

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

WESTERN CONFERENCE OF TEAMSTERS,	)	
LOCAL NO 946 (MELLO-DY RANCH),	)	
	)	No. 75-CL-255-M
Respondent,	)	
	)	
and	)	3 ALRB No. 52
	)	
UNITED FARM WORKERS	)	
OF AMERICA, AFL-CIO,	)	
	)	
Charging Party.	)	

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On March 18, 1977, Administrative Law Officer Michael C. Tobriner issued his decision in this case. The Respondent, Western Conference of Teamsters, Local No. 946, filed timely exceptions.

Having reviewed the record, we adopt the law officer's findings and recommendations in their entirety.<sup>1/</sup> We make the following changes in his recommendation:

(1) The law officer recommends that Respondent be required to hand a copy of the notice prepared by the law officer to each of the current employees of Mello-dy Ranch and to each of the new employees within 48 hours of employment. We agree with the Respondent that it would be unreasonable to require an agent of Respondent to be present at the ranch to hand out a notice within 48 hours of the hiring of each new employee. We also agree that the employer could not be expected to permit the

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<sup>1/</sup> This case was consolidated for hearing with Case No. 75-CL-180-M. The administrative law officer is issuing separate decisions and orders because the two cases "arise in separate factual contexts and present different legal questions". See A.L.O.D., p. 2. The proposed decision and order in Case No. 75-CL-180-M have not yet been issued.

distribution of notices on its property by Respondent's agents. Therefore we order that the following means of notice be employed:

- Respondent shall post copies of the attached notice at its business offices and meeting halls in conspicuous places/ including all places where notices to its members are customarily posted. The copies of said notice shall remain posted for a period of not less than six months.

- Respondent shall mail a copy of the attached notice to all agricultural workers employed at Mello-dy Ranch during the pay period encompassing October 9, 1975. The names and addresses of said workers shall be provided by the regional director with the cooperation of Mello-dy Ranch.

- Respondent shall provide the regional director with copies of the attached notice for posting by Mello-dy Ranch at appropriate locations.

- Respondent shall print the attached notice in any and all union news publications which it publishes and distributes to its members. Said notice shall appear in each such publication which is issued between one month and six months following the date of the issuance of this decision and order.

- A representative of the Respondent or a Board agent shall read the attached notice to all Mello-dy Ranch employees during the employees' lunch hour on date(s) and at place(s) to be determined by the regional director with the cooperation of the employer.

(2) The law officer recommends that Respondent and its agents be required to remain at a minimum distance of 50 feet from all UFW personnel while such personnel are on Mello-dy Ranch

premises or in the presence of Mello-dy Ranch employees, for the remainder of the calendar year. We believe such a remedy is unworkable. However, because of the particularly reprehensible conduct of Respondent's agent, Angel Gonzales, we order Respondent to bar him from engaging in any organizing activities on its behalf, or with its knowledge or consent, in the Salinas region for one year.

Accordingly, pursuant to Labor Code Section 1160.3, IT IS HEREBY ORDERED that the Respondent, Western Conference of Teamsters, Local No. 946, its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Any and all actual or attempted physical attacks, physical assaults, or other acts of violence, and any conduct appearing to be such an attack, assault, or act of violence, or attempt, on or against the United Farm Workers of America, its officers, agents, employees, representatives, or organizers, either

(1) on or about the Mello-dy Ranch premises, (2) in the presence of Mello-dy Ranch employees, or future employees, or (3) in the course of any organizing activities conducted by the United Farm Workers with respect to Mello-dy Ranch employees.

(b) Verbally abusing, insulting, threatening, annoying, or harassing, or directing obscene or derogatory personal remarks to the UFW, its officers, agents, employees, representatives, or organizers, either (1) on or about the Mello-dy Ranch premises,

(2) in the presence of Mello-dy Ranch employees, or future employees, or (3) in the course of any organizing activities conducted by the United Farm Workers with respect to Mello-dy Ranch employees.

