

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

GEORGE ARAKELIAN FARMS,)	
)	
Respondent,)	Case Nos. 79-CE-168-EC
)	79-CE-169-EC
and)	
)	
UNITED FARM WORKERS OF)	12 ALRB No. 29 (8
AMERICA, AFL-CIO,)	ALRB No. 36)
)	
Charging Party.)	

SUPPLEMENTAL DECISION AND MODIFIED ORDER

Pursuant to the provisions of Labor Code section 1146,^{1/} the Agricultural Labor Relations Board (Board) has delegated its authority in this matter to a three-member panel.^{2/}

In accordance with the remand order of the Court of Appeal of the State of California, Fourth Appellate District, Division Two, in George Arakelian Farms, Inc. v. Agricultural Labor Relations Board (1986) 186 Cal.App.3d 94 [230 Cal.Rptr. 428], we have reviewed and reconsidered our remedial Order in George Arakelian Farms (1982) 8 ALRB No. 36 and hereby modify our original Order as set forth below.^{3/}

Our Modified Order deletes all references to the findings of unilateral wage change violations that were overturned by the

1. All section references are to the California Labor Code unless otherwise indicated.

2. The signatures of Board members in all Board decisions appear with the signature of the chairperson first, if participating, followed by the signatures of the participating Board members in order of seniority.

3. Respondent's request to file a supplemental brief and for oral argument is hereby denied as we have reconsidered the makewhole award.

Court of Appeal. In addition, we have concluded that the remaining violations, standing alone, do not merit the imposition of a bargaining makewhole award in this case. Our Modified Order^{4/} reflects this conclusion.

MODIFIED ORDER

By authority of Labor Code section 1160.3, the Agricultural Labor Relations Board hereby orders that Respondent George Arakelian Farms, its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Instituting or implementing any change in any of its agricultural employees' wages, work hours, or any other term or condition of their employment without first notifying and affording the United Farm Workers of America, AFL-CIO (UFW) a reasonable opportunity to bargain with Respondent concerning such change(s).

(b) In any like or related manner interfering with, restraining, or coercing agricultural employees in the exercise of those rights guaranteed by Labor Code section 1152.

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

4. Chairperson James-Massengale would not modify the interest rate on remand in accordance with Lu-Ette Farms, Inc. (1982) 8 ALRB No. 55 since she reads the Court order as specifically approving the Board's previous remedy for violations occurring during and after November 1979. Here, as in her dissenting opinion in Frudden Produce, Inc. (1985) 11 ALRB No. 6, Chairperson James-Massengale does not view the remand as broad enough to invite a revision of the Board's remedial order beyond that suggested by the Court.

(a) Upon request, meet and bargain collectively with the UFW, as the certified exclusive collective bargaining representative of its agricultural employees, concerning the unilateral change Respondent made in its employees' wage rates in November 1979 and the discontinuance of the fuel allowances.

(b) If the UFW so requests, rescind the unilateral changes heretofore made in its employees' wage rates and/or their fuel allowances.

(c) Make whole its employees for all economic losses they have suffered as a result of Respondent's unilateral wage increase in November 1979 and its unilateral discontinuance of the fuel allowance, such amounts to be computed in accordance with established Board precedents, plus interest thereon, computed at seven percent per annum until August 18, 1982 and thereafter interest to be computed as provided in our Decision and Order in Lu-Ette Farms, Inc. (1982) 8 ALRB No. 55.

(d) Preserve and, upon request, make available to this Board or its agents, for examination, photocopying, and otherwise copying/ all records relevant and necessary to a determination by the Regional Director of the make-whole amounts due to its employees under the terms of this Order.

(e) 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.

(f) Post copies of the attached Notice in conspicuous places on its property for a 60-day period, the period

and places 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.

(g) 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 November 1, 1979 through November 1, 1980.

(h) Arrange for a representative of Respondent or a Board agent to distribute and read the attached Notice in all appropriate languages to the assembled agricultural employees of Respondent on company time. The reading or readings shall be at such times and places as are specified 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 Respondent to all non-hourly wage employees to compensate them for work-time lost during the reading and the question-and-answer period.

(i) 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. If the Regional Director determines that Respondent has not fully complied with the Order within a reasonable time after its issuance, then upon request of the Regional Director, Respondent shall notify him or

her periodically thereafter in writing of further actions taken to comply with this Order.

Dated: December 17, 1986

JYRL JAMES-MASSENGALE, Chairperson

PATRICK W. HENNING, Member

GREGORY L. GONOT, Member

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the El Centro Regional Office, the General Counsel of the Agricultural Labor Relations Board issued a complaint which alleged that we had violated the law. After a hearing at which each side had an opportunity to present evidence, the Board found that we unlawfully changed the wage rates and fuel allowances of our employees without notice to or bargaining with the United Farm Workers of America, AFL-CIO (UFW) about those changes.

The Board has told us to send out and post this Notice. We will do what the Board has ordered, and also tell you that the Agricultural Labor Relations Act is a law that gives you and all California farm workers 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.

WE WILL NOT change your wage rates, fuel allowances, or any other of your working conditions without first notifying, and bargaining with, the UFW about such matters because it is the representative chosen by our employees.

WE WILL, if the UFW asks us to do so, rescind the changes we previously made in the wages and fuel allowances of our employees and we will make each of our employees whole for any economic losses he or she has suffered as a result of those changes.

Dated:

GEORGE ARAKELIAN FARMS

By:

(Representative) (Title)

If you have any questions 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 319 Waterman Avenue, El Centro, California 92243. The telephone number is (714) 353-2120.

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

George Arakelian Farms
(UFW)

12 ALRB No. 29
Case No. 79-CE-168-EC
79-CE-169-EC
(8 ALRB NO. 36)

BACKGROUND

In George Arakelian Farms, Inc. (1982) 8 ALRB No. 36, the Board found Respondent had violated sections 1153(e) and (a) of the Act by unilaterally raising wage rates in 1978 and 1979 and unilaterally terminating payment of a fuel allowance to workers who commuted from their homes to the work site. In its remedial order, the Board included a makewhole order for the economic losses incurred by the employees as a result of Respondent's unilateral changes in terms and conditions of employment, as well as a bargaining makewhole order.

On September 30, 1986, the Court of Appeal, Fourth Appellate District, Division Two, issued a published opinion in this matter. (George Arakelian Farms/ Inc. v. ALRB (1986) 186 Cal.App.3d 94.) The Court upheld the findings of violations for the discontinuance of fuel allowance and the unilateral wage increase of November 1979. However, the Court overturned the Board's findings that the 1978 and spring 1979 wage changes were violations of the Act.

BOARD DECISION

The Board modified its Order to delete references to the unfair labor practices overturned by the court. In addition, the Board concluded that the remaining violations, standing alone, did not merit imposition of a bargaining makewhole award. It thus modified the Order by deleting that provision. Finally, the Board modified the interest rate in the Order to the Lu-Ette variable rate. (Lu-Ette Farms, Inc. (1982) 8 ALRB No. 55.)

Chairperson James-Massengale dissented from the Board's decision to modify the interest rate. In her view, the court's remand order was not broad enough to permit this modification.