

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

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|-------------------------|---|--------------------------|-----------------|
| GEORGE ARAKELIAN FARMS, |) | Case No. | 78-CE-11-EC |
| INC., |) | | (4 ALRB No. 53) |
| |) | | (6 ALRB No. 28) |
| |) | | |
| Respondent, |) | | |
| |) | | |
| and |) | | |
| |) | ORDER GRANTING MOTION TO | |
| UNITED FARM WORKERS |) | MAKE CASE ELIGIBLE FOR | |
| OF AMERICA, |) | PAYOUT FROM THE | |
| |) | AGRICULTURAL EMPLOYEE | |
| |) | RELIEF FUND; ORDER | |
| |) | GRANTING MOTION TO CLOSE | |
| Charging Party. |) | | |
| |) | Admin. Order No. 2012-2 | |
| |) | | |

On December 28, 2011, the Visalia Regional Director filed a Motion to Make Case¹ Eligible for Payout from Agricultural Employee Relief Fund (AERF) and Motion to Close Case in the above-entitled matter, pursuant to Board regulation 20299.² No responses to the motion were filed.³ As required by Regulation 20299,

¹ The Regional Director's motion asks that the Board make cases eligible for payout from the AERF. Although there were two Board decisions issued, there was only one case on which those decisions were based: Case No. 78-CE-11-EC.

² The Board's regulations are codified at Title 8, California Code of Regulations, Section 20100, et seq. Pursuant to section 20299, subdivision (d), a motion to make a case eligible for pay out from the AERF is deemed to include a simultaneous motion to close the case pursuant to *John V. Borchard, et al.* (2001) 27 ALRB No. 1.

³ The original December 28, 2011 motion was served on the Charging Party, the United Farm Workers (UFW), at an incorrect address. The motion was then re-served on January 6, 2012. Parties had a 10-day period from the date of service of the motion

subdivision (b), the Regional Director has set forth the Regional Office's efforts to collect amounts owed from the Respondent, George Arakelian Farms, Inc., as well as the basis for the Regional Director's belief that collection of the full amount owing is not possible.

The Regional Director's motion outlines the El Centro and Visalia Regions' efforts to achieve compliance with the Board's orders in Case No. 78-CE-11-EC. The Board issued its original decision and order in this matter in *George Arakelian Farms, Inc.* (1978) 4 ALRB No. 53. As a remedy for the Respondent's refusal to bargain with the UFW, the Board ordered that Respondent make employees whole for all monetary losses sustained as a result of Respondent's refusal. The case was remanded to the Board by the Court of Appeal for reconsideration of the decision and order in light of the California Supreme Court's decision in *J. R. Norton Co. v. Agricultural Labor Relations Board* (1980) 26 Cal.3d 1.

Following the remand, the Board issued *George Arakelian Farms, Inc.* (1980) 6 ALRB No. 28, and reaffirmed the makewhole remedy ordered in the previous Board decision. The decision on remand was eventually appealed to the California Supreme Court. In December 1985, the Court issued its decision in *George Arakelian Farms, Inc. v. Agricultural Labor Relations Board* (1985) 40 Cal.3d 654, which upheld the Board's makewhole award and enforced Board decision and order in full.

to file responses pursuant to Board regulation section 20299(b). The deadline for filing a response to the motion was January 20, 2012.

On July 29, 1992, the El Centro Regional Director issued a preliminary makewhole specification in the amount of \$3,395,232.66. In its answer to the specification, Respondent claimed it was unable to pay the amount owed. In 1993, an independent auditor concluded that Respondent was unable to pay the amount owed. In 1994, based on additional payroll information the region received during the audit, the Regional Director issued a first amended specification in the amount of \$14,824,194.29. In December 1994, the parties signed a formal settlement agreement which would have allowed the Respondent a 26-year payment schedule. The Board rejected the settlement agreement in Admin. Order 1994-24, issued on January 4, 1995. The specification was then withdrawn by the General Counsel. A second amended makewhole specification was issued on January 4, 2000, in the amount of \$14,824,194.29.

On August 10, 2000, the Superior Court in Riverside County issued a judgment and order of enforcement for the makewhole amount of \$14,824,194.29. In 2002, Assistant General Counsel, Ed Blanco, conducted a debtor's exam of Dan Arakelian. Mr. Blanco concluded that Respondent was not engaged in agricultural operations, could not pay the amount owed, and did not have any assets.

The Regional Director's motion states that various asset searches and visual inspections of the former location of Respondent's agricultural operations conducted from 1997 to the present indicate that Respondent owns no real property or other assets, nor is Respondent engaged in agricultural operations. The Regional

Director's motion states that the investigations and searches have also revealed that Respondent does not have related business entities that could be determined to be successors, alter egos or otherwise be derivatively liable. Nor is there evidence of individual liability of corporate officers.

Upon review of the Regional Director's motion and declaration in support of the motion, we find that the Regional Director is correct in his assertion that collection of the full amount owing is not possible and, thus, this case meets the standard for eligibility for payout from the AERF.

PLEASE TAKE NOTICE that the Motion to Make Case Eligible for Payout from the Agricultural Employee Relief Fund and the Motion to Close Case are hereby GRANTED. Interest shall be calculated up to the date of this Order.

By Direction of the Board.

Dated: January 27, 2012

J. ANTONIO BARBOSA
Executive Secretary, ALRB