(c) By any of the actions proscribed in (a) or (b) above, or by any other conduct, interfering, interrupting, impeding or otherwise preventing or disrupting any conversations, discussions, meetings, or similar organizing activities conducted by the United Farm Workers, its officers, agents, employees, representatives, or organizers, with respect to Mello-dy Ranch employees.

(d) By any other conduct or in any other manner restraining or coercing employees or future employees of Mello-dy Ranch in the exercise of their rights under Section 1152 of the Agricultural Labor Relations Act.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Prevent its agent, Angel Gonzales, from engaging in any organizing activities on its behalf, or with its knowledge or consent, on farms in the area served by the Salinas regional office of the Agricultural Labor Relations Board for a period of one year commencing with the date of receipt of this order.

(b) Post copies of the attached notice, in appropriate languages, at its business offices and meeting halls in places to be determined by the regional director. The notices shall remain posted for a period of six months commencing with the date of receipt of this order. The Respondent shall exercise due care to replace any notice which has been altered, defaced, or removed.

(c) Mail copies of the attached notice, in appropriate languages, within 20 days of the receipt of this order, to all Mello-dy Ranch employees employed during the payroll period which included October 9, 1975. The names and addresses of such employees shall be provided by the regional director with the cooperation of Mello-dy Ranch.

(d) The regional director shall provide copies of the attached notice, in appropriate languages, for posting by Mello-dy Ranch at times and places to be determined by the regional director with the cooperation of the employer.

(e) Print the attached notice, in appropriate languages, in any and all news publications which it publishes and distributes to its members. The notice shall appear in each publication issued during the period from one month to six months following the date of receipt of this order.

(f) A representative of the Respondent or a Board agent shall read the attached notice in appropriate languages to all Mello-dy Ranch employees. The reading shall take place during the employees' lunch hour on a date and at place(s) to be determined by the regional director with the cooperation of the employer. Following the reading, the Board agent shall be given the opportunity, outside the presence of Teamster Union representatives, to answer any questions employees may have regarding the notice or their rights under the Act.

(g) Notify the regional director, within 20 days from the date of receipt of this order, what steps have been taken to comply with it. Upon request of the regional director, the Respondent shall notify him or her periodically thereafter, in writing, what further steps have been taken in compliance with this order.

Dated: June 30, 1977

Gerald A. Brown, Chairman

Richard Johnsen, Jr., Member

Ronald L. Ruiz, Member

Robert B. Hutchinson, Member

Herbert A. Perry, Member

NOTICE TO MELLO-DY RANCH AGRICULTURAL EMPLOYEES

After a hearing in which all parties presented evidence, the Agricultural Labor Relations Board has found that this union, Western Conference of Teamsters, Local No. 946, has violated the rights guaranteed to all Mello-dy Ranch agricultural employees by the California Agricultural Labor Relations Act. The Board has ordered us to notify all Mello-dy Ranch agricultural employees that we will respect the rights of Mello-dy Ranch employees in the future. Therefore, we are now telling each Mello-dy Ranch employee:

The Agricultural Labor Relations Act is a law that gives all farm workers these rights:

- (1) to organize themselves;
- (2) to form, join or help unions;
- (3) to bargain as a group and choose whom they want to speak for them;
- (4) to act together with other workers to try to get a contract or to help or protect one another;
- (5) to decide not to do any of these things.

Because you have these rights:

- (1) All Mello-dy Ranch agricultural employees are free to support, and to become or remain members of, the United Farm Workers of America, APL-CIO, or any other labor organization. All Mello-dy Ranch agricultural employees are free to meet and talk with organizers of the United Farm Workers of America, or any other labor organization. The Teamsters Union will not interrupt, interfere with, or try to prevent discussions or meetings between organizers of the United Farm Workers and

agricultural employees at the Mello-dy Ranch. The Teamsters Union will not harass, intimidate, or retaliate against any Mello-dy Ranch agricultural employee who meets or talks with organizers from the United Farm Workers or any other labor organization.

(2) The Teamsters Union will cease any physical attacks or assaults against any organizer or agent of the United Farm Workers, either at the premises of Mello-dy Ranch, or in the presence of Mello-dy Ranch employees or future employees.

