

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

PELTZER GROVES, a California Corporation,
 Respondent,
 and
 HELIODORO VALENCIA,
 an individual,
 Charging Party.

Case No. 89-CE-99-VI

17 ALRB No. 20
(December 17, 1991)

DECISION AND ORDER

On October 10, 1991, Administrative Law Judge (ALJ) Barbara D. Moore issued the attached Decision and Recommended Order in this matter. Thereafter, Peltzer Groves, a California Corporation (Respondent or Employer) timely filed exceptions to the ALJ ' s Decision along with a supporting brief, and General Counsel filed an answering brief.

Pursuant to the provisions of Labor Code section 1146, the Agricultural Labor Relations Board (ALRB or Board) has delegated its authority in this matter to a three-member panel.

The Board has considered the record and the ALJ ' s Decision in light of the exceptions and briefs of the parties and has decided to affirm the ALJ's rulings, findings and conclusions, and to issue the attached Order.

ORDER

By authority of Labor Code section 1160.3, the Agricultural Labor Relations Board (Board) hereby orders that

Respondent Peltzer Groves (Respondent), its officers, agents, successors, and assigns shall:

1. Cease and desist from:

a. Discharging agricultural employees for engaging in the exercise of their rights guaranteed by section 1152 of the Agricultural Labor Relations Act (Act);

b. In any like or related manner interfering with, restraining or coercing agricultural employees in the exercise of their rights guaranteed by section 1152 of the Act;

2. Take the following affirmative actions designed to effectuate the policies of the Act:

a. Make whole Heliodoro Valencia for all wage losses or other economic losses he has suffered as a result of Respondent's unlawful discharge by paying him the sum of \$415.83, plus any interest determined to be due which amount shall be calculated in the manner set forth in E. W. Merritt Farms (1988) 14 ALRB No. 5;

b. Sign the Notice to Employees attached hereto. After its translation by a Board agent into all appropriate languages, Respondent shall reproduce sufficient copies of the Notice in each language for all purposes set forth in the remedial order;

c. Upon request of the Regional Director, or his designated Board agent, provide the Regional Director with the dates of Respondent's next peak season. Should Respondent's peak season have begun at the time the Regional Director requests peak

season dates, Respondent will inform the Regional Director of when the present peak season began and when it is anticipated to end in addition to informing the Regional Director of the anticipated dates of the next peak season;

d. Post copies of the Notice in all appropriate languages in conspicuous places on Respondent's property, including places where notices to employees are usually posted, for 60 days at times and places to be determined by the Regional Director. Respondent shall exercise due care to replace any copy or copies of the Notice which may be altered, defaced, covered or removed;

e. Upon request of the Regional Director, mail copies of the Notice in all appropriate languages to all employees employed by Respondent during the period from November 9, 1989 to November 9, 1990;

f. Arrange for a Board agent or a representative of Respondent to distribute and read the Notice in all appropriate languages to Respondent's employees assembled on Respondent's time and property, at times and places to be determined by the Regional Director. Following the reading, a 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 or employee rights under the Act. All employees are to be compensated for time spent at the reading and question-and-answer period. The Regional Director shall determine a reasonable rate of compensation to be paid by the Respondent to all non-hourly

wage employees to compensate them for time lost at this reading and question-and-answer period;

g. Notify the Regional Director, in writing, thirty (30) days after the date of issuance of the remedial order, what steps have been taken to comply with it. Upon request of the Regional Director, Respondent shall notify him/her periodically thereafter in writing of further actions taken to comply with this Order.

DATED: December 17, 1991

BRUCE J. JANIGIAN, Chairman

IVONNE RAMOS RICHARDSON, Member

JIM NIELSEN, Member

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the Visalia Regional Office of the Agricultural Labor Relations Board (ALRB), the General Counsel of the ALRB issued a complaint that alleged we, PELTZER GROVES, had violated the law. After a hearing at which all parties had an opportunity to present evidence, the Board found that we did violate the law by discharging Heliodoro Valencia for engaging in protected concerted activity, namely, speaking on behalf of his co-workers in supporting a fellow worker.

The ALRB has told us to post and publish this NOTICE. We will do what the ALRB has ordered us to do.

