

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)
)
HESS COLLECTION WINERY,)
) Case No. 2003-MMC-01
) (29 ALRB No. 6)
)
) ORDER SETTING FORTH
) REVISED BRIEFING
) SCHEDULE FOR
) SUBMISSION OF
Employer,) BRIEFS ON NOVEL
) ISSUES
)
and)
) Admin. Order No. 2009-05
UNITED FOOD AND COMMERCIAL)
WORKERS UNION,)
LOCAL 5,)
)
Petitioner.)
_____)

On February 9, 2009, the Agricultural Labor Relations Board (ALRB or Board) issued the attached Administrative Order 2009-03 in the above-captioned matter requesting that Hess Collection Winery (Employer), United Food and Commercial Workers Union, Local 5 (Petitioner or Union) and ALRB General Counsel and/or Salinas regional office submit briefing on several novel issues raised by a January 22, 2009 memo from ALRB Salinas Regional Director Freddie Capuyan and Assistant General Counsels Joseph Mendoza and Marvin Brenner from the Salinas Regional

office. The order indicated that briefs were due on March 2, 2009 with replies due March 12, 2009.

On March 2, 2009, prior to the time any party filed briefs with the ALRB Executive Secretary, it came to the Board's attention that the Salinas regional office was not included on the proof of service attached to the Board's February 9, 2009 order requesting briefing on novel issues. The Executive Secretary orally requested that the Employer and Union not file their briefs until further notice.

On March 2, 2009, the Board issued an order requesting that the Salinas Regional Director submit a declaration to the Board as to whether he or anyone in the Salinas regional office received actual service of Administrative Order 2009-03, and whether or not he or any other staff in the Salinas regional office had knowledge of the order.

On March 4, 2009, Salinas Regional Director Capuyan submitted a declaration indicating that neither he nor any other staff person in the Salinas regional office had received actual service of Administrative Order 2009-03. He also stated that while no other regional office staff person had knowledge of the order, Mr. Capuyan himself had been verbally informed of the existence of the order on or about February 9, 2009 via a telephone conversation with Deputy General Counsel Eduardo Blanco, who was aware of the order. A copy of Administrative Order 2009-03 had been hand-delivered to the General Counsel at his headquarters in Sacramento on February 9, 2009.

Although the Board was remiss in failing to serve the order on the Salinas regional office, Regional Director Capuyan did receive actual notice of Administrative Order 2009-03 on February 9, 2009. Therefore, the Regional Director and the General Counsel are precluded from filing an opening brief on the issues presented in Administrative Order 2009-03.

In consideration of procedural fairness to all parties, and in order to avoid further delay in the resolution of this matter, the Board sets forth the following revised briefing schedule for responses to the issues set forth in Administrative Order 2009-03.

The Union and Employer are instructed to submit the opening briefs that were originally due on March 2, 2009 on or before March 11, 2009. All parties, including the Salinas Regional Director and/ or the General Counsel, may submit replies to the opening briefs on or before March 23, 2009. All parties are instructed to limit their replies to responses to issues raised in the respective parties' opening briefs.

By Direction of the Board

Dated: March 5, 2009

J. ANTONIO BARBOSA
Executive Secretary, ALRB