

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:	)	Case Nos. 01-CE-613-EC(R)
	)	01-CE-614-EC(R)
SUN WORLD INTERNATIONAL, INC.,	)	01-CE-615-EC(R)
	)	01-CE-616-EC(R)
Respondent,)	
)	
and)	
	)	ORDER DENYING REGIONAL
FRANCISCO HECTOR MORENO	)	DIRECTOR'S MOTION TO MAKE
JOSE GUADALUPE MORFIN	)	CASES ELIGIBLE FOR PAYOUT
FELIX LARA GOMEZ and	)	FROM THE AGRICULTURAL
GAUDENCIO AISPURO,	)	EMPLOYEE RELIEF FUND
)	
Charging Parties.	)	Admin Order No. 2005-04
)	

On April 20, 2005, the Regional Director of the El Centro office filed a Motion to Make Cases Eligible for Payout from the Agricultural Employee Relief Fund in the above captioned matter. On June 6, 2005, the Regional Director filed a supplement to the April 20, 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 Respondent, Sun World International, Inc.

The requirements for a motion seeking a determination of eligibility for payout under the fund are described in Board regulation 20299 (b)¹, which indicates that such a motion "shall be accompanied by a statement describing the collection efforts

¹ The Board's regulations are codified at Title 8, Cal. Code of Regs., sec. 20100, et seq.

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. 1.²

The motion indicates that on January 16, 2004, the parties to the underlying case stipulated that the total amount of backpay owed to the four discriminatees was \$9,286.28. The Administrative Law Judge (ALJ) issued a final order establishing backpay liability for this amount on February 23, 2004.

On January 30, 2003, Respondent filed a voluntary petition for relief under Chapter 11 with the United States Bankruptcy court in Riverside, CA. On January 21, 2004, the EL Centro Region filed a proof of claim with the court in the amount of \$9,286.28. The Region's claim was accepted as a general unsecured claim against Respondent on January 30, 2004. There is no indication in the motion whether the Region is continuing to pursue this claim through the channels available to creditors in bankruptcy matters. Because the Respondent filed a voluntary petition under Chapter 11, and the bankruptcy matter is still pending, Respondent is presently still operating its business in the Coachella Valley. The Respondent recently filed its written disclosure statement and plan of reorganization with the court on May 6, 2005. According to the court papers attached to the Regional Director's motion as an exhibit, a hearing on

² 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.

Respondent's motion seeking the court's approval of the adequacy of its disclosure statement and reorganization plan was to be held on June 17, 2005. Therefore, the bankruptcy proceeding is not final at this time, and the status of the Region's claim has not yet been fully resolved.

The Board finds that the motion is premature as there has been no final order from the bankruptcy court regarding the Region's claim.

PLEASE TAKE NOTICE that the Agricultural Labor Relations Board (ALRB or Board) hereby DENIES the Motion to Make Cases Eligible for Payout from the Agricultural Employee Relief Fund filed by the Regional Director of the El Centro office on April 20, 2005 and supplemental motion filed on June 6, 2005.

By Direction of the Board

Dated June 21, 2005

J. ANTONIO BARBOSA
Executive Secretary, ALRB