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.

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

WE WILL NOT discharge or otherwise interfere with employees because they support a co-worker in a matter relating to work.

WE WILL make Heliodoro Valencia whole for any losses he suffered as a result of our unlawful act.

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 711 North Court Street, Suite A, Visalia, California 93291. The telephone number is (209) 627-0985.

DATED:

PELTZER GROVES,
a California Corporation

By: _____

Representative

Title

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

CASE SUMMARY

Peltzer Groves
(Heliodoro Valencia)

17 ALRB No. 20
Case No. 89-CE-99-VI

ALJ Decision

The complaint alleged that the Employer, through its owner Richard Peltzer, had discharged Heliodoro Valencia for acting as a spokesperson in protesting the termination of a co-worker. The ALJ credited the testimony of Heliodoro Valencia, who stated that Richard Peltzer insulted him when he defended the co-worker and demanded that he be rehired or the crew would not start work. After Peltzer told the workers that they could decide for themselves whether to work or go home, several workers including Valencia headed for their cars. Peltzer then approached him, told him he was the one causing all the trouble, said he did not want to see Valencia on the property anymore, and told him to "get out."

Richard Peltzer died shortly after the incident, but his son Larry Peltzer, who was harvest superintendent at the time of the incident, testified that he overheard the conversation between his father and Valencia. Larry Peltzer claimed that his father told Valencia he was not discharging him, but that if he wanted to leave the choice was his. On the basis of Peltzer's demeanor, as well as inconsistency and a lack of plausibility in his account, the ALJ discredited Peltzer's testimony and found that he was not close enough to the participants to hear their conversation.

Finding that Valencia was a more convincing witness than Peltzer and that his account of the incident was more plausible, the ALJ concluded that Valencia had been unlawfully discharged because he encouraged the crew not to work.

Board Decision

The Board affirmed the rulings, findings and conclusions of the ALJ. Valencia did not seek reinstatement, and the parties had agreed that if Respondent were found liable, the amount of backpay owing would be \$415.83 plus interest. Therefore, the Board's Order omitted the usual provisions for reinstatement and continuing backpay.

* * *

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

* * *

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
)
Peltzer Groves, a California) Case No. 89-CE-99-VI
Corporation,)
)
Respondent)
)
and)
)
Heliodoro Valencia,)
an individual,)
)
Charging Party)
_____)

Appearances:

Stephanie Bullock
of the Visalia Regional Office
for the General Counsel

William S. Marrs
of Marrs and Robbins
for the Respondent

Before: Barbara D. Moore
Administrative Law Judge

DECISION OF THE ADMINISTRATIVE LAW JUDGE

BARBARA D. MOORE: Administrative Law Judge: This case was heard by me on August 20, 1991, in Visalia, California. It arises from a single charge filed with the Agricultural Labor Relations Board ("ALRB" or "Board") by Heliodoro Valencia on November 16, 1989,¹ asserting that he and two fellow employees (Hector Garcia and Jose de Jesus Gonzales) were terminated by Richard Peltzer, owner of Peltzer Groves, Respondent herein,² ("Respondent," or "Company") because they protested the termination of co-worker Moises Ruiz. The Complaint, however, alleges a violation of the Agricultural Labor Relations Act ("ALRA" or "Act") only with regard to Mr. Valencia.

Respondent filed its Answer to the Complaint on October 29, 1990, wherein it denied any wrongdoing. Both the Complaint and the Answer were timely filed and properly served.

All parties, including Mr. Valencia, who intervened, were allowed full opportunity to participate in the hearing; both General Counsel and Respondent filed briefs. Based on the entire record,³ including the parties' arguments and the

¹All dates hereafter are 1989 unless otherwise specified.

²The correct name of the Respondent is "Peltzer Groves, a California corporation." The designation "Inc." is not part of the Company name, although it is so referred to in various places in the transcript. The transcript is hereby ordered corrected.

³References to the hearing transcript will be denominated as "volume; page number." In order to conserve resources, I dispensed with the introduction of the so-called "official exhibits" since they are already part of the record pursuant to Title 8, California Code of Regulations, section 20280.

briefs, I make the following findings of fact and conclusions of law.

