

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

BENJAMIN REITZ AND STEPHEN)	Case No. 2018-CE-002-VIS
REITZ)	
dba REITZ RANCHES,)	
)	
)	
Respondent,)	
)	NOTICE OF TRANSFER TO
)	BOARD; and DECISION AND
and,)	RECOMMENDED ORDER
)	
JAVIER LOPEZ)	
)	
Charging Party. _____)	

Pursuant to Board Regulation 20280,¹ the attached Decision and Recommended Order is deemed transferred to the Board on June 22, 2021. Exceptions, if any, are due on or before Monday, July 12, 2021; Reply briefs, if any, are due on or before Thursday, July 22, 2021. See Board Regulation 20282.

Dated: June 22, 2021



Santiago Avila-Gomez
Executive Secretary
Agricultural Labor Relations Board

¹ The Board's regulations are codified at California Code of Regulations, title 8, section 20100 et seq.

**DO NOT REMOVE OR MUTILATE
STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD**

**PROOF OF SERVICE
(1013a, 2015.5 C.C.P.)**

Case Name: BENJAMIN REITZ AND STEPHEN REITZ dba REITZ RANCHES
Respondent, and JAVIER LOPEZ, Charging Party.

Case No. 2018-CE-002-VIS

I am a citizen of the United States and a resident of the County of Sacramento I am over the age of eighteen years and not a party to the within entitled action. My business address is 1325 "J" Street, Suite 1900-B, Sacramento, California 95814. On June 22, 2021, I served NOTICE OF TRANSFER TO BOARD; and DECISION AND RECOMMENDED ORDER, on the parties in the above-entitled action as follows:

- **By Email and Certified Mail** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, certified with return receipt requested, in the United States mail at Sacramento, California, addressed as follows:

Steven Reitz
Benjamin Reitz & Stephen Reitz dba Reitz
Ranches
567 N. Grantland
Fresno, California 93723

7021 0950 0000 4746 1992

Andrea A. Torres, Agent for Service of
Process & President
19268 Road 19
Madera, California 93637

7021 0950 0000 4746 2005
Torresandrea674@yahoo.com

Charging Party
Javier Lopez
1706 Kister Street
Sanger, California 93657

7021 0950 0000 4746 1985

By Email to the persons listed below and addressed as follows:

Chris A. Schneider, Regional Director
Xavier R. Sanchez, Asst. General Counsel
Agricultural Labor Relations Board
Visalia Regional Office
1642 W. Walnut Ave.
Visalia, CA 93277

Chris.Schneider@ALRB.ca.gov
Xavier.Sanchez@ALRB.ca.gov

Julia L. Montgomery, General Counsel
Agricultural Labor Relations Board
1325 J Street, Suite # 1900-A
Sacramento, California 95814-2944

JMontgomery@ALRB.ca.gov

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 22, 2021, at Sacramento California.

Date: June 22, 2021



Angelique Duran
Legal Secretary

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

BENJAMIN REITZ AND STEPHEN) Case No. 2018-CE-002-VIS
 REITZ)
 dba REITZ RANCHES,)
)
) DECISION AND RECOMMENDED
 Respondent,) ORDER
)
)
 and,)
)
 JAVIER LOPEZ,)
 Charging Party.)

On May 24, the General Counsel filed a motion to deem all Complaint allegations admitted and for default judgment. On June 3, an Order to Show Cause issued requiring all parties to show cause why the General Counsel’s motion should not be granted. The response date for the Show Cause Order was June 14. No response has been received. Respondent has not communicated any reason for failure to timely file its Answer.

Any allegation not denied in an Answer is deemed admitted.¹ Thus, absent an Answer or a response to the Order to Show Cause or any other communication, all allegations of the Complaint are deemed admitted.²

IT IS HEREBY ORDERED that the General Counsel’s Motion to Deem the Allegations of the Complaint Admitted and for Default Judgment is Granted. Based on the admitted Complaint allegations, the following findings of fact and conclusions of law are made.

**FINDINGS OF FACT
 JURISDICTION AND PARTIES**

On February 16, 2018, Javier Lopez filed unfair labor practice charge 2018-CE-002-VIS (Charge) against Respondent. The Charge alleges that Respondent, through its agents Steve Reitz and Benjamin Reitz, terminated Mr. Lopez and others for engaging in protected concerted activity.

¹ Reg. 20232.

² See, e.g., *Azteca Farms, Inc.* (1992) 18 ALRB No. 15; *Lu-Ette Farms, Inc.* (1985) 11 ALRB No. 4. Consistent with the uncontested pleadings, it is found that on May 3, 2021, the Regional Director issued a Complaint against Respondent Benjamin Reitz and Stephen Reitz d/b/a Reitz Ranches (Respondent) and on that same date, a copy was served by certified mail on Respondent and on its agent for service of process and president together with a fact sheet advising Respondent of the need to file an Answer.