(3) The Teamsters Union will cease any verbal abuse or threats directed against any organizer or agent of the United Farm Workers either at the premises of Mello-dy Ranch, or in the presence of Mello-dy Ranch agricultural employees or future employees.

(4) The Teamsters Union will not attempt to interrupt, interfere with, disrupt, or otherwise prevent any discussions or meetings between organizers of the United Farm Workers and agricultural employees of Mello-dy Ranch.

(5) The Teamsters Union will not permit Angel Gonzales to organize on its behalf in any farm in the Salinas region for one year.

Dated:

WESTERN CONFERENCE OF TEAMSTERS,  
LOCAL NO. 946

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STATE OF CALIFORNIA  
AGRICULTURAL LABOR RELATIONS BOARD



In the Matter of:

WESTERN CONFERENCE OF TEAMSTERS, )  
LOCAL NO. 946, )  
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Respondent, )  
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and )  
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UNITED FARM WORKERS OF AMERICA, )  
AFL-CIO, )  
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Charging Party. )  
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No: 75-CL-255-M

DECISION AND ORDER OF ADMINISTRATIVE LAW OFFICER

I. PRELIMINARY STATEMENT

This case was heard before Michael C. Tobriner in Salinas, California, on January 7, 1976. The hearing was held pursuant to a single combined complaint issued by the Agricultural Labor Relations Board (hereinafter "Board") on December 10, 1975, in this and Case No. 75-CL-180-M. The complaint was based upon unfair labor practice charges brought by the United Farm Workers of America, AFL-CIO (hereinafter "UFW") against the Western Conference of Teamsters, Local No. 946 (hereinafter "Respondent"), and, accordingly, it named the former organization as Charging Party and the latter as Respondent. Simultaneously . with the issuance of the complaint, the Board filed an order consolidating the two cases for hearing; thereafter, on December 10, 1975, Respondent filed an Answer denying the complaint's essential substantive allegations. All charges and

1] At the time the charges here were filed, Local 946 was known as Local 1973. The parties have stipulated that Local 946, established effective January 1, 1976, assumed all duties, rights, and obligations of Local 1973.



pleadings were duly served on the parties. Because this case and consolidated Case No. 75-CL-130-M arise in separate factual contexts and present different legal questions, I have issued a separate Decision and Order in each. All parties were represented by counsel at the hearing in this matter, and all were afforded a full opportunity to participate in the proceedings.<sup>2]</sup> A Post-Hearing Brief was filed on behalf of the General Counsel; neither the UFW nor Respondent filed a brief.

I have heard all of the testimony, observed the demeanor of the witnesses, and reviewed the entire written record, including the pleadings and the General Counsel's Brief, in this matter. I have considered all of these factors and make my Decision and Order accordingly. The discussion under Jurisdiction, Section II below, will constitute Findings of Fact and Conclusions of Law on that subject. The discussions under Summary of Facts, Section IV below, and Discussion of the Issues and Conclusions of Law, Section V below, will constitute Findings of Fact and Conclusions of Law, respectively.

## II. JURISDICTION

In its Answer Respondent admits (1) that Respondent itself is a labor organization within the meaning of Section 1140.4(f) of the Agricultural Labor Relations Act (hereinafter "Act"),

(2) that the UFW is a labor organization within the meaning of Section 1140.4 (f) of the Act, and (3) that Mello-dy Ranch is an employer within the meaning of Section 1140.4(c) of the Act.

## III. QUESTIONS PRESENTED

The complaint alleges that Respondent restrained and coerced employees of Mello-dy Ranch in the exercise of their organizational

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The parties were represented at the hearing as follows: for the General Counsel, G. Alison Colgan, Esq. and Michael J. Loeb, Esq. (on the Brief); for the UFW, J. Anthony Gaenslen, Esq. and Paul Barnett; for Respondent, Louis Uribe.

rights guaranteed by Section 1152 of the Act and, by so acting, engaged in unfair labor practices prohibited by Section 1154(a) (1) of the Act. According to the complaint, such restraint and coercion occurred because on October 9, 1975, Respondent, through its agent, verbally abused and physically assaulted Francisco Serna, a UFW organizer, on the Mello-dy Ranch premises. Accordingly, the questions presented for decision are (1) whether in fact Respondent did engage in the conduct alleged and (2) if it did, whether such conduct amounted to restraint and coercion under Section 1152 and, consequently, constituted an unfair labor practice under Section 1154(a) (1).