I. JURISDICTION.

Respondent is an agricultural employer, and Mr. Valencia is an agricultural employee within the meaning of sections 1140.4(c) and (b) of the Act. Richard Peltzer, his son Larry Peltzer,⁴ and foreman Dometillo Lupercio, at all times material, were supervisors within the meaning of section 1140.4(j).

II. BACKGROUND.

Respondent is, and at all times material was, a California corporation engaged in farming in Tulare County with its principal place of business in Woodlake, California. At the times material herein, Richard Peltzer managed the company, and Larry Peltzer functioned as the harvest superintendent under his father's direction. Following Richard Peltzer's death on November 21, Larry became ranch manager and continued to operate the ranch with his two brothers.

Mr. Valencia worked at the Company from 1976 until his employment ended on November 9 as a result of the incident complained of herein, except that he left for a period of time in 1982 and/or 1983 and then returned in 1984 or 1985.

No Prehearing Conference Order was issued in this matter.

⁴For simplicity's sake, in order to distinguish between the two men, I will identify Richard Peltzer by his last name and Larry by his first name.

III. EVENTS PRIOR TO THE ALLEGED DISCHARGE.

General Counsel and Respondent submitted a written factual stipulation⁵ describing the events which led up to the alleged unlawful incident, which, at my direction, was supplemented by testimony in order to develop a more complete record and to assist me in making credibility determinations. The following facts are not disputed.

The Company recalled certain of its harvesting employees, including Mr. Valencia, from layoff to begin work on November 9. He and other workers, including Moises Ruiz who had worked for the Company the previous season but who had not been recalled, reported for work on that day.

Ruiz was informed he would not be rehired. He told Valencia and other co-workers, and they wanted to know why since there were several new workers. Ruiz and Mr. Valencia were friends and had ridden to work together regularly, and Valencia was designated to speak on behalf of the workers to ascertain the reason Ruiz was not rehired.

Valencia and the workers approached foreman Dometillo Lupercio, and Valencia told Lupercio they would not start work until Ruiz was also given work. Lupercio replied that he could not do anything, so Valencia asked him to have Richard Peltzer to come over so they could resolve the matter.

Lupercio left, and a short time later Richard Peltzer and

⁵Joint Exhibit 1. Hereafter, Joint Exhibits, Respondent's Exhibits and General Counsel's Exhibits will be identified respectively as JX, RX and GCX followed by the exhibit number.

his sons arrived. Peltzer and Valencia discussed Peltzer's refusal to rehire Ruiz, with the crew standing around and interjecting comments. The conversation was in English, and it was evident at the hearing that Mr. Valencia understood and spoke English well.

Peltzer angrily asked Valencia why he was defending Ruiz and asked Valencia if he were married to Ruiz. Valencia was insulted by the remark and angrily told Peltzer not to speak to him that way. Peltzer retorted that women should be defended at home, but "not here." Valencia angrily walked away. (I : 1 .)

The workers repeated they would not work until Ruiz was given his job. (Id.) Peltzer replied that he was not going to hire Ruiz, that work would start at noon, and the workers could decide among themselves if they would work or go home. (I : 2 3 .)

About noon, Peltzer and his sons returned. By about 12:30, when it appeared no one was going to work, Peltzer instructed Larry to tie up the ladders to the ladder trailer, and he and Larry told the workers to go home. (I : 4 6 .)

Peltzer and Valencia then had a one-on-one conversation wherein General Counsel alleges Peltzer told Valencia he was fired because he had led the protest. Respondent, on the other hand, contends that Valencia quit.

Valencia was General Counsel's only witness. He testified he and Peltzer were alone and that no one was near enough to

overhear their conversation.⁶ As noted previously, Richard Peltzer died shortly after the above events. Respondent's case rests on the testimony of Larry Peltzer who testified he overheard the conversation.⁷ IV. THE ALLEGED DISCHARGE.

Valencia testified that after Richard and Larry had told the workers to leave because no one was making a move to start work, he and various other workers went to their cars. He saw Richard Peltzer approaching him, so he stopped at point " 2 " on GCX1 to wait for him. (I : 1 2 - 1 3 .)