On February 16, 2018, the Visalia Regional Office properly served Respondent with the charge via certified mail, return receipt requested.

On March 18, 2019, Javier Lopez filed an amendment to the Charge further alleging that Respondent, through its agents Benjamin Reitz and Steve Reitz, terminated Mr. Lopez and others in retaliation for complaining about employment terms and conditions including lack of safety gear and the pace of work.

On March 18, 2019, the Visalia Regional Office properly served Respondent with the charge via certified mail, return receipt requested.

At all relevant times, Respondent contracted with AAT Agriculture, Inc. (AAT) to provide agricultural labor for its operations.

At all relevant times, AAT was a labor contractor under Labor Code section 1682.³

At all relevant times, Respondent was an agricultural employer within the meaning of Section 1140.4, subdivisions (a) and (c).

At all relevant times, Javier Lopez was an agricultural employee, as defined in Section 1140.4, subdivision (b) employed by Respondent through labor contractor AAT.

At all relevant times, Angel Chavez was an agricultural employee, as defined in Section 1140.4, subdivision (b), employed by Respondent through labor contractor AAT.

At all relevant times, Cesar Madrigal was an agricultural employee, as defined in Section 1140.4, subdivision (b), employed by Respondent through labor contractor AAT.

At all relevant times, Nasario Caldera was an agricultural employee, as defined in Section 1140.4, subdivision (b), employed by Respondent through labor contractor AAT.

At all relevant times, Steven Reitz was a statutory supervisor for Respondent within the meaning of Section 1140.4, subdivision (j), with authority to direct, discipline, hire, and fire agricultural workers.

At all relevant times, Benjamin Reitz was a statutory supervisor for Respondent within the meaning of Section 1140.4, subdivision (j), with authority to direct, discipline, hire, and fire agricultural workers.

³ All statutory references are to the California Labor Code unless otherwise indicated.

FACTS

Javier Lopez worked for AAT in February 2018. He worked as a field worker, tying grapevines, and doing other general agricultural labor at Respondent's property. AAT Foreman Genaro Reyes supervised Mr. Lopez.

On February 12, 2018 near the end of the workday, co-worker Daniel Reyes, Foreman Genaro Reyes's brother, informed Mr. Lopez that Steven Reitz told Foreman Reyes to tell Mr. Lopez not to return to work the next day.

Mr. Lopez went to Steven Reitz to confirm what Daniel Reyes had said. Steven Reitz confirmed that he told Foreman Genaro Reyes to tell Mr. Lopez to not return the next day. Mr. Lopez asked if he was being fired for unsatisfactory work. Mr. Reitz informed Mr. Lopez that his work was satisfactory, but that he talked too much. Mr. Lopez responded with words to the effect that "Because I talk too much? Ok, I'll take it up with the Labor Board." After this, Mr. Reitz told Mr. Lopez that he could return to work, but to talk less.

On February 15, 2018, at about 6:45 a.m., Steven Reitz asked for four workers to help him pull stumps. Cesar Madrigal, Angel Chavez, Nasrio Caldera, and a fourth employee name unknown ("the four workers"), volunteered for the assignment.

Steven Reitz drove the four workers to a second field where Benjamin Reitz was. When they arrived, Mr. Madrigal asked Steven Reitz if the four workers were getting gloves to pull the stumps. Steven Reitz told him that they would get gloves soon, but to go ahead and start working.

For about an hour, the four workers pulled stumps and loaded them on to a dump cart that Benjamin Reitz pulled with a tractor. Throughout the hour, Mr. Madrigal, Mr. Caldera, and Mr. Chavez asked Benjamin Reitz to slow down.

When the cart was full, Cesar Madrigal went to Benjamin Reitz and again told him to not drive so fast because the workers could not keep up at the pace.

At this point, Benjamin Reitz told the workers that he did not need them if they could not keep up. He then told them to follow him. Benjamin Reitz escorted them back to the pickup truck in which they rode with Steven Reitz took them to the field.

Steven Reitz told the four workers that they were no longer needed because they could not do the assignment. Mr. Madrigal told Steven Reitz that there was no way that anyone could work at the pace Respondent demanded.

Steven Reitz then drove them to the field where the rest of the crew was working. When the workers attempted to rejoin the rest of the crew, Steven Reitz told them that they could not do further work for Respondent.

