

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

SELECT NURSERY,)	
)	
Employer,)	Case No. 77-RC-6-V
)	
and)	
)	4 ALRB No. 61
UNITED FARM WORKERS)	
OF AMERICA, AFL-CIO,)	
)	
Petitioner.)	
)	
_____)	

DECISION AND
CERTIFICATION OF REPRESENTATIVE

Pursuant to the provisions of Labor Code Section 1146, the Agricultural Labor Relations Board has delegated its authority in this matter to a three-member panel.

Following a petition for certification filed by the United Farm Workers of America, AFL-CIO (UFW), on May 31, 1977, a secret-ballot election was conducted on June 7, 1977, among the agricultural employees of the Employer at its Brea nursery. The official tally of ballots showed the following results:

UFW	89
No Union	78
Challenged Ballots	<u>9</u>
Total	176

The Employer filed timely objections, three of which were set for hearing. Subsequent to the hearing, Investigative Hearing Examiner (IHE) Judy Weissberg issued her Decision, in which she recommended that the Employer's

objections be dismissed and that the UFW be certified as collective bargaining representative of the unit employees. The Employer timely filed exceptions to the IHE's Decision and a supporting brief. The UFW filed a brief in opposition to the Employer's exceptions.

The Board has considered the objections, the record, and the IHE's Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the IHE as modified herein, and to adopt her recommendations to dismiss the objections and certify the UFW.^{1/}

We do, however, find merit in the Employer's exception to the IHE's conclusion that the statement by Tanis Ybarra to Maria Rodriguez was not a threat. The statement found to have

^{1/} The IHE recommended that the UFW be certified as the exclusive bargaining representative of all the agricultural employees of the Employer in the State of California. The Employer excepted to this recommendation because the election concerned only the Employer's establishment at Brea, California, rather than all of the locations where Select Nursery does business. The recommendation of the IHE may stem from the unit description on the direction of notice and election which states, "All agricultural employees of the employer". The union's petition for an election acknowledged that the unit sought did not include all of the Employer's agricultural employees in the State of California, and that the agricultural employees of the Employer are employed in two or more noncontiguous geographical areas. Accordingly, the unit description set forth in the direction and notice of election should be read to mean all of the agricultural employees of the Employer at the Brea nursery. Based on the notice given the Regional Director in the petition, we presume he found the Employer's operations to be in two or more noncontiguous geographical areas, and that it was inappropriate to include all of the Employer's operations in one unit. Had he intended to include the employees at the other Select facilities in the unit, he logically would have designated the other facilities as election sites also. Pursuant to Section 1156.2 of the Act, we conclude that the appropriate unit is all the agricultural employees of the Employer at the Brea nursery.

been made by Ybarra that "perhaps those who don't sign [cards] would be fired from their jobs" is mischaracterized by the IHE as a possible reference to a union security clause. The record shows Ybarra to be a professional UFW organizer with substantial experience. Had he intended to make Rodriguez aware of the effect of a union security agreement, he certainly could have done so more accurately and with a less threatening choice of words.

We also disagree with the IHE's finding that conditional terms such as "perhaps" or "possibly", prefacing otherwise coercive remarks, have a mitigating effect. The injection of words of this type does very little to change the statement's actual impact. The implied threat still comes through clearly. Even though we find such statements to be implied threats, we do not believe they are sufficient to justify setting aside the election given the facts and circumstances present in this case. See Jack or Marion Radovich, 2 ALRB No. 12 (1976).

CERTIFICATION OF REPRESENTATIVE

It is hereby certified that a majority of the valid votes have been cast for the United Farm Workers of America, AFL-CIO, and that, pursuant to Labor Code Section 1156, the said labor organization is the exclusive representative of all agricultural employees of Select Nursery employed at its Brea facility, for the purpose of collective bargaining, as defined in Labor Code Section 1155.2 (a), concerning employees'

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wages, working hours, and other terms and conditions of employment.

Dated: September 15, 1978

RONALD L. RUIZ, Member

HERBERT A. PERRY, Member

JOHN P. McCARTHY, Member

CASE SUMMARY

Select Nursery (UFW)

77-RC-6-V
4 ALRB No. 61

IHE DECISION

After an election won by the UFW, a hearing was held on three employer objections: (1) Whether a UFW organizer threatened employees by saying that they would be fired if they did not sign authorization cards; (2) Whether employees who were members of the UFW's in-nursery organizing committee, on instruction from a UFW organizer, threatened employees by saying they would be fired or reported to the Immigration and Naturalization Service if they did not sign authorization cards; and (3) Whether the conduct alleged above created an atmosphere of fear and confusion so that employees could not choose a bargaining representative in a free and uncoerced manner.

The IHE found that Tanis Ybarra, a UFW organizer, stated to Maria Rodriguez, a Select Nursery employee, that "perhaps those who don't sign [cards] would be fired from their jobs". The IHE concluded the statement was not a threat because it might reasonably be interpreted as a lawful reference to a union security clause and it was indirect and conditional in tone. No misconduct was found on the part of the UFW. The IHE found instances where coercive remarks were made by nonagent, employee UFW supporters, but concluded these employees were not acting under the instruction of the UFW and the statements did not create such an atmosphere of fear that employees were unable to choose a collective bargaining representative freely and without coercion.

BOARD DECISION

The Employer excepted to the IHE's Decision on several grounds. The Board affirmed the rulings, findings, and conclusions of the IHE with modification. The Board found the unit description recommended by the IHE to be too broad, and limited the unit's scope to all the agricultural employees of the Employer at its Brea, California nursery.