Peltzer came up to the car and angrily told Valencia that he was the one causing all the trouble, and that he (Peltzer) did not want to see Valencia on the property anymore. Peltzer pointed his finger at Valencia and said, "Get out. Get out." (I : 1 3 - 1 6 .) Based on what Peltzer said, and his angry manner, Valencia did not reply but simply left. He estimated the entire exchange lasted less than a minute. (I : 6 7 .)

Valencia drove out to the public road⁸ where Hector Garcia

⁶According to Valencia, Larry was about 50 to 75 feet away at the location marked with a blue ink spot with the number " 1 " next to it on GCX 1 which is a diagram, not drawn to scale, of Respondent's orange groves where the incidents occurred. (1 : 1 4 , 1 6)

⁷Larry's testimony as to where he was and what he was doing at the time is inconsistent. (See pp. 9-10, infra.)

⁸This road is shown on GCX1 as " 1 9 6 . " Respondent's counsel offered as an inconsistent statement that portion of Mr. Valencia's declaration (RX1) wherein he stated that when Larry Peltzer told them all to go home, he and other workers went to their cars which were parked on the public road, and

and Jose Gonzales, who had left earlier, were waiting. They all waited to see if any other workers would leave. Only two others joined them, and within a few minutes the workers still inside the ranch began to get ladders to start work. At this point, the two other men left and went back in and started work.

Valencia told Garcia and Gonzales they also could go back in, but he would not go any more because he had been fired.⁹ (I : 17 .) They all then left and went to their homes.

Seven days after the incident, on November 16 , Valencia, Garcia and Gonzales filed the instant unfair labor practice

Peltzer came out and made the remarks to him. In response, Valencia testified he had driven to the public road, but returned to the interior road and it was at the latter time that Peltzer came up to him. This explanation does not reconcile the discrepancy, but I do not find the inconsistency so significant that it warrants discrediting Valencia entirely as Respondent would have me do.

⁹Respondent's counsel argues in his brief that the fact that neither Garcia nor Gonzales was called to corroborate Valencia's testimony indicates they would not do so, and, consequently, I should disbelieve Valencia. A single credible witness is sufficient to establish a fact. (Cal Evid. Code §411) Moreover, there is no showing either Garcia or Gonzales was even available as a witness. Similarly, General Counsel argues I should draw an adverse inference and conclude that Larry did not overhear the conversation because Respondent did not call Larry's two brothers (who Larry testified were with him at the time of the conversation) to testify. In this case, however, both men were available as witnesses. (I : 56 - 57 .) In spite of the fact that they were available, the fact remains that a party need not call corroborating witnesses, so I do not view this in the same way as failing to call an available witness thereby leaving damaging testimony unrebutted. Consequently, I decline to draw an adverse inference in this instance as well.

charge.¹⁰ After they left the ALRB office, they and Ruiz went to the ranch to ask Richard Peltzer for their jobs back.¹¹

Peltzer refused to hire them, although later the Company sent Valencia a letter offering him his job back. In December, Valencia happened to see Larry Peltzer at a store. Larry asked if he had gotten the letter. Valencia replied he had, but he was no longer interested in returning.¹²

Larry Peltzer's version of events is quite different. He

¹⁰ Respondent argues that because the charge alleges that all three men were discharged, I should conclude Valencia was either dishonest when he filed it or in his testimony wherein he readily acknowledged Garcia and Gonzales were not fired but left. (I : 3 3 .) I decline to do so. There is no showing that his view of what constituted a legal termination at the time he filed the charge was the same as when he testified by which time the case had been evaluated by the General Counsel. Valencia's explanation that he included the two men because they wanted to be included because all three had left together is plausible and I do not find he necessarily meant all three had been treated exactly the same way. I note that Ruiz used the word "fired" when he spoke to his co-workers when actually he had been refused rehired. Certainly, his situation was different than any of the others and yet he used the same word to describe what had happened to him.

¹¹ Respondent argues I should disbelieve Valencia because if he had been fired, he and the others would not have returned to ask for their jobs back. I do not find this argument persuasive. Having taken steps to institute legal action, thereby indicating they were not going to let the matter drop. Valencia's explanation that they went because if they got their jobs back everyone could avoid entanglement (which I take to be the import of his statement that there would no longer be any problems) is believable. That the argument is not ipso facto true is shown by the fact that Ruiz, who undeniably was told he would not be rehired, also went to try to get his job back.