Immediately thereafter, Foreman Genaro Reyes told the workers to stay at the worksite so that AAT could provide them their paychecks.

The workers retreated to the area on the perimeter of the field where they parked their cars.

At approximately 8:15 a.m., Foreman Reyes mentioned to Mr. Lopez that four people in the crew were fired.

Soon after, Mr. Lopez received a call from Mr. Chavez. Mr. Chavez asked Mr. Lopez to come to the group to discuss the terminations and what they should do next. As he was speaking with Mr. Chavez, Steven Reitz told Mr. Lopez to tell the workers to leave.

Mr. Lopez then went to the portable bathrooms. The bathrooms were near where the four workers congregated to wait for their checks. The four workers and Mr. Lopez discussed the terminations and what actions they should take next. Mr. Lopez spoke with the four workers for about nine minutes. They discussed their complaints about the work pace and lack of protective equipment.

As Mr. Lopez was returning from speaking with the four workers, Steven Reitz told Mr. Lopez to hand over his vine ties and apron. Mr. Lopez interpreted this as a termination. Mr. Lopez asked Steven Reitz if he was terminating Mr. Lopez and Steven Reitz replied that he was.

Mr. Lopez told Mr. Reitz that he and the four other workers wanted their checks. Mr. Reitz left without further comment. After waiting for about 40 minutes for their checks, a representative of the farm labor contractor told Mr. Lopez and the four workers that they had to go to Madera to pick up the checks if they wanted them that day, or that Foreman Genaro Reyes could distribute the checks to them the next day. They decided to receive their checks from Mr. Reyes the following day and then left the worksite.

CONCLUSIONS OF LAW

By the acts set forth in paragraphs 14 through 34, Respondent has interfered with, restrained, and coerced Javier Lopez and his coworkers in the exercise of their rights protected by Section 1152.

Respondent thereby has committed unfair labor practices within the meaning of Section 1153(a) by terminating Messrs. Chavez, Caldera, Madrigal and the fourth employee because they concertedly protested conditions of work the pace of work and lack of protective equipment.

By terminating Charging Party Javier Lopez because Mr. Lopez associated with the four workers who engaged in protected concerted activity and Respondent perceived that Mr. Lopez supported them, Respondent violated Section 1153(a).

Further, by the Acts set forth in paragraphs 14 through 34, Respondent terminated Mr. Lopez in part because Mr. Lopez had a couple days prior told Respondent he intended to file a charge with the “Labor Board” over the Respondent’s personnel practices. Thus, Respondent committed an unfair labor practice in violation of Section 1153(d) of the Act.

REMEDY

It is recommended that Respondent be ordered to cease and desist from discharging or retaliating against any agricultural employee due to his or her protected concerted activity or his or her statement of intention to file a charge with the ALRB. It is further recommended that Respondent be ordered to take certain affirmative actions deemed necessary to effectuate the Act.

Specifically, Respondent must rescind the discharge notices or other personnel notations and offer the discriminatees reinstatement

Respondent must make them whole for loss of wages or other economic losses due to their unlawful discharges. In order to effectuate the policies of the Act, Respondent must provide notice to all employees.

RECOMMENDED ORDER

Pursuant to labor code section 1160.3, Respondent Reitz Ranches, its officers, agents, labor contractors, successors and assigns shall:

Cease and desist from:

(a) discharging or otherwise retaliating against any agricultural employee with regard to hire or tenure of employment because the employee has engaged in concerted activities protected in violation of section 1153(a) of the Act or because any agricultural employee has stated an intent to file a charge with the “Labor Board” in violation of section 1153(d) of the Act.

(b) in any like or related manner interfering with, restraining, or coercing any agricultural employee in the exercise of the rights guaranteed by section 1152 of the Act.

2. Take the following affirmative actions which are deemed necessary to effectuate the policies of the Act:

(a) Rescind the discharge notices or any other such personnel notations regarding the events of February 15, 2018 and expunge such notices from its files.

(b) Offer full reinstatement to their former positions or substantially equivalent positions to agricultural employees Javier Lopez, Angel Chavez, Nasario Caldera, Cesar Madrigal, and a fifth employee discharged on February 15, 2018, without prejudice to their seniority or other rights or privileges of employment.

(c) Make whole Javier Lopez, Angel Chavez, Nasario Caldera, Cesar Madrigal, and the fifth employee discharged on February 15, 2018 for all wages or other economic losses they suffered as a result of their unlawful terminations, to be determined in accordance with established Board precedent. The award shall include interest to be determined in accordance with *Kentucky River Medical Center* (2010) 356 NLRB 6 and excess tax liability is to be computed in accordance with *Tortillas Don Chavas* (2014) 361 NLRB No. 10, minus tax withholdings required by federal and state laws.