The Board did find merit in the Employer's exception to the IHE's finding that the statement made by Tanis Ybarra to Maria Rodriguez was not a threat. Had Ybarra, an experienced union organizer, intended to convey the effect of a union security clause to Rodriguez, he could have done so more accurately and with a less threatening choice of words. The Board also disagreed with the IHE's conclusion that prefacing otherwise coercive statements with such terms as "perhaps" or "possibly" mitigates their threatening impact. Even though such statements were found to be implied threats, they were not sufficient to justify setting aside the election given the facts and circumstances.

The Board dismissed the objections, upheld the election, and granted certification.

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This case summary is furnished for information only and is not an official statement of the case, or of the ALRB.

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

In the Matter of:

SELECT NURSERY,

Employer,

Case No. 77-RC-6-V

and

UNITED FARM WORKERS OF
AMERICA, AFL-CIO,

Petitioner.

Shand Stephens, Bronson, Bronson
& McKinnon, for the Employer.

Jim Rutkowski and Jeff Sweetland,
for the United Farm Workers of
America, AFL-CIO.

DECISION

STATEMENT OF THE CASE

JUDY WEISSBERG, Investigative Hearing Examiner: This case was heard before me on January 11 and 12, 1978, in Fullerton, California. A petition for certification at Select Nursery was filed by the United Farm Workers of America, AFL-CIO ("UFW") on May 31, 1977. An election was subsequently conducted on June 7, 1977. Of 196 eligible voters, 89 cast votes for the UFW, 78 voted for no union and 9 votes were challenged and remain unresolved.

Select Nursery ("employer") filed a timely objections petition^{1/} pursuant to Labor Code §1156.3(c), alleging four types of misconduct which the employer argues require the Agricultural Labor

^{1/} ALRB Exhibit #5.

Relations Board ("Board") to set aside an election. By order dated September 16, 1977, the Executive Secretary of the Board dismissed all of the employer's objections except those relating to alleged threats by the UFW.^{2/} The Executive Secretary set for hearing the following issues:^{3/}

1. Whether a UFW organizer threatened employees by saying that they would be fired if they did not sign authorization cards.

2. Whether employees who were members of the UFW's in-nursery organizing committee, on instructions from a UFW organizer, threatened employees by saying they would be fired or reported to the Immigration and Naturalization Service if they did not sign authorization cards.

3. Whether the conduct alleged above created an atmosphere of fear and confusion so that employees could not choose a bargaining representative in a free and uncoerced manner.

Both parties were represented at the hearing and were given full opportunity to participate in the proceedings. Both submitted post-hearing briefs.

Upon the entire record, and after consideration of the arguments made by the parties, I make the following findings of fact, conclusions and recommendations.

I. BACKGROUND;

A. Employer's Operations and "No Union" Campaign

Select Nursery, Inc., is a nursery operation involved in the production of ornamental plants. The farm is located near

^{2/} ALRB Exhibit #8.

^{3/} ALRB Exhibit #9.

La Habra, California, which is at the border between Orange and Los Angeles Counties. The president of the company is Bill Tomlinson. The farm is divided into twenty-nine sections based on geographical and functional distinctions.

The employer waged a "no union" campaign which included the distribution of leaflets to all employees and a series of meetings held seven to ten days before the election.

B. UFW Organizing Campaign

The UFW began an organizing campaign at Select in May 1977. Two volunteer staff organizers participated in the campaign, Roberto de la Cruz and Tanis Ybarra. In addition, several full-time Select employees actively participated in the campaign. The campaign activities included collecting workers' signatures on UFW authorization cards, distributing leaflets and talking to employees about the election. The UFW campaign will be described in detail in the following discussion of the issues.

II. THE ISSUES

A. Whether a UFW organizer threatened employees by saying that they would be fired if they did not sign UFW authorization cards.

1. Findings of Fact

Maria Rodriguez, a Select employee working in Section 6, testified that she saw UFW organizer Tanis Ybarra almost daily during the two weeks before the election. Every morning Ybarra stood, with a notebook, near the company's time clock and talked to the workers as they punched in.

Rodriguez testified that she spoke with Ybarra only once, approximately one to two weeks before the election. She had arrived to punch in, and Ybarra addressed her, saying that he was collecting

signatures from all the employees so that the union could win the election. He asked her to sign an authorization card and told her that she should sign in order to have more benefits. Rodriguez testified that Ybarra then told her, "Perhaps those who don't sign would be fired from their jobs." She made no response; she just waited, she testified, "to see if the union would come in or not; one never knows if one would lose his job or not if the union comes in." She added, "One doesn't know about the union; one gets nervous." According to Rodriguez, the conversation ended without Ybarra saying anything else to her. She does not remember anyone else being present during the conversation.

Tanis Ybarra testified that he is a UFW staff organizer, and the parties stipulated that he has had vast experience participating in election campaigns under the ALRA. Ybarra stated that during campaigns he follows ALRB organizing procedures; he does not intimidate, coerce, harass or threaten employees. He was trained to follow ALRB election procedures in training sessions periodically conducted by the UFW since 1975. Ybarra commented that he does not treat employees "wrong" during a campaign, since to do so will ensure that employees will refuse to help the organizing effort.

According to his uncontroverted testimony, Ybarra was first sent to Select Nursery in May, 1977, by Gilbert Padilla, the UFW official in charge of organizing, to determine whether the employees wanted an election. Ybarra first held a meeting with forty to fifty Select employees in the La Habra Park. There the employees gave him authorization cards signed by 64 to 67 percent of the workers at the ranch. They had been given the cards earlier in May by UFW organizer Roberto de la Cruz, whose involvement in the campaign will be

discussed in more detail later.