¹² General Counsel is not seeking reinstatement.

testified he was standing near the ladder trailer (marked "5" on GCX1) encouraging the crew to start work when he heard his father say "What" in a loud voice which caused him to look in his father's direction. He saw his father walk over to Valencia's car and heard Valencia ask whether he should go or stay.¹³

Peltzer replied it was Valencia's choice, that he (Peltzer) wanted Valencia to work. Valencia then asked if Ruiz also would be given work, and when Peltzer said, "No," Valencia said he was leaving. Peltzer replied that Valencia's ladder and position were still available, that it was his choice, and that Peltzer wanted him to pick.

Valencia responded by asking if Peltzer were firing him, and Peltzer answered he was not, but if Valencia was not going to work, he should go home because there was nothing there for him if he was not going to pick. Valencia repeated he would leave, and Peltzer repeated that the choice was Valencia's. Peltzer then told Valencia: "Then get out. If you're going to go, leave [.]" (I:45.) At that point, Valencia left.

In addition to the vastly different versions as to what was

¹³General Counsel asked a number of questions on cross-examination testing Larry's recollection of events, e.g. which way Valencia's car was facing and which side of the car his father was standing beside when he spoke to Valencia. Larry candidly admitted he could not recall those details. I am not persuaded that his inability to recall them reflects adversely on his credibility. Rather, I find them reasonable lapses because it is not uncommon for people to remember only the major details of an incident.

said, Valencia's and Larry's accounts also differ as to where Larry was positioned at the time of the conversation and whether the crew had started working before Peltzer and Valencia spoke.

Valencia consistently testified that Larry was at location " 1 " talking to the workers. He flatly denied the crew had begun work, testifying they started to do so after he had gone out to the public road following the conversation, and he consistently maintained that position during cross-examination.

Larry's testimony was more equivocal. As noted, he first testified he was encouraging the crew to start work at the time he heard his father speak to Valencia. Later, he testified he was getting ready to tie the ladders to the trailer (location " 5 " on GCX1) in response to his father's direction to do so, at which time a crew member told Larry he wanted to work. (I : 4 6) Larry relayed this fact to his father, whereupon " . . . the rest of the crew--a number of them . . . " came forward to start work.

He first testified he was not sure if, at this point, some of the workers already had started taking ladders from the trailer, but he was sure some did so before his father went to Valencia's car. Just a moment later, however, he changed this statement and testified that his father went to talk to Valencia after the workers started taking the ladders off the trailer. (I : 4 7 .)

All of his testimony except this last statement indicates

the crew had not begun work nor even begun taking ladders to get ready to work. Further, in both of the above accounts, his testimony indicates he was standing next to the trailer, and he initially testified to the same effect on cross-examination, stating he was next to the ladder trailer, and workers either were coming up to get ladders or he was encouraging them to start work when the conversation occurred. (I : 4 9 .) But when General Counsel attempted to pinpoint his location by the trailer, he shifted his testimony and stated he was not next to the trailer but had already moved to the spot marked " 7 " when he heard his father say, "What." (I : 4 9 - 5 0 .) This last testimony places him substantially nearer Valencia's car than his prior testimony.

His testimony as to what he was doing and where he was located are not the only points he changed on cross-examination. The impression left from his testimony on direct was that a substantial number of workers came forward to begin work after the first worker spoke up--he referred to "the rest of the crew--a number of them," there being about 32 crew members. (I : 4 6 - 4 7 .)

But when questioned on cross-examination, he testified there were two workers who said they wanted to go to work. (I : 4 6 .) Later, he said it was four workers. (I : 5 1 .) He acknowledged that the "flow" of workers he referred to did not start right after the first four indicated they would work, and that it was probably 5 or 10 minutes before all the workers got their

ladders because people were getting out of their cars and getting into the car trunks to get equipment. (I : 5 2 - 5 3 .)

