

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

LILY’S GREEN GARDEN, INC.,	) Case No. 2020-CE-025-SAL
	) 2020-CE-037-SAL
Respondent,	) (48 ALRB No. 3)
)
and	) ORDER GRANTING REQUEST
	) FOR LEAVE TO SEEK COURT
LISBETH JIMENEZ,	) ORDER REQUIRING
	) COMPLIANCE WITH BOARD
Charging Party.	) ORDER
)
)
	) Admin. Order No. 2023-05
)
	) (May 17, 2023)
)

On May 5, 2023, the Regional Director of the Salinas Region (Region) of the Agricultural Labor Relations Board (ALRB or Board) filed with the Board a request for leave to seek superior court enforcement of the Board’s order in *Lily’s Green Garden, Inc.* (2022) 48 ALRB No. 3 (enforcement request) pursuant to Labor Code section 1160.8 in this compliance case involving respondent Lily’s Green Garden, Inc. (Lily’s). Lily’s filed an opposition to the enforcement request on May 10, 2023. The Board has considered the enforcement request and Lily’s opposition and hereby GRANTS the enforcement request.

In this matter, Lily’s has been found to have violated the Agricultural Labor Relations Act (ALRA or Act) by retaliating against charging party Lisbeth Jimenez

(Jimenez) for complaining about her supervisor and for filing a charge with the ALRB. To remedy these violations, the Board ordered Lily's to make Jimenez whole for wages or other economic losses suffered as a result of the unlawful conduct, sign a "Notice to Employees" (Notice), mail copies of the Notice to all employees employed between March 1, 2020 and March 1, 2021, post copies of the Notice in the workplace, arrange for a reading of the Notice, and provide copies of the Notice to newly hired employees for one year. Lily's did not seek review of the Board's order and the matter was released to compliance on October 13, 2022.

In the course of compliance proceedings, Lily's satisfied its obligation to pay backpay to Jimenez (totaling \$147.83 plus interest and excess taxes). However, Lily's counsel represented to the Region that Lily's could not comply with the noticing provisions of the Board's order because it had ceased operations. On November 2, 2022, Lily's provided the Region with a declaration signed by its Chief Executive Officer, Gerald J. Goldberg, stating that Lily's had gone out of business, no longer conducted any operations at its former location, that it has no bank account, has no employees, and does not intend to hire employees or resume operations in the future.

At this time, the Region does not seek to carry out the Board's noticing remedies with the exception of the mailing of the Notice to Lily's former employees. The Region offered to carry out the mailing of the notices but requested that Lily's sign the Notice as required by the Board's order. The Region contends that Lily's has failed to sign the Notice. In its opposition, Lily's does not dispute that it has not signed the Notice but contends that mailing the Notice would be "pointless" because it has been out of business since February 2022 and does not intend to resume operations.

Labor Code section 1160.8 provides that where the time for review of the Board's order has lapsed and the respondent has not voluntarily complied with the order, "the board may apply to the superior court in any county in which the unfair labor practice occurred or wherein such person resides or transacts business for enforcement of its order." Section 1160.8 establishes a "procedure[] for reducing a Board order to a judgment where no appellate court review has been sought." (*Hess Collection Winery* (2009) 35 ALRB No. 3, p. 14.) In this case, the Region has established that a superior court action under section 1160.8 is warranted.

The signing of the Notice is expressly required by paragraph 2(d) of the Board's order, which states that Lily's shall "[s]ign the attached Notice to Employees" and must be done before the Region carries out the Board's mailing remedy. Lily's contends that, because it ceased operations in February 2022 and does not intend to resume them, mailing the notices would be "pointless." This is incorrect. The remedial purpose of the Notice may still be fulfilled, at least in part.

Mailing of the notice to Lily's former agricultural employees is necessary to inform them "of the outcome of the unfair labor practice proceeding and of their organizational rights guaranteed by the ALRA." (*Jasmine Vineyards, Inc. v. ALRB* (1980) 113 Cal.App.3d 968, 979.) This method of notifying workers employed at the time of the employer's unlawful conduct furthers the purposes and policies of the ALRA "because it dispels any lingering effects of the employer's unfair labor practices which would tend to inhibit employees in the future exercise of their statutory rights with this employer or other employers," and "[t]he knowledge that their rights are being protected by the Board may influence and encourage the future exercise of those rights." (*Ibid.*; see Lab. Code, § 1140.2.) We also note that the National Labor Relations Board conducts

noticing by mail in circumstances where the respondent has ceased operations. (*Healthy Minds, Inc.* (2021) 371 NLRB No. 6, 7 [ordering a respondent who had ceased operations to mail notice to its former employees “to inform them of the outcome of this proceeding”]; *Reigel Electric* (2004) 341 NLRB 198, 198, fn. 2 [ordering notice mailing remedy despite employer’s closure]; *Care Initiatives, Inc.* (1996) 321 NLRB 144, 144 [“If the record indicates that the respondent’s facility has closed, the Board routinely provides for mailing of the notice to employees”].) While Lily’s CEO has stated that the company “does not intend” to resume operations or hire employees in the future, this non-binding statement of intent does not foreclose the possibility that circumstances might change and Lily’s might decide to resume operations.

Lily’s offers no valid justification for its refusal to take the minimal, albeit necessary, action requested by the Region and required by the Board’s order. Accordingly, the Region’s request for leave to seek court enforcement of our order pursuant to Labor Code section 1160.8 is GRANTED. The Regional Director is hereby delegated the authority on behalf of the Board to initiate the appropriate court proceedings pursuant to section 1160.8 for enforcement of the Board’s order.

DATED: May 17, 2023

Victoria Hassid, Chair

Isadore Hall, III, Member

Barry D. Broad, Member

Ralph Lightstone, Member

Cinthia N. Flores, Member