#### IV. SUMMARY OF FACTS

Mello-dy Ranch is an apple-growing concern with orchards located variously throughout Santa Cruz County. The events at issue here occurred at one of Mello-dy's orchards, apparently near Watsonville, on October 9, 1975, during the peak of the apple-picking season. Both on and before October 9 the UFW and Respondent were engaged in competitive campaigns to organize Mello-dy's 19 agricultural workers, and three days later, on October 12, a representation election in fact took place.<sup>31</sup>

At about 11:50 a.m. on the 9th, Francisco Serna and Devon McFarland, both UFW organizers, entered the Mello-dy orchard involved here by automobile. They were together but otherwise unaccompanied. The purpose of their visit was to obtain an additional signed authorization card, so that the UFW could appear on the ballot in the upcoming representation election. After proceeding about 200 feet into the first part of the orchard, Serna and McFarland were stopped by a jeep containing a Mr. and Mrs. Conde, Mello-dy's owners. The Condes informed the two organizers that the orchard was private property, that they

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<sup>31</sup> The election may have been October 11; the record is not clear. Both the UFW and Respondent qualified for the ballot. Sixteen of the 19 Mello-dy workers voted, 12 for Respondent and four for the UFW.

(the organizers) could not speak with the workers until 12:00 Noon (apparently the lunch break), and that since it was still before 12:00, they should stop there and wait. The orchard is quite hilly; at this point, the organizers were at the bottom of a large hill, in a loading or general parking area, while the workers they sought to visit were at or near the top of the hill, nearly 1000 yards away. In accordance with the Condes' instructions, Serna and McFarland waited until Noon, when, again at the Condes' request, they walked, instead of drove, up to the workers' location. On the way they were passed by a State vehicle containing two or three persons.

The walk to the top took Serna and McFarland about five to seven minutes. When they arrived, they found between seven and nine workers sitting together in a rough circle, eating lunch. The workers knew and recognized Serna and McFarland, since the organizers had shown them all a film the previous night. At the workers' invitation, Serna and McFarland knelt in the circle, accepted some food, and engaged the group in conversation. The workers' circle was located just over the lip of the hill, at the first row of trees; at the top, in an open area, perhaps 50 to 60 feet away, another group of persons had gathered. These included two or three Board agents, who apparently had passed the organizers on the way up, Mr. and Mrs. Conde, a supervisor, and a forklift driver.

After Serna and McFarland had talked with the workers for about seven to 10 minutes, three other individuals approached the circle on foot. These were two men, Angel Gonzales <sup>4]</sup> and Sergio (last name uncertain), and a young woman, Matilde (last name uncertain). Serna and McFarland recognized Gonzales and Matilde from earlier UFW-Teamster elections. Both Gonzales and Matilde were wearing blue blazers with yellow streaks, a

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Angel Gonzales is referred to in the testimony alternately as Angel Gonzales and Angel Ramirez; he is referred to here as Angel Gonzales.

type of jacket ordinarily associated with Teamster personnel. The parties have stipulated that at all times relevant here all three individuals, Angel Gonzales, Sergio; and Matilde, were organizers for Respondent.

As the three Teamsters came up to the group, Gonzales said to the workers, "So this is the pair that has been showing you movies [referring to Serna and McFarland]." (This remark, like virtually all the others made throughout the incident, was in Spanish.) Gonzales then seated himself on the hood of an automobile belonging to one of the workers and parked on the rim of the circle in which the workers were sitting. The car was slanting downhill, and Gonzales was seated about two feet from and just above and behind Serna. Sergio and Matilde stationed themselves at other points in the circle.