I do not credit Larry's testimony that the workers had started to work before his father went to talk to Valencia. Initially, when asked if workers started getting their ladders at the time the two or four workers announced they wanted to work, he testified that the ladder trailer was going to be moved to location " 8 " on GCX1 which was where the picking was going to occur. (I : 4 6 .) He later testified that the ladder trailer was not moved there until after the conversation between his father and Valencia. (I : 5 2 - 5 3 .)

I find it unlikely the workers would have removed the ladders, which were 18 feet long, from the trailer and carried them over to location " 8 " when Larry was already planning to move the trailer to that area. I note that Valencia's testimony that the workers began to get their ladders a few minutes after he went out to the public road is consistent with the time frame described by Larry in his later testimony on cross-examination. (Compare I:17,35 with I:52-53.)

I also do not credit his testimony that he had moved to location " 7 " on GCX1 either before or at the time of the conversation. Rather, I find he was still talking to the workers. I so conclude because after the two or four people stated they would start work, it is logical to believe Larry would have renewed his efforts to convince others to do so. He certainly could not operate with so few workers, and he would

want to take advantage of the effect of some workers breaking ranks, so to speak. Consequently, I do not credit his testimony that he overheard the conversation. This is especially so since workers around him were getting out of their cars and closing the car doors and trunks which would have created a certain amount of noise and commotion.

For a number of reasons, I credit Mr. Valencia rather than Larry Peltzer as to what was said between Valencia and Richard Peltzer. Valencia was a more careful and precise witness than was Larry, but yet he did not give the impression he was being overly cautious or guarded. Generally, his answers were straightforward and consistent.

In contrast, Larry Peltzer initially described the events in a somewhat rushed narrative form, and, as already noted, had to modify this testimony in several respects when he was asked to focus on distinct elements. In several instances, the new answers materially changed the picture created by his initial narrative account. The most telling examples of this are his testimony regarding the "flow" of workers, whether workers had taken ladders and started to work prior to that conversation, and his precise location when the conversation between his father and Valencia began, .

I found Valencia's account more believable both because he was naturally more careful about details and because Valencia's version is more probable in the context of surrounding events. For example, Valencia's account is more consistent with Richard

Peltzer's earlier angry manner, and Peltzer's anger would have been recently reinforced because he spoke to Valencia just after he had instructed Larry to pack up and quit for the day because no one was going to work.

In contrast, listening to the tone Larry used in describing the incident, his father spoke in a calm voice and exhibited a polite, almost deferential manner. He described his father as bending over backwards to repeatedly reassure Valencia that his job was still available which is not only inconsistent with his father's earlier angry, insulting manner, it is also inconsistent with how most people would act in such a situation. Larry described his father's tone as so conciliatory that it is hard to believe him.

Also, Larry's version requires me to believe that in the face of such conciliatory behavior, Valencia became so angry that he quit. If Valencia were going to behave in that fashion, it is much more probable he would have done so earlier when he was admittedly angry with Richard Peltzer's insults. There is nothing in the conversation which would account for Valencia's quitting. The reason cannot be that Peltzer said he would not rehire Ruiz; Valencia had lost that battle the first time.

Further, it was apparent at hearing that Valencia understood and spoke English well. It makes no sense for him to have asked if he were being fired in the context described by Larry, which also causes me to doubt Larry's account.

In sum, I find Valencia's account more plausible, and I found him a more convincing witness. I find that Peltzer approached him, accused him of causing the workers not to work, and told him to get out and not come back.

V. CONCLUSION.

Respondent has admitted that Valencia was engaged in protected concerted activity when he spoke to Richard and Larry Peltzer on behalf of the crew's concern about Ruiz. The only issue is whether Valencia was discharged for that activity. The answer to that question is determined by my crediting Valencia's account of Richard Peltzer's remarks to him.¹⁴

Consequently, I find Richard Peltzer fired Valencia because he encouraged the crew not to work. I further find that the discharge violated section 1153(a) of the Act.

Because the backpay period is so short, the parties were directed to try the compliance issues at this stage. They agreed that if Respondent were found liable, the amount of backpay owing as of the date of hearing was \$415.83. (I:3-4.) Respondent will be directed to pay that amount, plus interest, to fulfill its obligation to make Mr. Valencia whole.