At the first meeting Tanis Ybarra had with the Select workers he passed out more authorization cards, telling them he wanted at least eighty percent of the nursery's employees to sign. One week later, Ybarra was sent back to Select upon notice that more cards had been signed. He met with the employees, collected the cards and told them he would file a petition for certification. Several days later Ybarra filed the petition and met again with workers to ask for ideas for campaign leaflets. In the days between the filing of the election petition and the election, Ybarra made and distributed leaflets at Select and talked to the workers in the morning and at noon. He testified that he did not distribute authorization cards and did not know if employees continued to do so during this period.

Ybarra testified that his campaign duties included filing the election petition, communicating with the workers, keeping track of the potential vote and making sure that the election was conducted. Ybarra kept such close track of the vote that he was able to predict on the eve of the election that the UFW would win ninety votes; it in fact received eighty-nine votes.

In answer to questions asked by employees, Ybarra testified that he told them that they had the right to vote and that the Immigration and Naturalization Service would not be present during the election. He testified that no workers asked whether they were obligated to vote for the UFW if they signed union authorization cards or whether they risked discharge if they did not sign cards. Ybarra denied that, when talking to workers, he ever threatened them or told them that if the union won they would lose their jobs.

Ybarra testified that he understands a collective bargaining agreement "union security clause" to mean that after the contract is signed, the employees have five days to join the union, and they can be laid off until they join. Ybarra testified that he explained the provision to Select workers at meetings, but did not remember talking to individual workers about it on other occasions.

Ybarra testified that he spent the week before the election talking to workers at the time clock. He could not give the names of the employees he talked to and said he could not remember everyone he spoke to. He did remember that he spoke only to one woman about the election during the times he stood by the time clock, and it was not Maria Rodriguez. Ybarra denied ever seeing or speaking to Rodriguez prior to the hearing, much less asking her to sign a union authorization card.

On the whole, I find Tanis Ybarra's testimony to be credible. He conveyed no impression at the hearing that he was fabricating his responses. However, certain of his statements struck me as incompatible with the rest of his testimony.

The evidence indicates that Tanis Ybarra campaigned continuously among the Select workers and kept close track of the collection of authorization cards and the potential vote until the day of the election. I consider it likely that Ybarra was still encouraging workers to sign cards on the days he was present at the time clock, even if he did not have cards with him. I find it difficult to believe that on all the days Ybarra stood at the time clock and campaigned among the workers he spoke to only one woman about the election. Testimony by the witnesses at the hearing indicates that there were numerous women working at the nursery

in June, all of whom presumably had to punch in each morning. Maria Rodriguez punched in daily and usually saw Ybarra at the clock. There was nothing in Rodriguez's testimony to indicate that it was unreliable.

Furthermore, Ybarra did testify that he had discussed union security contract clauses on several occasions with workers at Select; he knew that the provision meant that those employees who do not join the union after a contract is signed can be refused employment. Although he did not remember doing so, he may have made reference to the clause in his conversations with employees at the time clock. I therefore conclude that Tanis Ybarra made the statement testified to by Maria Rodriguez.

2. Conclusions of Law

Alleged threats against employees require a three-step analysis:

- 1) Was the statement in fact made? 2) If so, does it constitute a threat?
- 3) If so, does the misconduct warrant setting the election aside?

I have found, above, that Tanis Ybarra made the alleged statement to Maria Rodriguez.

The ALRB has held that it might not consider a statement by a union organizer or union supporter to be a threat if it is subject to the interpretation that, if the union won, it would attempt to negotiate a union security clause in its contract with the employer.^{4/} Jack or Marion Radovich, 2 ALRB No. 12 (1976); Patterson Farms, Inc., 2 ALRB No. 59 (1976).

4/ The validity of such a clause is specifically recognized in Labor Code §1153 (c).

In Radovich, two employees were approached by four women wearing UFW buttons who asked them to sign UFW authorization cards. When the two workers failed to sign, they were told, "if [you] do not sign UFW cards and the UFW wins the election, [you] are going to be out of work." No other workers were present, and the two employees did not mention the discussion to the employer or to anyone else. The Board discussed the impact of the statement on the election, assuming it was a threat. But the Board also noted that the statement was subject to interpretation as a reference to the effect of a union security clause, and, as such, would not be a threat. Because the Radovich employees were then working under a contract containing a union security clause, the Board suggested that the employees might have understood the remarks in that light.

In Patterson Farms, a pro-UFW employee told fellow-workers, "if you do not work for Chavez, you are going to stay out of work..." and that if the union won the election and (the employees addressed) did not join the union, the employees would have no work. The Board stated that these statements were even more readily interpretable as references to a union security clause than were those in Radovich, and held that they were not threats.

The statement at issue in the present case is, "Perhaps those who don't sign would be fired from their jobs." The statement is nearer to that in Radovich since it refers to the consequences of failure to sign an authorization card rather than of failure to vote for the union or to join the union after it wins an election. Under Radovich, it is reasonable to interpret Ybarra's remarks as a lawful reference to the effect of a union security clause on workers who do not eventually join the union. Ybarra testified that he spoke

to workers at several meetings about the effect of such a clause, and other participants in the election spoke to workers about it also, as will be seen in the discussion of Issue #2, below. Workers might reasonably have understood the remark in this light.

Moreover, even if Ybarra's statement was not a reference to the clause, it is less coercive than either of the remarks in Radovich and Patterson Farms. Maria Rodriguez was not told that she was going to lose her job if she refused to sign a union card; the statement was indirect and conditional in tone. To further cast doubt on the threatening nature of Ybarra's conduct, he apparently said nothing more to Rodriguez after she failed to respond to his request to sign a card. In addition, there is no other evidence that Tanis Ybarra engaged in misconduct during the campaign.