All three Teamster organizers then began making derogatory and insulting statements to the group about the UFW organizers. These statements included, but were not limited to, remarks that UFW organizers were liars and should not be believed, that they were fanatics who worked for nothing, and that the UFW was run by white Jews. Gonzales flashed a plastic UFW card, saying that he had once belonged to that union but had changed to the Teamsters because he was dissatisfied. Referring to McFarland, Gonzales stated that the UFW used women as prostitute: to buy workers' votes, and, addressing himself directly to her, asked (in English) "Hey, baby, how about me? How much do you get?" Responding to this remark, Serna asked Gonzales to leave his partner alone.

At this point Gonzales swung hard three or four times at Serna's head. (Gonzales stands six foot three or four inches and weighs about 235 to 240 pounds; Serna is five feet eight and one-half inches and weighs about 190 pounds.) Serna, who was kneeling in the circle just below Gonzales, ducked and, crouching lower, tried to move away. Gonzales taunted Serna, saying "Look at him duck. Look at that. He doesn't want to fight. Look at him. Get up." Serna replied that he was there to talk with the workers, not to fight with Gonzales, and he asked Gonzales to "cool it." Gonzales then jumped off

the car, hovered over Serna, and appeared about to strike him, when Sergio, one of the other Teamster organizers, intervened and pushed Gonzales away.

Serna then attempted to resume his conversation with the workers. The Teamster organizers interrupted, asking Serna questions and making accusations. At this point, Gonzales attempted to kick Serna, but Sergio was still between the two. Serna then rose and started to walk around and away from Gonzales, at the same time calling to McFarland to get up and leave.

Gonzales next grabbed Serna by the shirt and jacket, saying "I'm going to kill you, mother-fucker." Again, Gonzales was pushed away by Sergio.

Serna attempted to walk away, but Gonzales began pushing him hard and striking him on the left arm and shoulder. Gonzales continued to push and strike Serna until Serna fell to the ground, landing on his face and side. Serna remained on the ground for a few minutes, with Gonzales hovering over him, until Sergio again intervened. As Serna rose, Sergio warned him not to fool around, or he (Sergio) would clobber him.

Following this, Serna and McFarland proceeded to leave the area. Before leaving, Serna walked over to Frank Orozco, one of the Board agents standing with the group of persons at the top of the hill. Serna asked Orozco if he had witnessed the incident; Orozco replied that he had not; and Serna and McFarland proceeded on foot to the bottom of the hill. There, the two waited to see if the Teamster organizers would leave, so that they could return to talk to the workers.

After about five minutes, the Teamster organizers drove by on their way out, and the UFW organizers walked back up the hill to talk to the employees for the few minutes remaining during the lunch hour. At 1:00 o'clock, after about four or five minutes spent trying to speak with the workers, Serna and McFarland left at the express request of Mr. Conde.

Gonzales' attacks on Serna lasted approximately 20 minutes

and included at least three, if not four, separate assaults. The attacks, as well as the verbal abuse and threats directed by the Teamsters against the UFW organizers, occurred directly in front of the seven to nine Mello-dy workers gathered in the lunch circle. All of the workers saw and heard the entire incident. When Gonzales first jumped off the car on top of Serna, one worker, nicknamed "Negro," got up and ran into the orchard. At about the same time, two other workers backed off several feet, and still others turned around and faced the opposite direction. A worker whom Serna and McFarland approached after the Teamsters left said he was scared and would not talk at the site. It appeared that the workers were frightened by the incident. When Serna and McFarland visited the workers in one of their homes that evening, several got up and left the room, only two remaining to talk.

During the assault, Serna never retaliated or verbally abused Gonzales. Rather, he repeatedly asked Gonzales to stop assaulting him. Throughout the incident, Gonzales and the other Teamster organizers continuously directed threats, obscenities, and insults towards Serna and McFarland. Gonzales several times said he was going to kill Serna or "knock his head off."

