

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

ARNAUDO BROTHERS, INC.,	)	Case No. 2013-MMC-01
	)	
Employer,	)	
	)	
and	)	ORDER DIRECTING PARTIES
	)	TO MANDATORY MEDIATION
UNITED FARM WORKERS	)	AND CONCILIATION
OF AMERICA,	)	
	)	Admin. Order No. 2013-08
<u>Petitioner.</u>	)	

The United Farm Workers of America (UFW) filed a declaration requesting Mandatory Mediation and Conciliation (MMC) on February 1, 2013, pursuant to Labor Code section 1164, subdivision (a)(1) and Section 20400, subdivision (a) of the Board's regulations.<sup>1</sup> Pursuant to these provisions, a declaration requesting referral to MMC must be signed under penalty of perjury and include: 1) a statement that the parties are subject to an existing certification issued prior to January 1, 2003 and have failed to reach a collective bargaining agreement; 2) a statement that the parties have failed to reach agreement for at least one year after the date on which the labor organization made its initial request to bargain; 3) a statement that there was a renewed demand to bargain ninety days prior to the filing of the declaration requesting referral to MMC; 4) a statement that the employer has committed

---

<sup>1</sup> The Board's regulations are codified at Title 8, California Code of Regulations section 20100, et seq. Section 20400 was amended April 18, 2012.

an unfair labor practice, describing the nature of the violation and providing the corresponding Board decision number or case number; 5) a statement that the parties have not previously had a binding contract between them; and 6) a statement that the employer has employed or engaged 25 or more agricultural employees during a calendar week in the year preceding the filing of the declaration.

The declaration filed by the UFW, on its face, meets substantially all the requirements listed above.<sup>2</sup> The employer, Arnaudo Brothers, Inc., did not dispute the relevant facts in the declaration, which we take as an admission of those facts.<sup>3</sup> Accordingly, pursuant to Labor Code section 1164(a) and section 20402 of the Board's regulations, the parties in the above-captioned matter are hereby directed to mandatory mediation and conciliation.

The mandatory mediation process is governed by Labor Code sections 1164 – 1164.13 and sections 20400- 20408 of the Board's regulations. Upon issuance of this Order, the Board shall request that a list of nine mediators be compiled by the California Mediation and Conciliation Service and be provided to the parties. The

---

<sup>2</sup> Although the UFW's declaration does not describe the nature of the unfair labor practices committed by Employer, it does include citation to the applicable decision numbers.

<sup>3</sup> Pursuant to Board Regulation section 20401, subdivision (b), all statements in a declaration that are not expressly denied are deemed admitted. The answer contains several affirmative defenses commonly included as boilerplate language in answers to complaints in civil actions, such as laches, waiver, and estoppel. However, there is no explanation of the bases for these defenses and they do not negate the failure to contest that the necessary prerequisites have been met. Accordingly, the Board attaches no legal significance to the affirmative defenses for the purpose of evaluating whether to refer the parties to MMC.

parties shall then have seven (7) days from the receipt of the list to select a mediator in accordance with Labor Code section 1164 (a) and section 20403 of the Board's regulations.

By Direction of the Board.

Dated: February 13, 2013

---

J. ANTONIO BARBOSA  
Executive Secretary, ALRB