I conclude that Tanis Ybarra's statement to Maria Rodriguez was not a threat. Because no misconduct was involved, the incident cannot constitute grounds for setting aside the election. Issue #1 should therefore be dismissed.

B. Whether employees who were members of the UFW's in-nursery organizing committee, on instructions from a UFW organizer, threatened employees by saying they would be fired or reported to the Immigration and Naturalization Service if they did not sign authorization cards.

1. Agency Relationship

a. Findings of Fact

The employer alleges that the UFW is responsible for the conduct of the Select employees who participated in the union's campaign. These employees are considered by the employer to be members of an "in-nursery organizing committee" who took their

campaign instructions from the UFW. The employer presented evidence at the hearing which it contends establishes an agency relationship between the union and the employee activists.

Eladio Campos, the employer's Field Personnel Director, testified that Select employees Santos Gonzales, Felipe Duran, Rosario Mesa, and Rodrigo Villa were the members of the nursery's UFW organizing committee. Campos's knowledge of this derived, he said, from his own observations and from information given to him by other Select employees.

During the campaign, Campos's position was Assistant to the Superintendent; he testified that he spends seven hours a day in the fields and knows every worker in the nursery by name.

Campos also stated that he observed "about seventy percent" of the UFW's Select campaign, and that Gonzales, Duran, Mesa and Villa were the most active employees in the UFW's organizing drive. He observed, but did not hear, all four employees talking with Tanis Ybarra; he saw Rosario Mesa asking employees to sign authorization cards; he observed Rodrigo Villa "making statements." Campos saw Ybarra leaving the house of Rosario Mesa, which is one block from Campos's house, and saw Felipe Duran passing out leaflets and taking Tanis Ybarra to the locations where the employees were working. Campos stated that employee Tomas Duran was not openly organizing as were the other four employees.

In addition to his own observations, Campos testified that he spoke with approximately fifteen Select workers about the union's campaign and that some of the employees told him that Gonzales, Mesa, Villa, and Duran were soliciting signatures on UFW authorization cards. Campos knew of no other workers who were

soliciting cards.

The employer alleges that the employee activists received instructions from the UFW. Evidence was presented that two full-time UFW staff organizers were involved in the Select campaign, Roberto de la Cruz and Tanis Ybarra.

Roberto de la Cruz testified without contradiction, and I find, that he is the director of the UFW's Oxnard field office and is a paid UFW election campaign organizer with experience in over fifty election campaigns under the ALRB. He was trained by the UFW on ALRB law, procedures and organizing techniques, and he is aware that the union cannot lawfully force people to sign authorization cards or intimidate people.

De la Cruz met only once with Select employees. He had been sent to Select from the Coachella area by a UFW official who had been informed by Select employee Tomas Duran that the nursery's workers were interested in the union. De la Cruz held a meeting in May at the La Habra Park where he talked to a group of thirty-five to forty Select employees about the union's benefits and contracts. He also discussed the fact that the UFW is a "closed shop" [sic] union, which he interpreted to mean that, once a contract is signed, all the employees must become union members within a certain period of time.

After the meeting, De la Cruz and his wife collected approximately thirty signed UFW authorization cards from the workers who were present. He then gave three to five people fifty more cards to circulate for signatures. He did not appoint specific individuals to be the union's in-nursery organizers; he gave the cards to whomever would take them and then gave instructions to the entire group of employees present on how to solicit signatures. He told

them how to talk about the union's benefits and how to fill in the cards; he did not instruct the employees to tell other workers that those who did not sign cards would be fired or would lose their jobs if the union won. He did not know, however, whether the workers who circulated cards did in fact make such statements to other employees. The organizer left the area after the meeting and had no further contact with the Select campaign.

UFW organizer Tanis Ybarra's participation in the Select campaign has been discussed to some extent in Issue #1, above. His testimony was uncontradicted, and I find, that his contact with the Select employees began when he was sent to meet with the workers after they had collected signatures on cards from approximately sixty-seven percent of the nursery's workers. Ybarra gave the workers at the meeting more cards, telling them to sign up at least eighty percent of the workforce.^{5/} He gave instructions to all the persons at the meeting as a group; he told them to talk to other workers about the union's benefits and to ask them to sign cards, but not to coerce or threaten. He also instructed them to tell employees to come to him if they had any questions about the campaign.

Santos Gonzales, Rodrigo Villa, Rosario Mesa, and Tomas Duran were at the meeting. These employees had already collected cards, and, in Ybarra's words, they were "particularly enthusiastic" about the union. He told them to get more signatures but cautioned them not to push workers to sign; he did not instruct them individually but as part of the larger group of employees at the meeting. Ybarra did not know what they actually said to other workers when soliciting cards.

^{5/} Ybarra testified that he attempts to obtain this high percentage of signatures in order to increase the safety of the vote margin at the ranches he organizes.

Ybarra met twice more with Select workers in the La Habra Park. He filed the election petition and made up campaign leaflets which he gave to Villa, Mesa, Gonzales and Tomas Duran, to distribute. He spent the last week before the election talking to workers at the time clock. During the week before the election Ybarra told Mesa, Villa and Gonzales to talk to the workers who had signed cards and who were either likely to vote for the UFW or who were still wavering. He did not tell them to "persuade" employees to vote for the union.

Following is a brief discussion of the general nature of the campaign participation by each of the employee organizers alleged to have engaged in misconduct.

