

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

PEREZ PACKING, INC.,)	Case Nos.	2012-CE-003-VIS
)		2012-CE-004-VIS
)		(39 ALRB No. 19)
Respondent,)		
)	ORDER GRANTING APPROVAL	
and)	TO SEEK COURT	
)	ENFORCEMENT OF BOARD	
UNITED FARM WORKERS OF)	ORDER	
AMERICA,)		
)		
)	Admin Order No. 2015-13	
<u>Charging Party.</u>)		

BACKGROUND

On December 19, 2013, the Agricultural Labor Relations Board (ALRB or Board) issued its decision and order in case no. 39 ALRB No. 19, in which Respondent was found to be liable for an unfair labor practice in violation of section 1153 of the Agricultural Labor Relations Act (ALRA or Act)¹. The Board ordered, inter alia, that Respondent post a notice of the decision (Notice) on its property, where it would be visible to agricultural employees (Employees), and that the Notice be read and distributed to all Employees. The Board further ordered that the Notice be mailed to the last known addresses of all Respondent's Employees during the 2011, 2012, and 2013 harvests, and also to provide a copy of the Notice to all Employees hired in the 12 months after the decision and order in case 39 ALRB No. 19 became final. Respondent

¹ The ALRA is codified at Labor Code section 1140 et seq. All statutory references are to the Labor Code unless otherwise specified.

was also ordered to periodically notify the General Counsel of the Board of its actions taken to comply with these terms.

Respondent appealed the Board's decision and order in case 39 ALRB No. 19, but later withdrew the appeal, which was dismissed on April 30, 2015. The Executive Secretary of the Board then released this matter to the Visalia Regional Office for compliance. On June 6, 2015, the Visalia Regional Director requested information regarding compliance from both Respondent and the Charging Party. The Charging Party submitted a brief letter stating that their understanding is that Respondent has complied with the Board's order. Respondent did not submit anything to the Regional Director.

On August 19, 2015, the Regional Director filed a request (Request) with the Board for an order to show cause why it should not be compelled via court action to comply with the Notice remedies imposed by the Board's order in case 39 ALRB No. 19. On August 28, 2015, Respondent filed a reply (Reply) to the Request, stating that it was no longer in business, that the Charging Party considers the matter resolved, that posting and reading could not occur, and that mailing notices would be of little value, as the last known addresses for Employees date back to the 2014 season.

DISCUSSION

Respondent's argument that the Charging Party considers this matter resolved fails to pass muster. The General Counsel is not bound by any such consideration, as, per section 1149 of the Act, it has final authority, on behalf of the Board, to investigate charges, and to issue and prosecute complaints. The Board exists,

for the vindication of public, and not private, rights. (*Nish Noroian Farms v. ALRB* (1984) 35 Cal.3d 726, 736.) Moreover, there has been no formal settlement agreement in this matter pursuant to section 20298 of the Board's regulations,² and absent such an agreement, the order of the Board in case no. 39 ALRB No. 19 may not be adjusted. (*Hess Collection Winery* (2009) 35 ALRB No. 3, at pp. 8-10.) Respondent's contention in this regard is thus rejected.

Section 1160.8 of the Act provides that where a final Board order in an unfair labor practice (ULP) matter has issued and there has been noncompliance with that order, the Board may apply to the superior court in the county where the ULP occurred for enforcement of such order provided that the time for review of the order has lapsed and there has been no voluntary compliance with the order. Here, Respondent's appeal in case 39 ALRB No. 19 has been withdrawn and the matter is now final. Since there is no evidence that Respondent has complied with the Board's order in case 39 ALRB No. 19, the Regional Director's Request for court enforcement of the Board's final order is appropriate. Respondent may raise the arguments made in its Reply before the superior court during the enforcement proceedings.

PLEASE TAKE NOTICE THAT the Regional Director's Request is GRANTED pursuant to section 1160.8 of the Act.

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

PLEASE TAKE FURTHER NOTICE that in this matter the General Counsel and the Regional Director are delegated the authority on behalf of the Board to initiate the appropriate court proceedings for enforcement of the Board's order in case 39 ALRB No 19, as necessary.

DATED: September 21, 2015

William B. Gould IV, Chairman

Genevieve A. Shiroma, Member

Cathryn Rivera-Hernandez, Member