
(UFW)

14 ALRB No. 15
Case Nos . 75-CE-59-R;
75-CE-59-A-R;
76-CE-18-R;
76-CE-18-A-R;
76-CE-49-R
(8 ALRB No. 90)

The Board issued an order to show cause why it should not correct the order issued in Ukegawa Brothers (1982) 8 ALRB No. 90 by changing the named respondent from Ukegawa Brothers, Inc., to the general partnership, Ukegawa Brothers.' The Board issued the order to show cause following the filing of a motion by the General Counsel to add the partnership to the previously issued decision. Thereafter, the Board issued a supplemental decision, correcting the name of the respondent from the corporation to the general partnership.

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This Case Summary is furnished for information only and is not an official statement of the case, or of the ALRB.

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