It was uncontested that neither Santos Gonzales, Tomas Duran, Rosario Mesa nor Armando Palafox had any contact with the UFW other than soliciting authorization card signatures and distributing leaflets in the Select campaign. None was a member or employee of the union, and none received any payment for his organizing work. The Select employees, through Tomas Duran, initiated the UFW's involvement at Select. Duran asked the UFW to set up the first union meeting at the nursery, and he passed the signed authorization cards on to the union. These employees were neither drafted nor specifically selected by De la Cruz or Ybarra to be organizers. Their participation was self-motivated and without obligation. Gonzales, Mesa and Palafox volunteered to assist Duran and received from him the authorization cards they distributed. Gonzales solicited signatures from fifteen to twenty workers; Mesa collected approximately sixty cards, more than any other employee; and Palafox collected about ten cards.

The employee activists received their instructions on how to solicit signatures from Roberto de la Cruz and Tanis Ybarra during the meetings at the La Habra Park. Their testimony was uncontradicted, and I find, that De la Cruz told the workers to solicit voluntary signatures, without violence. Tanis Ybarra also told them to organize as peacefully as possible. Ybarra instructed the employees on how to tell their co-workers about the union's benefits and the effect of a bargaining agreement. He told them that if the union won the election, nothing would happen until a contract was signed. Then, the workers had five days to join.

Santos Gonzales testified that he understood Ybarra to mean that if workers refuse to join within the five days, the union could ask the company to lay them off. He testified that this is what he told employees who questioned him. Tomas Duran testified that, when asked by workers, he too told them that, if the union won, they had to join the union within five days after a contract is signed. When asked what would happen if they did not join within that time, he told them that they would be laid off. Rosario Mesa stated that he explained to employees that once an election is held and a contract is signed, if an employee does not sign a union card he or she cannot work with the union.

All four of the employee activists testified that if a worker refused to sign a card, they generally said nothing more and did not ask that employee again. They had already signed up at least eighty percent of the workforce by the time Ybarra had his second meeting with the Select workers.

b. Conclusions of Law

In several cases, the Agricultural Labor Relations Board

has ruled on the issue of the agency relationship between a union, and rank and file employees who support that union. The Board has declined to find an agency relationship where an employee acts as an observer for the UFW but is not a union organizer and has never been paid by the union or performed any volunteer work for the union. Patterson Farms, Inc., 2 ALRB No. 59 (1976). The Board has also found no agency relationship where an employee is not a UFW organizer but is a member of the union's in-plant organizing committee. Such membership alone does not convert union adherents into union agents. Takara International, Inc., dba Niedens Hillside Floral, 3 ALRB No. 24 (1977) and Kawano Farms, Inc., 3 ALRB No. 25 (1977), both citing Mike Yurosek and Sons, 225 NLRB No. 20; 92 LRRM 1535 (1976). The Board did not find an agency relationship in cases where an employee was merely an active union proponent, D'Arrigo Brothers of California, 3 ALRB No. 37 (1977); or where an employee was made the union's in-plant liaison with the other workers, had supported the union only at his ranch and only for the six weeks prior to the election, had appeared in the fields with a known union organizer, was made a union observer, and was elected to the union's ranch committee after the election. C. Mondavi and Sons, 3 ALRB No. 65 (1977).

The National Labor Relations Board (NLRB) has also considered the agency issue in a series of recent cases. The National Board has held that employees who assemble themselves into a self-appointed organizing committee and are prominent in the union's organizing campaign cannot, for those reasons alone, be deemed agents of the union, Tunica Manufacturing Co. Inc., 182 NLRB No. 111, 76 LRRM 1535 (1970). Nor does such involvement alone give those employees

the apparent authority of a union agent. Owens-Corning Fiberglas Corp., 179 NLRB No. 39 (1969), enforced 435 F.2d 960 (4th Cir.). The employee activists in the present case formed such a committee; it was open to any interested worker, and its members were not appointed by the UFW to be its official organizing representatives at the nursery.

The NLRB has also refused to find an agency relationship where an employee had no official status with the union, although she had contact with a union representative during the campaign. She also distributed union authorization cards at work, held union meetings in her home and was known by the other employees to be an active union supporter. Cross Baking Co., Inc., 186 NLRB No. 28 (1970). Where the employee is a self-appointed rank and file "contact person" who acts as a liaison between the union and the employees, but receives no union benefits and has no authority to speak on behalf of the union, the employee is not a union agent. Urban Telephone Corp., 196 NLRB No. 6 (1972), 499 F.2d 239, 86 LRRM 2704 (7th Cir. 1974). In this case, the employee activists were rank and file contacts for the union at the nursery, but they were not members of the UFW nor did they hold union positions or receive any tangible compensation or benefits from the union for their work.

In Tennessee Plastics, Inc., 215 NLRB No. 52 (1974), the Board held that, although in-plant organizing committee members supported the union's campaign, the committee members were not union agents because they were neither union members nor the union's principal contact with the eligible voters. The union was represented by union staff representatives at the plant. Soliciting union memberships or authorization card signatures and inviting other

employees to attend union meetings are not sufficient to establish agency if the union has not designated the employee as an organizer, J.C. Penney Co., Inc., 215 NLRB No. 19 (1974); Bronze Alloys Co., 120 NLRB No. 95 (1958).

The UFW was represented at Select Nursery by staff member Tanis Ybarra. He was the union's principal contact there, and he was responsible for conducting the campaign. He collected the signed cards, filed the petition, made up the leaflets and conducted the union meetings.