#### V. DISCUSSION OF THE ISSUES AND CONCLUSIONS OF LAW

As the facts set forth above demonstrate, on October 9, 1975, at the Mello-dy Ranch premises, three organizers employed by Respondent physically assaulted and verbally abused two UFW organizers. The physical attack directed by Angel Gonzales, one of Respondent's organizers, against Francisco Serna, a UFW organizer, was deliberate, vicious, and completely unprovoked. This attack continued over a period of 20 minutes and consisted of at least three, and probably four, separate assaults. The verbal abuse, which was directed by all three of Respondent's organizers toward both UFW personnel, was likewise deliberate and malicious, consisting of obscenities, threats, and highly derogatory personal remarks. This abuse also continued over a

20 minute period. The assaults and abuse occurred directly in front and in the immediate presence of seven to nine Mello-dy ranch workers, who saw and heard the entire incident. Respondent's organizers' conduct was intended to, and did, prevent the UFW organizers' attempts to talk with, the Mello-dy workers. A representation election in which the UFW and Respondent were competing for the workers' votes was scheduled to, and actually did, take place two days later.

The issue presented is whether Respondent's organizers' conduct constituted an unfair labor practice under Section 1154(a) (1) of the Act. I conclude that, beyond peradventure of doubt, it did.

Section 1154(a) (1) makes it an unfair labor practice for a labor organization to "restrain or coerce" agricultural employees "in the exercise of the rights guaranteed [to them] in Section 1152."<sup>5]</sup> Section 1152 of the Act guarantees agricultural employees the right "to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities. ..." <sup>6]</sup>

In interpreting these sections and, accordingly, in determining what conduct constitutes an unfair labor practice, the Act requires the Board to follow applicable National

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Section 1154(a) (1) reads as follows:

"It shall be an unfair labor practice for a labor organization or its agents to do any of the following:

(a) To restrain or coerce:

(1) Agricultural employees in the exercise of the rights guaranteed in Section 1152. This paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein."

<sup>6]</sup> Section 1152 reads as follows:

"Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of continued employment as authorized in subdivision (c) of Section 1153."

Relations Act (hereinafter "NLRA") precedent. Section 1154(a) (1) of the Act is essentially identical to NLRA Section 8(b) (1) (A) .

It is settled NLRA law that violence or verbal abuse inflicted by representatives of one union on representatives of another union in front of employees is an unfair labor practice in violation of Section 8(b) (1) (A) . Checker Taxi Company, 131 N.L.R.B. 611, 48 L.L.R.M. 1110 (1961); see N.L.R.B. v. McBride, 274 F.2d 124, 45 L.L.R.M. 2420 (10th Cir. 1960). In Checker Taxi, agents of a Teamster local physically pushed organizers of a rival union, called them, obscene names, threatened them with violence, and impeded their organizing efforts, all in front of employees. Holding that the Teamster agents' conduct was "open and notorious and either took place in the presence of employees or under circumstances in which they were likely to learn of it," the National Labor Relations Board (hereinafter "NLRB") held that the Teamsters' actions "restrained and coerced or tended to restrain or coerce employees in the exercise of their Section 7 rights." (The language of NLRA Section 7 is virtually identical to Section 1152 of the Act.)

As McBride illustrates, violence or verbal abuse by a union against another or by an employer against a union, coerces and restrains employees even though it is not directed against the employees themselves. Because they may fairly conclude that such attacks or abuse might befall them if they acted contrary to the wishes of the perpetrator, their freedom to organize and chose their own bargaining representative is impaired. In McBride, an employer and his superintendent assaulted and verbally abused non-employee pickets. Arguing that such conduct did not constitute an unfair labor practice, the employer asserted that his actions were not coercive as to the employees. Rejecting this argument, the Second Circuit found that force not inflicted directly on employees could still be coercive as to them. The Court quoted with approval language from another Second Circuit opinion involving union violence against an employer:

"It was inevitable that the employees should learn of this brutal and unprovoked assault [by the



union against the employer], and the Board [NLRB] properly held that 'these employees might have reasonably regarded these incidents as a reliable indication of what would befall them if they sought to work during the strike.' [citation omitted]" (N.L.R.B. v. United Furniture Workers, Local 140, 233 F.2d 539, 540, cited in N.L.R.B. v. McBride, 45 L.R.R.M. 2420, 2421.)

