

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

SUNNYSIDE NURSERIES, INC.,)	
)	
Respondent,)	Case Nos. 75-CE-150-M
)	75-CE-150-AM
and)	75-CE-218-M
)	75-CE-218-AM
UNITED FARM WORKERS OF)	75-CE-250-M
AMERICA, AFL-CIO,)	
)	6 ALRB No. 35
Charging Party.)	(3 ALRB No. 42)
)	

SUPPLEMENTAL DECISION AND REVISED ORDER

In Sunnyside Nurseries, Inc. (May 20, 1977) 3 ALRB No. 42, we concluded that Sunnyside Nurseries, Inc. (Respondent) violated Section 1153 (a) of the Act by interfering with, restraining, and coercing employees in the exercise of their Section 1152 rights, violated Section 1153 (b) by dominating and interfering with the formation of a labor organization, and violated Section 1153 (c) by discriminatorily discharging twenty (20) employees. We included in our Order provisions intended to remedy the effects of Respondent's violations of the Act. On June 11, 1979, the Court of Appeal for the First Appellate District, in Sunnyside Nurseries, Inc. v. Agricultural Labor Relations Bd. (1979) 93 Cal. App. 3d 922, reversed our findings of violations of Section 1153 (b) and 1153 (c), and affirmed our finding that Respondent violated Section 1153 (a) of the Act. We have therefore reviewed and reconsidered our Order and hereby make the following findings and modifications with respect to our original remedial Order.

1. In our initial Order in this proceeding, we directed

Respondent to allow the United Farm Workers of America, AFL-CIO (UFW) to take access to Respondent's property for one thirty-day period, in accordance with the provisions of 8 Cal. Admin. Code Sections 20900(e)(3) and 20901(b), immediately upon the filing of a written notice of intention to take access, and without restrictions on the number of organizers. We granted expanded access as a remedy for Respondent's unlawful discharge of 25 percent of the known UFW supporters among its employees. As the Court of Appeal has reversed our conclusion that Respondent violated Section 1153 (c) of the Act by discharging twenty employees, and has directed us to strike that portion of the remedy, we shall modify our Order by deleting the provision for expanded access.

2. In our decision, we also ordered Respondent to make available to the UFW sufficient space on a bulletin board for the posting of notices and the like for a period of six months. We also ordered Respondent to provide the UFW with the names and addresses of all employees who would receive the Notice to Workers attached to our Order. As we included those provisions in our original Order to remedy the effects of the discharges discussed above, we shall delete them from our revised Order.

3. In our original Order, we ordered Respondent to mail a copy of the remedial Notice to all workers employed by Respondent between September 1, 1975 and the date the Notice is mailed. For the reasons discussed in Jasmine Vineyards, Inc. (Apr. 3, 1980) 6 ALRB No. 17, we find that the mailing of the Notice is necessary, in order to remedy the effect of the Respondent's unlawful conduct on employees who were employed at or about the time of Respondent's

unfair labor practices, but who may not be employed by Respondent at the time the Board's remedial Order is given effect. Respondent's violations of Section 1153 (a) involved conduct which occurred throughout the months of September and October 1975. As we believe Respondent's violations of the Act will be adequately remedied by mailing the Notice to those employees whose names appeared on Respondent's payrolls at any time during the months of September through December 1975, we shall modify our Order accordingly.

4. We previously ordered Respondent to post the Notice to Workers in prominent places at its Salinas nursery for a period of six months and to provide for distribution and reading of the Notice in appropriate languages to the assembled employees, followed by a question-and-answer period on company time. For the reasons set forth in M. Caratan, Inc. (Mar. 12, 1980) 6 ALRB No. 14, review den. by Ct. App., 5th Dist., May 27, 1980, and Jasmine Vineyards, Inc., supra, 6 ALRB No. 17, we find that the posting and reading requirements are appropriate remedial measures for Respondent's unfair labor practices. We also find that, in this case, posting the Notice for 60 days is a sufficient period for conveying to current employees information concerning the outcome of the unfair labor practice proceeding, and we shall modify our Order accordingly.

5. We also ordered Respondent to cease and desist from "in any manner interfering with, restraining and coercing employees in the exercise of [their Labor Code Section 1152] rights." We recently announced our intention to follow the

National Labor Relations Board's standard for issuing broad cease-and-desist orders. M. Caratan, Inc., supra, 6 ALRB No. 14; Jasmine Vineyards, Inc., supra, 6 ALRB No. 17. Since we find that Respondent's misconduct in this case was not so egregious and widespread as to justify a broad cease-and-desist order, we shall modify and narrow our order to prohibit the Respondent from interfering with, restraining or coercing employees in the exercise of their organizational rights in any manner like or related to the Respondent's unlawful conduct.