The NLRB has also refused to hold unions accountable for threatening statements by ardent employee advocates where its officers had cautioned the supporters against such statements and did not know of, authorize, condone or ratify the conduct in question. Owens-Corning, supra; Cross Baking, supra; Urban Telephone, supra; Tennessee Plastics, supra; Bronze Alloys, supra. It must be noted that the significance of this factor is limited by a provision which appears in both the NLRA (§2(13)) and in the ALRA (§1165.4):

In determining whether any person is acting as an agent of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

In the cases in which the NLRB did hold unions liable for the misconduct of individuals, the Board relied on special circumstances to impute responsibility to the unions. Bukfor-Pelzner Division Inc., 197 NLRB No. 140, 80 LRRM 1577 (1972), enforced ___F.2d___, 84 LRRM 2432 (9th Cir. 1972). Some of those special circumstances were pointed out by the Board in Bukfor-Pelzner;

...in International Woodworkers of America, AFL-CIO, Central Veneer, Incorporated, 131 NLRB 189, the individual found to be an agent of the union was not employed by the employer but was an outsider to the employees; in Hampton Merchants Association, et al.,

151 NLRB 1307, the union selected an individual as its agent to solicit membership and, aware of his activities, did not repudiate or disavow them, and in Local 340, International Brotherhood of Operative Potters, AFL-CIO (Macomb Pottery Company) 175 NLRB 756, the individual found to be an agent was the prime contact between union officials and employees in a town where the union had no base of operations and which its officials seldom visited...

In Georgetown Dress Corp., 214 NLRB No. 108 (1974), the Board referred to Bukfor-Pelzner and stated that it would not hold the union responsible because:

None of these special circumstances is present here. All the committee members were employees of the company and were soliciting other employees because of their own interest in obtaining union representation. They were more the principals seeking an agent, than agents of the Union. They were volunteers working without pay and in their own interest. Moreover, all the conduct complained of occurred in the plant in familiar employee surroundings, and there is no evidence that the Union was aware of the conduct for which General Counsel would not hold it liable. [Alleged threats by employees of loss of jobs and violence.]

The cases cited in Bukfor-Pelzner are distinguishable from the present case. The six employees in question here are not outsiders, but are Select workers. There is no evidence that Roberto de la Cruz or Tanis Ybarra were aware of any statements made by the employee activists which could have been interpreted as threats and which therefore should have been repudiated by the union. Tanis Ybarra, and not the six employees in question, was the prime contact between UFW officials and the nursery. Ybarra was present at the nursery at intervals during the first part of the campaign, and he was based at Select during the last two weeks of the campaign.

One case is cited by the employer in support of its contention that the employee activists at the nursery were union agents. NLRB v. Georgetown Dress Corp., 92 LRRM 3283, 537 F.2d 1239

(4th Cir. 1976). In that case, the court reversed the NLRB and held that union supporters were union agents. The in-plant committee had its inception through one of the union's professional organizers making contact with employees and advising them to form a group of volunteer organizers. The duties of the committee members included soliciting cards, talking to workers and distributing leaflets. The court also noted:

From an examination of the record as a whole, it appears that the committee was the union's only in-plant contact with the workers. There is no evidence that professional organizers were in the plant. As noted above, a committee member testified that she was told by the organizer in charge that the members of the committee would be obliged to carry on the activity in the plant since he was not able to go there with us. Even in the absence of such evidence, it is unlikely that the professional organizers had access to the plant.

and:

The record further shows that the professional organizers instructed members of the committee not to threaten anybody and in general not to commit acts of intimidation. On the other hand, the record does not contain any evidence that the union disavowed misdeeds by committee members.

The court then held that under the common law of agency and under NLRA §2(13),^{6/} the test of agency is not whether the conduct was expressly authorized or subsequently ratified or whether the agent received monetary consideration, but whether the acts are "clearly inappropriate to or unforeseeable in the accomplishment of the authorized result." The court held the employees in question had apparent authority from the union to act, stating:

The committee members in the eyes of other employees were the representatives of the union on the scene and the union authorized them to occupy that position. While they

6/ ALRA §1165.4 is the equivalent. See above for the text of these provisions.

may have exceeded their authority and, indeed, acted contrary to their express instructions, their acts were apparently within the scope of their authority, neither their misdeeds nor their authority were repudiated by the union, and their acts did not so far exceed their authority as to make obvious to the persons who were coerced and intimidated that the union would not ratify what was done.

Georgetown is distinguishable from the present case. There the organizing committee was created due to the initiative and the impetus of a professional union organizer who solicited volunteers. Also, the committee was the union's only in-plant contact with the workers; no professional organizer was ever at the plant. In comparison, the organizing at Select was initiated by workers who then assisted a union staff organizer. In Georgetown the employees were authorized to be union's representatives at the plant, and the court found their acts to be within the scope of their apparent authority. At Select, no such authorization was made.

I conclude, from my examination of the record and the relevant case law, that Roberto de la Cruz and Tanis Ybarra are agents of the UFW and that Santos Gonzales, Rodrigo Villa, Rosario Mesa, Tomas Duran, Felipe Duran, and Armando Palafox are not. Their involvement in the UFW's campaign began when Tomas Duran contacted the union on his own initiative. The others came to Duran or to De la Cruz and Ybarra voluntarily and out of their own interest, without being asked to participate. They were more the principals seeking an agent than agents of the union. Georgetown Dress Corp., 214 NLRB No. 108 (1974).

2. The Incidents

a. Findings of Fact and Conclusions of Law

The three-step analysis of alleged threats which was discussed in Issue #1, above, applies to this issue as well. However,

because the alleged misconduct in this issue was not committed by UFW agents, it is analyzed as non-party conduct.

