

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
)
AUKEMAN FARMS, a) Case No. 06-CE-35-VI
Sole Proprietorship,)
)
)
Respondent,) ORDER GRANTING GENERAL
) COUNSEL’S MOTION TO AMEND
) BACKPAY SPECIFICATION;
and) ORDER SETTING TIME TO FILE
) ANSWER TO AMENDED
) BACKPAY SPECIFICATION
GUSTAVO PLASCENCIA,)
) Admin. Order 2008-04
Charging Party.)

On April 14, 2008, the General Counsel filed a motion to amend its backpay specification. The original backpay specification, covering the period of June 24, 2006 to May 31, 2007, was the subject of an earlier order by the Administrative Law Judge (ALJ) granting a motion to make the allegations in the specification true for failure of the Respondent to timely file an answer. As there was no appeal of the ALJ’s order, the order became final. Attached to the General Counsel’s April 14, 2008 motion is an amended specification which includes modified figures for the original period of June 24, 2006 to May 31, 2007, as well as figures for June 1, 2007 to March 31, 2008.

The Board issued Administrative Order 2008-03 on April 18, 2008 setting time for Respondent to reply to the General Counsel’s motion to amend backpay specification and directing Respondent to address the propriety of amending the figures

in the original specification for the June 24, 2006 to May 31, 2007 period. Respondent filed its statement of nonopposition to General Counsel's motion to amend backpay specification on April 24, 2008.

The General Counsel's motion indicates that inadvertent calculation errors were discovered in the original backpay specification, and that these errors included inserting incorrect amounts for gross wages, incorrectly calculating the amount of net wages and quarterly net totals, and omitting interest amounts. Although the specification for the original period of June 24, 2006 to May 31, 2007 was a final order of the Board, the Board does have the authority to correct clerical errors. (*Ukegawa Brothers v. ALRB* (1989) 212 Cal.App.3d 1314.) Although the errors in the original specification are pervasive, they do appear to be clerical in nature; therefore it is proper for the Board to grant the General Counsel's request to amend the specification.

In addition, because the clerical errors in the original specification are pervasive, the Board finds it appropriate to allow Respondent to file an answer that addresses not only the new back pay figures for June 1, 2007 to March 31, 2008, but also the modified figures for the original period of June 24, 2006 to May 31, 2007.

PLEASE TAKE NOTICE that the General Counsel's April 14, 2008 motion to amend backpay specification is GRANTED.

Board regulation section 20292(a) provides fifteen (15) days for filing an answer to a specification. The Board directs that the fifteen-day period shall run from the date of service of this Order. Computation of the time period shall be in accordance with Board regulation section 20170. Therefore, the Respondent's answer to the

amended backpay specification shall be due on or before May 27, 2008. Should an evidentiary hearing be required to resolve any disputed issues regarding the specification; such hearing shall not be scheduled until after the Board has issued its decision in the pending liability phase of this case.

By Direction of the Board

Dated: May 6, 2008

J. Antonio Barbosa
Executive Secretary