

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:)	Case No. 00-CE-334-EC(SM)
)	(27 ALRB No. 5)
CIENIGA FARMS, INC. aka)	
CIENAGA FARMS, INC.,)	Admin Order No. 2009-07
)	
Respondent,)	
)	ORDER GRANTING MOTION TO
and)	MAKE CASE ELIGIBLE FOR
)	PAYOUT FROM THE
UNITED FARM WORKERS OF)	AGRICULTURAL EMPLOYEE
AMERICA,)	RELIEF FUND
)	
Charging Party.)	
_____)	

On May 11, 2009, the Regional Director of the Visalia regional office filed a Motion to Make Case Eligible for Payout from the Agricultural Employee Relief Fund (Fund). The motion sets forth the Region's efforts to seek compliance with the Board's order in this matter and its efforts to collect amounts owed from Respondent, Cieniga Farms, Inc.

The requirements for a motion seeking a determination of eligibility for payout under the Fund are described in Board regulation 20299 (b),¹ which indicates that such a motion "shall be accompanied by a statement describing the collection efforts made to date and the basis for the regional director's belief that collection of the

¹ The Board's regulations are codified at Title 8, California Code of Regulations, Section 20100, et seq.

full amount owing is not possible." The regulation further provides that it shall be deemed to include a simultaneous motion to close pursuant to the standards set forth in *John V. Borchard, et. al.* (2001) 27 ALRB No. 1.²

The motion includes the requisite detailed description of the basis for the Regional Director's belief that collection of the money owed is not possible. The motion indicates that Respondent filed a Chapter 7 bankruptcy petition on July 16, 2004, in U.S. Bankruptcy Court of the Central District of California, Northern Division. The bankruptcy officially closed on March 8, 2005, and court records revealed this was a "no asset" case. Additionally, the motion provides evidence that Cieniga Farms, Inc. no longer exists as an entity and explains that an investigation found no possibility of derivative or individual liability.

The Board finds that the requirements set forth in Board regulation 20299 (b) have been met, and finds that this case is eligible for pay out under the Fund. Because section 20299 (d) of the regulations indicates that a motion seeking a determination of eligibility for payout under the fund shall be deemed to include a simultaneous motion to close, the Board also orders that this case be closed.

² As the Board indicated in *Andreas Farms, LLC* (2005) 31 ALRB No. 2, the Board interprets the cited language of section 20299 (b) as consistent with the standards set forth in *John V. Borchard, supra*, and therefore relies on the fuller explication of the requirements for a motion to close set forth in that case.

PLEASE TAKE NOTICE that the Agricultural Labor Relations Board (ALRB or Board) hereby GRANTS the Motion to Make Cases Eligible for Payout from the Fund filed by the Regional Director of the Visalia office on May 11, 2009.

Interest on back pay amounts owed to the discriminatees involved in this matter shall be calculated up to the date of this Order.³ Therefore, the amount of back pay owed plus interest accrued through June 5, 2009 shall constitute the total claim of the discriminatees for the purposes of calculating distribution amounts as described in section 20299 (b)(3). The total amount distributed to the discriminatees shall be as follows:

Aguilar, Susana	\$1,058.89 (plus interest through date of this order)
Amaya, Antonio	\$309.75 (plus interest through date of this order)
Bartolo, Maria	\$309.75 (plus interest through date of this order)
Bartolo, Felipa	\$151.50 (plus interest through date of this order)
Bautista, Evaristo	\$1,694.80 (plus interest through date of this order)
Cruz, Rosalina	\$1,474.44 (plus interest through date of this order)
Naranjo, Jaime	\$205.71 (plus interest through date of this order)

³ The preliminary amended back pay specification submitted with the motion indicates that the total amount owed to all nine discriminatees was \$5,530.00 exclusive of interest. The preliminary amended back pay specification was duly served on Respondent, however there was no answer to the back pay specification filed. A review of the record reveals that there was no formal order finding the allegations in the back pay specification true in this matter. Therefore, the Board now finds that the allegations in the back pay specification dated April 16, 2004 should be deemed true pursuant to Board regulation 20292(c).

Naranjo, Agustin \$151.50 (plus interest through date of this order)

Perez, Alejandro \$173.65 (plus interest through date of this order)

By Direction of the Board.

Dated: June 5, 2009

MARK R. SOBLE
Acting Executive Secretary, ALRB