1) Statements by Tomas Duran to Aurelio Espinosa

Aurelio Espinosa testified that he worked in Section 3 at Select Nursery in May and June 1977. Espinosa knew Tomas Duran and had spoken to him previously, although he did not consider him to be a friend. Espinosa testified that on May 20, 1977, Duran approached him at work and told him that he should sign a union card; Espinosa said he would not. On direct examination Espinosa stated that Duran then told him that "possibly the union would take [Espinosa's and others'] work from [us] if [we] did not sign." On cross examination Espinosa interpreted Duran's statement as "if the union entered, there was a chance [Espinosa] would have no more work." Espinosa stated that Duran never spoke to him about a union contract, nor did he explain how the union would take away jobs. Espinosa testified that he did not believe what Duran had said. Another conversation between the two men occurred on May 30, according to Espinosa. Duran asked him again to sign a card, and Espinosa refused. The content of the second conversation was substantially the same as the first. Duran did not approach Espinosa with cards again.

Tomas Duran testified that he asked Aurelio Espinosa to sign an authorization card only one time. Duran offered him a card and asked if he wanted to sign for the union. Espinosa told Duran that he did not, but perhaps his son, who was then in Mexico, might like to sign. Duran testified that he said nothing else to Espinosa at that time. He spoke to Espinosa once more before the election, but only to ask him to read a leaflet that Duran was distributing.

On cross examination by the employer Duran stated that

he might have told Espinosa that if employees do not join the union within five days after a contract is signed they would be laid off.

I credit Aurelio Espinosa's testimony that he conversed with Tomas Duran at least once about authorization cards and that, after Espinosa refused to sign a card, Duran made the statement concerning loss of jobs. I reach this conclusion because Duran admitted on cross examination that he may have responded to Espinosa's refusal to sign with a statement about employees being laid off if they did not join the UFW.

Duran's statement to Espinosa may reasonably be interpreted as a lawful reference to the effect of a union security clause for the same reasons as those discussed in Issue #1 concerning Tanis Ybarra's statements to Maria Rodriguez. Duran testified that he spoke to workers about such a clause.^{7/}

Even if workers at Select would not have understood Duran's statement as a reference to a union security clause, his statement is too conditional to be understood as a declaration that one would lose

7/ Throughout this hearing, the phrases, "sign a union card," "sign with the union" and "join the union" were used during discussions concerning signing UFW authorization cards and concerning the effect of union security clauses. No employee witness made clear that he or she understood the distinction between signing an authorization card and joining the union. For this reason, I think it likely that workers thought they were being asked to join the union when they were asked to sign authorization cards. I think it equally likely that they understood statements such as, "If the union wins you will have to sign or you will lose your job" to mean that they would have to join the union after it won. If the employee activists in question made their statements with that meaning in mind, although neglecting to distinguish between "signing cards" and "joining the union," I believe that their statement can reasonably be interpreted as lawful references to the effect of a union security clause. In some of the incidents discussed here, however, I analyze the statements as threats in order to subject them to the strictest legal test.

his or her job as a direct consequence of failing to sign a union authorization card. I find that Tomas Duran's statement to Aurelio Espinosa does not constitute a threat.

2) Statements by Santos Gonzales and Jesus Nungaray to Roberto Garcia and Vicente Silva

Both Roberto Garcia and Vicente Silva, workers in Section 7, testified that Santos Gonzales asked them to sign UFW authorization cards on two occasions prior to the election. The first conversation occurred near the time clock about a week before the election. According to Garcia, Santos Gonzales, Jesus Nungaray, Armando Palafox and Vicente Silva were present; Silva only remembered Garcia being present. Garcia and Silva testified that Gonzales told them they should sign UFW cards, and when they refused, he stated that if they did not sign, "if the union came in they were going to fire [us]," or "afterwards, [we] would see how it would go for [us]." Garcia also testified that Jesus Nungaray then told them that when the union entered "they would probably fire [us]," but Garcia later stated that Nungaray said that this would happen after the union won a collective bargaining agreement requiring all employees to become union members.

Jesus Nungaray did not testify at the hearing, but Santos Gonzales testified that when Garcia and Silva refused to sign cards he said nothing more to them and did not ask them again.

Because of the corroborating testimony by Garcia and Silva, I find that Santos Gonzales told them, in response to their refusal to sign UFW authorization cards, something to the effect that they would, or could, be fired. Because Jesus Nungaray did not testify, I credit Roberto Garcia's testimony as to Nungaray's statements. However, because Garcia ultimately acknowledged that

Nungaray actually said that employees would lose their jobs only after the UFW won a contract containing a union security clause, I find that Nungaray's statement was lawful.

Santos Gonzales's statement, unlike that made by Tomas Duran in Incident #1, above, is not a conditional statement. It could reasonably be interpreted by workers as coercive.

Roberto Garcia also testified that Gonzales later asked him to help solicit signatures on cards. According to Garcia, when he refused, Gonzales repeated the statements he had made earlier about loss of jobs. But, later in his testimony, Garcia stated that Gonzales said nothing to him after his refusal to sign. Vicente Silva testified that Gonzales asked him to sign a card a second time about three days before the election. When Silva refused, Garcia replied only "ni modo."^{8/} Santos Gonzales entirely denied second conversations with the two men about authorization cards.

I discredit Roberto Garcia's testimony concerning the second conversation because of its internal contradictions, and I find that Gonzales responded to Silva's second refusal to sign a card by saying, "ni modo." This statement cannot, by any interpretation, be considered coercive.

Garcia also testified that at first he believed that he would be fired if he did not sign a UFW card. However, he later asked Select Nursery foreman Jimmy Gorey, in whose house Garcia was living, whether it was true that, after the union came in, "they could fire someone." Gorey answered that he did not think that could happen, and Garcia stated that after this conversation he did not

8/ The parties agreed at the hearing that this term means "whatever Happens will happen."

believe that the union could have him fired. Silva's testimony indicated that he was not sure whether the union could fire him.