Moreover, it is not necessary that a union or employer acting violently or abusively specifically intend that such conduct restrain or coerce employees. Again quoting with approval from United Furniture Workers, the McBride Court notes that "no evidence of specific intent is necessary, as these duly accredited representatives of the union must be presumed to have intended the natural and reasonably foreseeable consequences of their acts." United Furniture Workers, 233 F.2d 539, 541, cited in N.L.R.B. v. McBride, 45 L.R.R.M. 2420, 2421.

Subsequent NLRB decisions reaffirm the Checker Taxi holding. Rockville Nursing Center, 193 N.L.R.B. 959, 78 L.R.R.M. 1519 (1971) (threat of bodily harm by agent of one union to agent of another before employees); Teamsters (Pet Distributing Company), 201 N.L.R.B. #103, 82 L.R.R.M. 1451 (1973) (assaults and threats by agent of union against officer of rival union in front of workers); U.M.W., District 2, 173 N.L.R.B. 665, 70 L.R.R.M. 1046 (1968) (attack by members of one union against official of rival union, in presence of workers.).

As McBride indicates, where representatives of one union physically assault or verbally abuse representatives of another in the presence of employees, a showing of actual or effective coercion is not required to establish an unfair labor practice under Section 1154(a)(1). N.L.R.B. v. McBride, supra; Yellow Freight System, 197 N.L.R.B. #162, 80 L.L.R.M. 1609 (1972). It is worth noting, however, that if such a showing were necessary, it could be made here. The evidence demonstrates that the Mello-dy workers were indeed affected by the assaults and abuse. During the incident, one worker ran away into the orchard, others backed off from the lunch circle, while still others turned away and faced the opposite direction. After

the Respondent's organizers left, one worker refused to talk to the UFW representatives. When the UFW organizers visited the Mello-dy workers in one of the worker's homes later that evening, most of the persons present left the room.

Based on the facts and law discussed above, I conclude that Respondent, through its organizers, committed an unfair labor practice in violation of Section 1154(a) (1) of the Act, by physically assaulting and verbally abusing UFW organizers on the Mello-dy ranch premises on October 9, 1975, in the presence of Mello-dy Ranch employees.

#### VI. REMEDY

To remedy the unfair labor practice committed by Respondent and its agents, I believe both a cease and desist order and a requirement of certain affirmative steps are appropriate. As to cease and desist relief, I will recommend that Respondent and its agents be restrained from any acts of physical violence or verbal abuse directed toward UFW agents or representatives on or about the Mello-dy Ranch premises or otherwise in the presence of Mello-dy Ranch employees. Also, I will recommend that Respondent be ordered to cease and desist from any other conduct interfering with or impeding conversations or meetings by UFW organizers or representatives with Mello-dy Ranch employees. Finally, I will recommend that Respondent be ordered to cease and desist from otherwise restraining or coercing Mello-dy Ranch employees in the exercise of their Section 1152 rights.

As to affirmative relief, I recommend that Respondent and its agents be required to remain at a minimum distance of 50 feet from all UFW personnel while such personnel are on Mello-dy Ranch premises or in the presence of Mello-dy Ranch employees, for the remainder of this calendar year. Finally, I recommend that Respondent be required to hand to each Mello-dy Ranch employee a copy of the attached notice. I believe the notice is self-explanatory.

Accordingly, upon the basis of the entire record, the

Findings of Fact, and the Conclusions of Law, and pursuant to Section 1160.3 of the Act, I hereby issue the following recommended:

ORDER

Respondent, its officers, agents, employees, and representatives, shall:

1. Cease and desist from:

(a) Any and all actual or attempted physical attacks, physical assaults, or other acts of violence, and any conduct appearing to be such an attack, assault, or act of violence, or attempt, on or against the United Farm Workers of America, its officers, agents, employees, representatives, or organizers, either (1) on or about the Mello-dy Ranch premises, (2) in the presence of Mello-dy Ranch employees, or future employees, or (3) in the course of any organizing activities conducted by the United Farm Workers with respect to Mello-dy Ranch employees.

(b) Verbally abusing, insulting, threatening, annoying, or harassing, or directing obscene or derogatory personal remarks to, the UFW, its officers, agents, employees, representatives, or organizers, either (1) on or about the Mello-dy Ranch premises, (2) in the presence of Mello-dy Ranch employees, or future employees, or (3) in the course of any organizing activities conducted by the United Farm Workers with respect to Mello-dy Ranch employees.

