

STATE OF CALIFORNIA AGRICULTURAL

LABOR RELATIONS BOARD

HARRY CARIAN SALES, }
 Respondent, and }
 UNITED FARM WORKERS OF }
 AMERICA, AFL-CIO, }
 Charging Party. }

Case No. 80-CE-57-SD

10 ALRB No. 51
(9 ALRB No.13)

DECISION AND ORDER

On April 25, 1984, the Court of Appeal for the Fourth Appellate District, Division Two, issued its decision on review of 9 ALRB No. 13. The court upheld the findings that Respondent committed certain unfair labor practices, as set forth in that Decision, but annulled that part of the Order regarding the notice-mailing remedy, and remanded the case to the Agricultural Labor Relations Board (Board) "for a reformulation of the notice-mailing requirement."

Pursuant to the provisions of California Labor Code section 1146, the Board has delegated its authority in this matter to a three-member panel.

The Board has reviewed the court's remand in this matter and, consistent with our rationale for the notice-mailing Order in Kitayama Brothers (1983) 9 ALRB No. 23, we hereby revise our Order in Harry Carian Sales (1983) 9 ALRB No. 13.

ORDER

By authority of section 1150.3 of the Agricultural Labor

Relations Act (Act), the Agricultural Labor Relations Board (Board) hereby orders that Respondent Harry Carian Sales, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Discharging or otherwise discriminating against any agricultural employee for discussing working conditions with legal representatives, or for engaging in any other concerted activity protected by section 1152 of the Act.

(b) Interfering with the rights of agricultural employees at its labor camp to receive visits from, or to engage in discussions of living conditions at the labor camp with, legal representatives.

(c) In any like or related manner interfering with, restraining, or coercing any agricultural employee(s) in the exercise of the rights guaranteed them by section 1152 of the Act.

2. Take the following affirmative actions which are deemed necessary to effectuate the policies of the Act:

(a) Offer Jose Luis Godinez , Jaime Vargas, and Mar.ue] Moya Perez full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other employment rights or privileges, and make them whole for all losses of pay and other economic losses they have suffered as a result of their unlawful discharge, the amount of backpay to be computed in accordance with Board precedents, plus interest thereon computed in accordance with our Decision and Order in Lu-Ette Farms, Inc. (1982; 8 ALRB No. 55.

(b) Preserve and, upon request, make available to

2.

this Board and its agents, for examination, photocopying, and otherwise copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records relevant and necessary to a determination, by the Regional Director, of the backpay periods and the amounts of backpay and interest due under the terms of this Order.

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

(d) Mail copies of the attached Notice, in all appropriate languages, within 30 days after the date of issuance of this Order, to all agricultural employees employed by Respondent at any time during the period from June 15, 1980, to June 15, 1981.

(e) Post copies of the attached Notice, in all appropriate languages, in conspicuous places on its property for 60 days, 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.

(f) 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, the Board agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions the employees may have concerning the Notice and/or their rights under the Act. The

Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all nonhourly wage employees in order to compensate them for work time lost at this reading and during the question-and-answer period.

(g) 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 with its terms and continue to report periodically thereafter, at the Regional Director's request, until full compliance is achieved.

Dated: December 26, 1984

JOHN P. MCCARTHY, Member

JEROME R. WALDIE, Member

PATRICK W. HENNING, Member

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the El Centre Regional Office, The General Counsel of the Agricultural Labor Relations Board (Board) issued a complaint which alleged that we, Harry Carian Sales, 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 Agricultural Labor Relations Act (Act) by discharging three workers because they engaged in protected concerted activity and by ejecting from Labor Camp No. 3 two legal representatives who were talking to the workers about their living conditions there. The Board has told 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 it is true that you have these rights, we promise that:

WE WILL NOT discharge or otherwise discriminate against any agricultural worker because he or she engaged in any of the protected concerted activities described above.

WE WILL offer Jose Luiz Godinez, Jaime Vargas, and Manuel Moya Perez their old jobs back or substantially equivalent jobs and will reimburse them for all pay and other money they lost because we discharged them, plus interest.

WE WILL NOT interfere with the rights of our agricultural employees to receive visitors at our labor camp or to discuss their working conditions with such visitors or other employees.

Dated:

HARRY CARIAN SALES

By: _____
Representative Title

If you have a question about your rights as workers or about this Notice, you may contact any office of the Agricultural Labor Relations Board. One office is located at 319 Waterman Avenue, El Centre, California, 92243. The telephone number is (519) 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.

CASE SUMMARY

Harry Carian Sales

10 ALRB No. 51
80-CE-57-SD
(9 ALRB No. 13)

BOARD DECISION

On remand from the Court of Appeal for the Fourth Appellate District, Division Two, the Board modified its previous Order regarding mailing of notices. The Board ordered Respondent to mail a notice to all of its employees employed during a one year period between June 15, 1980, and June 15, 1981.

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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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