

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

|                              |   |                                 |
|------------------------------|---|---------------------------------|
| <b>In the Matter of:</b>     | ) | Case Nos. 99-CE-165-EC          |
|                              | ) | 99-CE-166-EC                    |
| PACIFIC BLUE RIBBON PRODUCE  | ) |                                 |
| COMPANY,                     | ) |                                 |
|                              | ) | <b>ORDER GRANTING MOTION TO</b> |
| <b>Respondent,</b>           | ) | <b>MAKE CASE ELIGIBLE FOR</b>   |
|                              | ) | <b>PAYOUT FROM THE</b>          |
| <b>and</b>                   | ) | <b>AGRICULTURAL EMPLOYEE</b>    |
|                              | ) | <b>RELIEF FUND</b>              |
|                              | ) |                                 |
| CLARA CONTRERAS,             | ) | <b>Admin Order No. 2005-03</b>  |
|                              | ) |                                 |
| <b>Charging Party.</b>       | ) |                                 |
| _____                        | ) |                                 |
| RAYMOND BABB dba BABB FARMS, | ) |                                 |
|                              | ) |                                 |
| <b>Respondent,</b>           | ) |                                 |
|                              | ) |                                 |
| <b>and</b>                   | ) |                                 |
|                              | ) |                                 |
| CLARA CONTRERAS,             | ) |                                 |
|                              | ) |                                 |
| <b>Charging Party.</b>       | ) |                                 |
| _____                        | ) |                                 |

On April 13, 2005, the Regional Director of the El Centro office filed a Motion to Make Cases Eligible for Payout from the Agricultural Employee Relief Fund (Fund). On June 2, 2005, the Regional Director filed a supplement to the April 13, 2005 motion. The motion and supplement set forth the Region's efforts to seek compliance with the Board's order in this matter and its efforts to collect amounts owed from Respondents, Pacific Blue Ribbon Produce Company and Raymond Babb dba Babb Farms.

The requirements for a motion seeking a determination of eligibility for payout under the Fund are described in Board regulation 20299 (b),<sup>1</sup> 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 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.<sup>2</sup>

The motion includes the requisite detailed description of the basis for the Regional Director's belief that collection of the money owed is not possible. The motion indicates that Respondent Babb, an individual, filed a Chapter 7 bankruptcy petition on October 4, 2001 and that on January 3, 2002 the U.S. Bankruptcy Court of the Southern District of California issued an order discharging Babb's debts. Additionally, the motion provides evidence that Pacific Blue Ribbon no longer exists as an entity and explains that an investigation found no possibility of derivative liability.

The Board finds that the requirements set forth in Board regulation 20299 (b) have been met, and finds that this case is eligible for pay out under the Fund. Because section 20299 (d) of the regulations indicates that a motion seeking a determination of eligibility for payout under the fund shall be deemed to include a simultaneous motion to close, the Board also orders that this case be closed.

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<sup>1</sup> The Board's regulations are codified at Title 8, California Code of Regulations, Section 20100, ct. seq.

<sup>2</sup> 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.

PLEASE TAKE NOTICE that the Agricultural Labor Relations Board (ALRB or Board) hereby GRANTS the Motion to Make Cases Eligible for Payout from the Fund filed by the Regional Director of the El Centro office on April 13, 2005 and supplemented on June 2, 2005.

Interest on back pay amounts owed to the discriminatee involved in this matter, Clara Contreras, shall be calculated up to the date of this Order. Therefore, the amount of back pay owed plus interest accrued through June 20, 2005 shall constitute the total claim of the discriminatee for the purposes of calculating distribution amounts as described in section 20299 (b)(3). The total amount distributed to the discriminatee shall be \$2296.00.

By Direction of the Board.

Dated: June 21, 2005

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J. ANTONIO BARBOSA  
Executive Secretary, ALRB