(c) By any of the actions proscribed in (a) or (b) above, or by any other conduct, interfering, interrupting, impeding, or otherwise preventing or disrupting any conversations, discussions, meetings, or similar organizing activities conducted by the United Farm Workers, its officers, agents, employees, representatives, or organizers, with respect to Mello-dy Ranch employees.

(d) By any other conduct or in any other manner restraining or coercing employees or future employees of Mello-dy Ranch in the exercise of their rights under Section 1152 of the Agricultural Labor Relations Act.

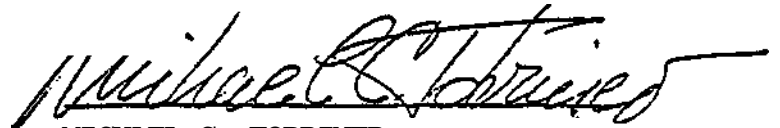
2. Take the following steps, which are deemed necessary to effectuate the policies of the Agricultural Labor Relations Act:

(a) At all times during the remainder of this calendar year, and specifically during the peak harvest season, remain at a distance of a minimum of 50 feet from any United Farm Worker officer, agent, employee, representative, or organizer, while such person or persons is or are (1) on or about the Mello-dy Ranch premises (2) in the presence of Mello-dy Ranch employees, or future employees, or (3) in the course of any organizing activities conducted with respect to Mello-dy Ranch employees.

(b) Hand a copy of the attached notice (1) immediately following the effective date of this order, to- each person employed as an agricultural employee by Mello-dy Ranch, and (2) for the remainder of this calendar year, to each person newly employed as an agricultural employee by Mello-dy Ranch, within 48 hours of initial date of employment.

(c) Notify the Regional Director in the Salinas Regional Office within 30 days of receipt of a copy of this Decision and Order of steps Respondent has taken to comply herewith, and continue to report periodically thereafter until full compliance is achieved.

Dated: -



MICHAEL C. TOBRINER  
Administrative Law Officer

NOTICE TO MELLO-DY RANCH AGRICULTURAL EMPLOYEES

After a hearing in which all parties presented evidence, an Administrative Law Officer of the Agricultural Labor Relations Board has found that this Union, Western Conference of Teamsters, Local No. 946, has violated the rights guaranteed to all Mello-dy Ranch agricultural employees by the California Agricultural Labor Relations Act. The Administrative Law Officer has ordered us to notify all Mello-dy Ranch agricultural employees that we will stop such violations, and that we will respect the rights of Mello-dy Ranch employees in the future. Therefore, we are now telling each Mello-dy Ranch employee:

(1) All Mello-dy Ranch agricultural employees are free to support, and to become or remain members of, the United Farm Workers of America, AFL-CIO, or any other labor organization. All Mello-dy Ranch agricultural employees are free to meet and talk with organizers of the United Farm Workers of America, or any other labor organization. The Teamsters Union will not interrupt, interfere with, or try to prevent discussions or meetings between organizers of the United Farm Workers and agricultural employees at the Mello-dy Ranch. The Teamsters Union will not harass, intimidate, or retaliate against any Mello-dy Ranch agricultural employee who meets or talks with organizers from the United Farm Workers or any other labor organization.

(2) The Teamsters Union will cease any physical attacks or assaults against any organizer or agent of the United Farm Workers, either at the premises of Mello-dy Ranch, or in the presence of Mello-dy Ranch employees or future employees.

(3) The Teamsters Union will cease any verbal abuse or threats directed against any organizer or agent of the United Farm Workers either at the premises of Mello-dy Ranch, or in the presence of Mello-dy Ranch agricultural employees or future employees.

(4) The Teamsters Union will not attempt to interrupt, interfere with, disrupt, or otherwise prevent any discussions or meetings between organizers of the United Farm Workers and agricultural employees of Mello-dy Ranch.

Dated:

WESTERN CONFERENCE OF TEAMSTERS,  
LOCAL No. 946

By: \_\_\_\_\_