Compensation shall be issued to Javier Lopez, Angel Chavez, Nasario Caldera, Cesar Madrigal, and the fifth employee discharged on February 15, 2018, and sent to the ALRB's Visalia Regional Office, which will thereafter disburse payment to them.

(d) In order to facilitate the determination of lost wages and other economic losses, if any, for the period beginning February 15, 2018, preserve and, upon request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records, and all other records relevant and necessary for a determination by the Regional Director of the economic losses due under this order.

(e) Upon request of the Regional Director, sign the Notice to Agricultural Employees attached hereto, and, after its translation into all appropriate languages by a Board agent, reproduce sufficient copies in each language for the purposes set forth below.

(f) Post copies of the attached Notice, in all appropriate languages, in conspicuous places on its property for 60 days, the period(s) and place(s) to be determined by the Regional Director, and exercise due care to replace any Notice which has been altered, defaced, covered, or removed.

(g) Provide ALRB agents access to all of Respondent's agricultural workers, during the peak of the season, to distribute and read them the Notice to Agricultural Employees, in all appropriate languages, to all employees then employed, on company time and property, at time(s) and place(s) to be determined by the Regional Director. Following the reading, the Board Agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions the employees may have concerning the Notice or their rights under the Act.

The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all non-hourly wage employees in order to compensate them for time lost during the reading of the notice and the question-and-answer period.

(h) Provide the Regional Director with addressed envelopes, postage paid by Respondent, for each agricultural employee who worked for Respondent, including those hired through farm labor contractors, at any time from February 15, 2018 through February 15, 2019, and with sufficient copies of the Notice, in all appropriate languages, so that a copy of the Notice can be mailed to each employee at their last known address.

Respondent shall also provide the Regional Director a list of all the workers and their last known addresses so that the Regional Director can ensure compliance.

(i) Require all supervisory personnel who work for Respondent to attend a training conducted by ALRB personnel regarding workers' rights under the Act.

(j) Provide ALRB agents access to Respondent's property to ensure compliance with the Order.

(k) Notify the Regional Director in writing, within 30 days after the date this order becomes final, of the steps Respondent has taken to comply with its terms. Upon the request of the Regional Director, the Respondent shall notify the Regional Director periodically in writing of further actions taken to comply with the terms of this order.

Date: June 21, 2021



Mary Miller Cracraft
Administrative Law Judge
Agricultural Labor Relations Board

NOTICE TO AGRICULTURAL WORKERS

After investigating charges that were filed with the Visalia Regional Office of the Agricultural Labor Relations Board (ALRB), the General Counsel of the ALRB issued a complaint alleging that we violated the law. Because we did not contest such charges by timely filing an answer to the complaint, the ALRB deemed the allegations to be true and found that we violated that Agricultural Labor Relations Act (Act) by terminating employees for engaging in protected concerted activity of complaining about the terms and conditions of their employment. The ALRB also found that we violated the Act by terminating an employee because he threatened to file a charge with the ALRB. The ALRB has told us to publish this Notice. We will do what the ALRB has order us to do.

The Agricultural Labor Relations Act is a law that gives you and all other farm workers in California these rights:

1. To organize yourselves.
2. To form, join, or help a labor organization or bargaining representative.
3. To vote in a secret ballot election to decide whether you want a union to represent you.
4. To bargain with your employer about your wages and working conditions through a union chosen by a majority of the employees and certified by the Board.
5. To act together with other workers to help and protect one another.
6. To decide not to do any of these things.

Because it is true that you have these rights, we promise that:

WE WILL NOT discharge you because you and your co-workers complain about your working conditions.

WE WILL NOT discharge you because you threaten to go to the ALRB to file an unfair labor practice charge against us.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you from exercising your rights under the Act

WE WILL offer immediate employment to JAVIER LOPEZ, ANGEL CHAVEZ, NASARIO CALDERA, CESAR MADRIGAL, AND AN UNNAMED EMPLOYEE and **WE WILL** make these employees whole for all wages or other economic losses that they suffered as a result of our unlawful discharge of them.

DATED: _____

BENJAMIN REITZ AND STEPHEN REITZ d/b/a
REITZ RANCHES

By: _____
Representative Title

If you have any questions about your rights as farm workers or about this Notice, you may contact any office of the Agricultural Labor Relations Board. One office is located at 1642 West Walnut Avenue, Visalia, California 93277-5348. The telephone number is (559) 627-0995.

This is an official notice of the Agricultural Labor Relations Board, an agency of the State of California.

DO NOT REMOVE OR MUTILATE