

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:	)	Case Nos. 80-CE-263-EC
	)	80-CE-264-EC
	)	(8 ALRB No. 55)
LU-ETTE FARMS, INC., and)	
D AND D FARMS, INC., and	)	83-CE-14-EC
DERRICK RANCHES, INC., as a	)	83-CE-50-EC
Single Integrated Enterprise	)	83-CE-53-EC
and as the Successors to or	)	83-CE-82-EC
Alter Egos of LU-ETTE FARMS,	)	(11 ALRB No. 4)
INC., and WILLIAM H. DANIELL,)	
an Individual, and DERRICK DANIELL,	)	83-CE-54-EC
an Individual,	)	(11 ALRB No. 20)
)	
	)	86-CE-45-EC
Respondents,)	
	)	86-CE-46-EC
	)	86-CE-64-EC
and)	
	)	ORDER GRANTING MOTION TO
	)	MAKE CASE ELIGIBLE FOR
UNITED FARM WORKERS	)	PAYOUT ¹ FROM THE
OF AMERICA, AFL-CIO,	)	AGRICULTURAL EMPLOYEE RELIEF
	)	FUND; ORDER GRANTING MOTION
	)	TO CLOSE
Charging Party.)	
	)	Admin Order No.: 2011-09

On February 14, 2011, the Visalia Regional Director filed a Motion to Make Cases Eligible for Payout from the Agricultural Employee Relief Fund

¹ The Board refers parties to section 1161(c)(1) of the Agricultural Labor Relations Act and section 20299(a)(1) of the Board's regulations which describe the source of funds for the Agricultural Employee Relief Fund (AERF) as limited to monies collected by the Board on behalf of employees that cannot be located within two years. Section 20299(b)(3) of the Board's regulations describes the method for calculating the amounts to be distributed to individuals who are eligible for the AERF. Given the funding source of the AERF, there is unfortunately no guarantee that full, or any payment of claims will occur.

(AERF).² The motion set forth the Region's efforts to seek compliance with the Board's orders in these matters and its efforts to collect amounts owed from the above-named Respondents.

On March 30, 2011, the Board issued Administrative Order 2011-05 and requested that the Regional Director file supplemental information about collection and enforcement efforts between February 14, 1991 and September 15, 1992. The Board also requested detailed information regarding the Region's efforts to enforce derivative liability for the amounts owed and any additional information supporting the Regional Director's conclusion that collection of make whole and back pay amounts in these cases is not possible.

On April 15, 2011, the Regional Director filed a supplemental response pursuant to the Board's order requesting additional information. This filing triggered an additional response period of 10 days pursuant to Board regulation section 20299(b).³ No response was filed.

The requirements for a motion seeking a determination of eligibility for payout from the AERF are described in Board regulation 20299(b), 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 full amount owing is not possible." The regulation further provides that it shall

² The above-captioned cases were consolidated by an order issued by the El Centro Regional Director on January 26, 1990.

³ The Board's regulations are codified at Title 8, California Code of Regulations, section 20100, et. seq.

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. 1.⁴

The motion involves numerous cases filed between 1979 and 1986. Parties involved in these matters were the UFW, and Respondents, Lu-ette Farms, Inc., D and D Farms, Inc., Derrick Ranches, Inc., and individuals William H. Daniell and Derrick Daniell. A number of the cases were consolidated early on at the complaint stage and resulted in six Board decisions. Following final Board orders in these matters, the cases in which back pay and make whole had been ordered were consolidated in 1990 for compliance purposes. The Regional Director, in his original motion and his supplemental filing outline the Region's efforts to collect the makewhole and backpay amounts ordered following the 1990-1991 consolidated compliance proceedings.⁵

On January 18, 1991, the Administrative Law Judge (ALJ) issued a decision and order finding that the makewhole and backpay amount owed by Respondents was \$3,753,865.40, excluding interest. The ALJ's decision was made final by the Board on February 14, 1991. All the Respondent entities were found to

⁴ 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.

⁵ Cases consolidated in this proceeding were: 80-CE-263-EC, 80-CE-264-EC (8 ALRB No. 55); 83-CE-14-EC, 83-CE-50-EC, 83-CE-53-EC, and 83-CE-82-EC (11 ALRB No. 4); 83-CE-54-EC (11 ALRB No. 20); 86-CE-45-EC; 86-CE-46-EC and 86-CE-64-EC.

be jointly and severally liable for this amount. William Daniell was found to be an alter ego of all entities and was personally liable for the amount owed.

The Regional Director details in his motion the efforts to collect the amounts owed including the filing of an abstract of judgment in Superior Court against Respondents for \$6,508,888.05 in 1992. In 1998, the abstract of judgment was renewed for the same amount. During this time period, Regional staff also conducted two debtor's exams of Respondent, William Daniell.

The Regional Director states that that collection efforts over the years revealed that Respondent and all related entities are not operating, do not own real property and do not have any assets. Nor are there any successors or other entities that could be held to be derivatively liable for the Board's orders. The most recent searches in 2011 with regard to William Daniell and the named entities revealed no real property, no new corporate filings, and suspended corporate status of the named entities.

The information provided in the Regional Director's original February 14, 2011 motion and his April 15, 2011 supplemental response support the conclusion that collection of the amounts owing is not possible.

PLEASE TAKE NOTICE that the Agricultural Labor Relations Board (ALRB or Board) hereby GRANTS the Motion to Make Cases Eligible for Payout from the Agricultural Employee Relied Fund filed by the Regional Director of the Visalia Regional office on February 14, 2011. The Board also GRANTS the simultaneous Motion to Close the above-captioned cases.

Interest on back pay and makewhole amounts owed to the discriminatees involved in this matter shall be calculated up to the date of this Order. Therefore, the amount of back pay and makewhole owed plus interest accrued through May 5, 2011 shall constitute the total claim of the discriminatees for the purposes of calculating distribution amounts as described in section 20299(b)(3).

By Direction of the Board.

Dated: May 5, 2011

J. ANTONIO BARBOSA
Executive Secretary, ALRB