

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

ARNAUDO BROTHERS, LP,	)	Case No. 2014-RD-001-VIS
	)	
Employer,	)	
	)	
and	)	ORDER DENYING EMPLOYER'S
	)	REQUEST FOR
HORACIO TORRES,	)	RECONSIDERATION OF THE
	)	BOARD'S ORDER DENYING
Petitioner,	)	REVIEW OF REGIONAL
	)	DIRECTOR'S DECISION TO
and	)	BLOCK ELECTION AND
	)	DISMISS DECERTIFICATION
UNITED FARM WORKERS OF	)	PETITION
AMERICA,	)	
	)	Admin. Order No. 2014-17
<u>Certified Bargaining Representative.</u>	)	

On May 23, 2014<sup>1</sup>, Horacio Torres (Petitioner) filed, with the Visalia Regional Office of the Agricultural Labor Relations Board (ALRB or Board), a petition to decertify the United Farm Workers of America (UFW) as the certified bargaining representative of the agricultural employees of Arnaudo Brothers, LP, (Arnaudo or Employer) in Tracy, California. On May 29, Visalia Regional Director Silas M. Shawver sent a letter to all parties informing them that the decertification election (election) would be blocked, as there were two unremedied unfair labor practice (ULP) complaints against Arnaudo, and the atmosphere created by the circumstances

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<sup>1</sup> All dates refer to 2014 unless otherwise stated.

surrounding those complaints would make it impossible for Arnaudo's employees (the employees) to freely exercise their choice, without coercion, during the election.

On June 3, Petitioner filed a request with the Board, pursuant to section 20393(a) of the Board's regulations,<sup>2</sup> for review of the Regional Director's decision to block the election. On June 5, the Board issued Administrative Order (Admin. Order) No. 2014-14, which, for the reasons discussed therein, denied Petitioner's request, and affirmed the Regional Director's decision to block the election and dismiss the decertification petition. A corrected version of this order was issued on June 19, as the footnotes in the original order were inadvertently omitted.

Arnaudo filed its own request for review of the Regional Director's decision on June 5, shortly after the Board issued Admin. Order No. 2014-14. On June 10, the Board issued Admin. Order No. 2014-15, which, for the reasons discussed therein and in Admin. Order No. 2014-14, denied Arnaudo's request and again affirmed the Regional Director's decision.

On June 16, Arnaudo filed a request for the Board to reconsider Admin. Order No. 2014-15. Arnaudo objected to footnote 3 in said order, which observed that counsel for Arnaudo had impugned the Regional Director in its June 5 request. Arnaudo asks that the Board remove that language from said order, and also again asks that the Board overturn the Regional Director's decision to block the election.

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<sup>2</sup> The Board's regulations are codified at California Code of Regulations, title 8, section 20100 et seq.

Board regulation section 20393(c) provides that a party to a representation proceeding (as both the UFW and Arnaudo are in the instant matter) may, because of extraordinary circumstances, move for reconsideration or reopening of the record within five days after Board issuance of a decision or order in the case. The Board held, in *South Lakes Dairy Farms* (2013) 39 ALRB No. 2, that the extraordinary circumstances contemplated by the regulation would be an intervening change in the law, or evidence previously unavailable or newly discovered.

As no change in the law or new evidence is described in Arnaudo's June 16 motion for reconsideration in this case, it fails to meet the extraordinary circumstances standard, and is therefore DENIED. The Board observes that parties in this matter have, on several occasions, employed vitriolic language in both formal pleadings and correspondence.

The Board cautions all parties to refrain from such language in accordance with the Board's regulations.<sup>3</sup> The Board will only consider arguments that comport with

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<sup>3</sup> See section 20800(a) of the Board's regulations.

the statute, regulations, and case law.

Dated: June 19, 2014

William B. Gould IV, Chairman

Genevieve A. Shiroma, Member

Cathryn Rivera-Hernandez, Member