

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

GEORGE ARAKELIAN FARMS, INC. ,)	
)	
Respondent,)	Case Nos. 76-CE-115-E
)	77-CE-116-E
and)	77-CE-117-E
)	77-CE-149-E
UNITED FARM WORKERS)	77-CE-150-E
OF AMERICA, AFL-CIO,)	77-CE-163-E
)	
Charging Party.)	8 ALRB No. 32
<hr/>)	(5 ALRB No. 10)

SUPPLEMENTAL DECISION AND REVISED ORDER

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

In accordance with the remand order of the Court of Appeal for the Fourth Appellate District, dated October 21, 1980, in Case Civil No. 21097 (1975) 5 ALRB No. 10, we have reviewed and reconsidered the portion of our remedial order designated for review on remand and hereby make the following findings, and hereby issue the attached Revised Order to supersede our original remedial Order in this matter. Our Revised Order deletes those portions of the original Order relating to conclusions of this Board which were found by the court as not supported by substantial evidence. Our original paragraph 1 (a) [designated 1 (b) in the Revised Order] has been amended to narrow the scope

^{1/}All code references herein are to the California Labor Code unless otherwise specified.

of the cease-and-desist provision, as Respondent's violations of the Act in this matter do not warrant imposition of a broad cease-and-desist order. M. B. Zaninovich, Inc. (May 9, 1980) 6 ALRB No. 23.

After due consideration of the court's suggestions as to the number and identity of the employees entitled to be made whole, and the amounts and scope of the make-whole relief to be awarded, we find it appropriate to defer resolution of such matters for compliance procedures or a formal backpay proceeding. Absent agreement between the Regional Director and Respondent on which employees are entitled to backpay, and the amount due to each, the Regional Director will issue and serve upon the parties a notice of hearing, with or without a backpay specification, to be conducted before an Administrative Law Officer of the Board at a specified time and place, at which hearing Respondent and all other interested parties will have full opportunity to adduce evidence, and to examine and cross-examine witnesses, on the issues.^{2/} The formal backpay hearing and subsequent procedures shall be conducted in accordance with the Board's Regulations,

^{2/} The nature of the administrative process engaged in by this Board presupposes a bifurcated hearing. In the first instance we determine whether or not the Act has been violated but do not determine the extent of Respondent's liability to those found to have been injured by the unlawful conduct. Thereafter, the General Counsel, pursuant to an investigation, prepares and issues backpay specifications; Respondent is then afforded an opportunity to fully air all the issues dealt with in the Court's decision herein, to rebut findings and submit evidence to mitigate the scope and extent of the backpay order. See, ALRB Case Handling Manual--Backpay--Compliance; NLRB Casehandling Manual, Pt. III, Compliance; Arnaudo Brothers (Aug. 31, 1981) 7 ALRB No. 25; Butte View Farms v. ALRB (1979) 96 Cal.App.3d 961 [157 Cal.Rptr. 476]; NLRB v. Seven-Up Bottling Co. (1953) 344 U.S. 344 [73 S.Ct. 287].

section 20290, and also sections 20240 through 20298, insofar as applicable.

REVISED ORDER

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

1. Cease and desist from:

(a) Discharging, suspending, or otherwise discriminating against any agricultural employee in regard to hire or tenure of employment or any term or condition of employment because he or she has engaged in any activity protected by section 1152 of the Act.

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

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

(a) Immediately offer to employee-members of the Gilberto Pena cantaloupe harvesting crew who were discharged by Respondent on or about June 11, 1977, full reinstatement to their former jobs or equivalent employment, without prejudice to their seniority or other employment rights or privileges.

(b) Make whole the employees referred to in paragraph 2(a) above for all losses of pay and other economic losses they have suffered as a result of their discharge by Respondent, reimbursement to be made according to the formula

stated in J & L Farms (Aug. 12, 1980) 6 ALRB No. 43, plus interest thereon computed at seven percent per annum.

(c) Preserve and, upon request, make available to the 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 employees entitled to backpay, the backpay period, and the amount of backpay and interest due to each of the said employees under the terms of this Order.

(d) 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.

(e) 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 any time during the period from June 11, 1977, until the date on which the said copies of the Notice are mailed.

(f) Post copies of the attached Notice in all appropriate languages at conspicuous places on its property for a period of 60 consecutive days, the periods and place (s) of posting to be determined by the Regional Director, and exercise due care to replace any copy or copies of the Notice which may be altered, defaced, covered, or removed.

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

appropriate languages, to Respondent's assembled 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 or employees' 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 time lost at this reading and the question-and-answer period.

(h) 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 therewith, and continue to report periodically thereafter at the Regional Director's request, until full compliance is achieved.

Dated: May 10, 1982

HERBERT A. PERRY, Acting Chairman

ALFRED H. SONG, Member

JEROME R. WALDIE, Member

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the San Diego Regional Office, the General Counsel of the Agricultural Labor Relations Board issued a complaint that 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 did violate the law by discharging Gilberto Pena's cantaloupe harvesting crew on or about June 11, 1977. 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 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 to obtain a contract covering 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 or protect one another; and
6. To decide not to do any of these things.

WE WILL NOT interfere with, or restrain or coerce you in the exercise of your right to act together with other workers to help and protect one another.

SPECIFICALLY, the Board found that it was unlawful for us to discharge Gilberto Pena's cantaloupe harvesting crew because they participated in a concerted protest over wages on or about June 11, 1977.

WE WILL NOT hereafter discharge or lay off any employee for engaging in such concerted activities.

WE WILL reinstate all of the employee members of Gilberto Pena's cantaloupe harvesting crew to their former or substantially equivalent employment, without loss of seniority or other privileges, and we will reimburse them for any pay or other money they have lost because of their discharge.

Dated:

GEORGE ARAKELIAN FARMS, INC.

By: _____
(Representative) (Title)

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, Room 2062, San Diego, California 92101. The telephone number is 714/237-7119.

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, Inc.

8 ALRB No. 32
Case No. 76-CE-115-E, et al
(5 ALRB No. 10)

PRIOR BOARD DECISION

The Board concluded that Respondent had discriminatorily discharged a group of irrigators because of their support for the United Farm Workers of America, AFL-CIO (UFW), had given more difficult assignments to Jose Luis Menses due to his UFW support, and had fired a crew of cantaloupe harvesters because they had requested higher wages. The Board's remedial Order included broad cease-and-desist language and directed reinstatement and backpay for all discharged workers, including five melon-crew members who were not at work on the day of the discharge.

BOARD DECISION

On direction from the Court of Appeal for the Fourth Appellate District, the Board amended its prior decision to agree with the ALO's conclusions and narrowed the cease-and-desist language of its remedial order, but postponed adoption of the Court's other suggestions as to the scope of the discharged workers' reinstatement rights pending compliance proceedings.

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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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