Upon the entire record, the findings of fact and conclusions of law set forth above, and pursuant to section

¹⁴General Counsel cites various cases supporting the conclusion that Peltzer's remarks, as testified to by Valencia, constitute a firing. There is no doubt that telling Valencia to get out and not return was sufficient to cause a reasonable person to believe he was fired; Respondent does not contend otherwise and acknowledges that this is strictly a case of who is credited.

1160.3 of the Act, I hereby issue the following order.

ORDER

By authority of Labor Code Section 1160.3, the Agricultural Labor Relations Board (Board) hereby orders that Respondent Peltzer Groves (Respondent) its officers, agents, successors, and assigns shall:

1. Cease and desist from:

a. Discharging agricultural employees for engaging in the exercise of their rights guaranteed by Section 1152 of the Act;

b. In any like or related manner interfering with, restraining or coercing agricultural employees in the exercise of their rights guaranteed by Section 1152 of the Act;

2. Take the following affirmative actions designed to effectuate the policies of the Act:

a. Make whole Heliodoro Valencia for all wage losses or other economic losses he has suffered as a result of Respondent's unlawful discharge by paying him the sum of \$415.83, plus any interest determined to be due which amount shall be calculated in the manner set forth in E.W. Merritt Farms (1988) 14 ALRB No. 5;

b. Sign a Notice to Employees embodying the remedies ordered. After its translation by a Board agent into all appropriate languages, Respondent shall reproduce sufficient copies of the Notice in each language for all purposes set forth in the remedial order.

c. Upon request of the Regional Director, or his designated Board agent, provide the Regional Director with the dates of Respondent's next peak season. Should Respondent's peak season have begun at the time the Regional Director requests peak season dates, Respondent will inform the Regional Director of when the present peak season began and when it is anticipated to end in addition to informing the Regional Director of the anticipated dates of the next peak season;

d. Post copies of the Notice in all appropriate languages in conspicuous places on Respondent's property, including places where notices to employees are usually posted, the period and places of posting to be determined by the Regional Director. Respondent shall exercise due care to replace any copy or copies of the Notice which may be altered, defaced, covered or removed;

e. Upon request of the Regional Director, mail copies of the Notice in all appropriate languages to all employees employed by Respondent during the period from October 31, 1989, to the date of mailing;

f. Arrange for a Board agent or a representative of Respondent to distribute and read the Notice in all appropriate languages to Respondent's employees assembled on Respondent's time and property, at times and places to be determined by the Regional Director. Following the reading, a 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 or employee rights under the Act. All employees are to be compensated for time spent at the reading and question-and-answer period. The Regional Director shall determine a reasonable rate of compensation to be paid by the Respondent to all non-hourly wage employees to compensate them for time lost at this reading and question-and-answer period;

g. Notify the Regional Director, in writing, thirty (30) days after the date of issuance of a remedial order, what steps have been taken to comply with it. Upon request of the Regional Director, Respondent shall notify him/her periodically thereafter in writing what further steps have been taken in compliance with the remedial order.

DATED: October 10, 1991



BARBARA D. MOORE
Administrative Law Judge

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the Visalia Regional Office of the Agricultural Labor Relations Board (ALRB), the General Counsel of the ALRB issued a complaint that alleged we, PELTZER GROVES, had violated the law. After a hearing at which all parties had an opportunity to present evidence, the Board found that we did violate the law by discharging Heliodoro Valencia for engaging in protected concerted activity, namely, speaking on behalf of his co-workers in supporting a fellow worker.

The ALRB has told us to post and publish this NOTICE. We will do what the ALRB has ordered us to do.

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

1. To organize yourselves;
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3. To vote in a secret ballot election to decide whether you want a Union to represent you;
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WE WILL NOT do anything in the future which forces you to do, or stops you from doing, any of the things listed above.

WE WILL NOT discharge or otherwise interfere with employees because they support a co-worker in a matter relating to work.

WE WILL make Heliodoro Valencia whole for any losses he suffered as a result of our unlawful act.

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 711 North Court Street, Suite A., Visalia, California 93291. The telephone number is (209) 627-0985.

DATED:

PELTZER GROVES, a California
Corporation

By: _____
Representative Title

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

DO NOT REMOVE OR MUTILATE.