REVISED ORDER

By authority of Labor Code Section 1160.3, the Agricultural Labor Relations Board hereby orders that the Respondent, Sunnyside Nurseries, Inc., its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Interrogating employees concerning their union activities or other concerted activities for the purpose of mutual aid or protection.

(b) Threatening any employee with loss of employment benefits or with any other adverse change in his or her wages, hours, or working conditions because of the employee's union membership, union activity, or other exercise of rights guaranteed by Labor Code Section 1152.

(c) Creating an impression of surveillance of employees engaging in union activities or otherwise exercising their rights guaranteed by Labor Code Section 1152.

(d) In any like or related manner interfering with,

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restraining, or coercing employees in the exercise of their rights guaranteed by Labor Code Section 1152.

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

(a) Sign the Notice to 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.

(b) Post copies of the attached Notice, in all appropriate languages, for 60 consecutive days in conspicuous places at its Salinas nursery, 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.

(c) Mail copies of the attached Notice, in all appropriate languages within 30 days after the date of issuance of this Order, to all employees employed by Respondent at: its Salinas nursery at any time during the payroll periods from September 1, 1975, through December 31, 1975.

(d) Arrange for a Board agent or a representative of Respondent to read the attached Notice in all appropriate languages to the employees employed at its Salinas nursery, assembled on company time and property, at times and places 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 or their rights under

the Act.

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

Dated: June 19, 1980

GERALD A. BROWN, Chairman

RONALD L. RUIZ, Member

HERBERT A. PERRY, Member

JOHN P. McCARTHY, Member

RALPH FAUST, Member

NOTICE TO EMPLOYEES

After a hearing where each side had a chance to present: their facts, the Agricultural Labor Relations Board has found that we interfered with the right of our workers to freely decide if they want a union. 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 all farm workers these rights:

1. To organize themselves;
2. To form, join or help unions;
3. To bargain as a group and choose whom they want -o speak for them;
4. To act together with other workers to try to get a contract or to help or protect one another; and
5. To decide not to do any of these things.

WE WILL NOT ask you whether or not you belong to any union, or do anything for any union, or how you feel about: any union.

WE WILL NOT threaten you with being fired, laid off, or getting less work because of your feelings about, actions for, or membership in any union.

WE WILL NOT promise you benefits for not supporting a union.

SUNNYSIDE NURSERIES, INC.

By: _____
(Representative) (Tide)

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

Sunnyside Nurseries, Inc.
(UFW)

6 ALRB No. 35 (3 ALRB No. 42)
Case Nos. 75-CE-150-M
75-CE-150-AM
75-OE-250-M
75-CE-218-M
75-CE-218-AM

BOARD DECISION

In its Decision in Sunnyside Nurseries, Inc., 3 ALRB No. 42, issued May 20, 1977, the Board upheld findings by ALO David C. Nevins that Respondent violated Section 1153 (a) of the Act by interfering with employees in the exercise of their rights, violated Section 1153(b) by dominating the formation of a labor organization, and violated Section 1153(c) by unlawfully discharging twenty employees.

REMEDY

In order to remedy the effects of Respondent's unlawful discharge of 25 percent of the known UFW supporters among its employees, the Board ordered Respondent to grant expanded access to the UFW, to make available to the UFW sufficient space on a bulletin board for the posting of notices for six months, and to provide the UFW with the names and addresses of all employees who would receive the Notice to Workers. The Board also ordered the posting, mailing and reading of a remedial Notice to Workers.

COURT REMAND

On June 11, 1979, the Court of Appeal for the First Appellate District reversed the Board's findings of violations of Section 1153(b) and 1153(c), affirmed the Board's finding that Respondent violated Section 1153(a), and remanded the case to the Board for reconsideration and modification of its Order.

SUPPLEMENTAL DECISION AND REVISED ORDER

The Board modified its original Order by deleting the provisions which ordered Respondent to provide expanded access to the UFW, to make available space on a bulletin board, and to provide the UFW with the names and addresses of all employees who would receive the Notice.

For the reasons set forth in Jasmine Vineyards, Inc., 6 ALRB No. 17, the Board affirmed that portion of its Order requiring mailing of the Notice to workers employed at the time of the unfair labor practice. Respondent's unlawful conduct occurred throughout the months of September and October, 1975, and the Board modified its original Order to require that Respondent mail the Notice to employees who worked for Respondent during the months of September through December, 1975, finding such mailing

sufficient to remedy the effects of Respondent's violations of the Act.

For the reasons set forth in *M. Caratan, Inc.*, 6 ALRB No. 14, the Board affirmed those provisions of its Order for posting and reading the Notice on company time. The Board modified its original Order to reduce the posting period from 90 to 60 days, finding that a 60-day posting was sufficient to convey to current employees information concerning the outcome of the unfair-labor-practice case. Also for the reasons set forth in *M. Caratan*, supra, the Board modified its broad cease-and-desist order to prohibit Respondent from "in any like or related manner" interfering with its employees' organizational rights.

* * *

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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