3) Statements by Rosario Mesa to Trinidad Negrete

Trinidad Negrete, a worker in Section 4, testified that he had two conversations with Rosario Mesa prior to the election. The first conversation took place at the time clock four or five days before the election. Mesa first told Negrete he was collecting signatures for the UFW and that Negrete should sign a card for an election. Negrete testified that Mesa then stated that, if the union won and if "they" did not sign cards, "the police could throw [them] out." Negrete stated that he was not testifying that Mesa said that the UFW could cause this. Negrete told Mesa he could not sign a card, and Mesa said nothing more.

The second conversation took place two days later at the same place. Mesa again told Negrete he was collecting signatures and said that Negrete should sign. When Negrete again said he would not, Mesa told him that, in any case, if the union won, "the police could throw [us] out." Negrete testified that he did not believe Mesa's statements about the police, nor did Negrete ever sign a UFW card.

Rosario Mesa testified that, in the first conversation with Trinidad Negrete, he did not say anything more after he asked Negrete to sign a card and Negrete refused. In the second conversation, Mesa testified, he only asked Negrete if he had changed his mind. When Negrete said, "no", Mesa said nothing more. Mesa denied trying to persuade Negrete to change his mind; he stated that he did not even speak to Negrete again before the election. Mesa also denied speaking to Negrete about the police, much less telling him he would be picked up by the police if the UFW won and he did not sign a card.

I credit Trinidad Negrete because the nature of his overall demeanor and testimony at the hearing appeared reliable. However, although I find that Mesa did respond to Negrete's refusal to sign, he at most said that "the police could throw out [employees]" if they did not sign. In Negrete's own words, Mesa did not say that the union would cause the police to do so, nor can the statement be construed to mean that Mesa would cause the police to do so. The statement therefore implies no misconduct by the UFW. Regardless whether employees sign UFW cards or whether the union wins an election, undocumented workers can be lawfully deported by INS-initiated action. This statement does not constitute misconduct and therefore cannot be grounds for overturning this election.

4) Statements by Armando Palafox to Roberto Garcia

Roberto Garcia testified that Armando Palafox was present during his first conversation with Santos Gonzales, as described in Incident #2, above. According to Garcia, when he refused to sign a UFW card, Palafox told him that if he did not sign, "quando entra la union, te va poder."^{9/} Armando Palafox testified that he asked Garcia twice to sign a UFW authorization card. The first time Garcia refused, and Palafox testified that his response was that it was voluntary and if Garcia did not want to sign, that was "okay."

In the second conversation, according to Palafox, he talked to Garcia about the benefits under a UFW contract, but, when Garcia

9/ This phrase was interpreted at the hearing to mean, "when the union comes in, it will make you sign by force." The UFW interpreted the last portion to mean, "...they are going to make you." The employer translated it as "...you'll be sorry."

still refused to sign a card, Palafox said nothing more.

Palafox stated that, to his knowledge, there were no other persons present during either conversation with Garcia. He denied ever telling Garcia that if he did not sign a card he "would be sorry,"^{10/} nor did he ever try to persuade Select employees to sign cards; if they refused he just walked away.

The testimony on this issue is in direct conflict. Garcia's accuracy in testifying has already been placed in doubt in Incident #2, above. Additionally, his testimony conflicted with Silva's as to the context of the incident. Palafox's demeanor at the hearing indicated that he was not attempting to hide anything, as evidenced by his gratuitous statement about a second conversation with Garcia. I credit Palafox and find that he did not make the statement testified to by Roberto Garcia.

5) Statements by Pedro Salazar to Trinidad Negrete

Trinidad Negrete testified without contradiction that Pedro Salazar was a worker in Section 4, Negrete's section. Five or six days before the election, while they were working in the fields, Negrete heard Salazar state that if the union won, "they were going to check for those of [us] who had not signed cards," and those who did not sign "would be dismissed from work." Negrete testified that Salazar did not make the statement directly to Negrete, nor to anyone in particular, but that he said it loudly enough for Negrete to hear. No one else was around at the time. Negrete testified that he did not ask Salazar what he meant, but that, in any event, Negrete did not believe him.

No evidence was presented at the hearing concerning Pedro

^{10/} This was Palafox's interpretation of the phrase, "te va poder.

Salazar's participation, if any, in the UFW's election campaign.

Salazar did not testify.

I credit Trinidad Negrete's testimony because no evidence was presented to counter it. However, I note that Salazar did not make the statement directly to Negrete or to anyone else. Since no evidence was introduced concerning Pedro Salazar's relationship to the UFW, I find that he is not a UFW agent and that the statement is not attributable to the union.

Workers at Select might reasonably have interpreted Salazar's statement to refer to the effect of a union security clause because, on a number of occasions, the clause had been discussed at the nursery. However, there is no evidence that Salazar had a history of discussing the clause with workers, and the statement is closer in nature to the threat by Santos Gonzales in Incident #2 than to Tomas Duran's conditional statement in Incident #1. I conclude that this was a coercive statement.

6) Statements by Santos Gonzales to Estela Antuna

Estela Antuna, a worker in Section 13, testified that Santos Gonzales spoke to her at her apartment about one month before the election. He told her that "[we] had to sign UFW cards because if [we] did not sign, when the union came in, they would dismiss [us] from work." Antuna testified that she believed Gonzales, and that she had heard other Select employees say, prior to the election, that they were afraid they would lose their jobs if they did not sign cards. She could not remember the names of those employees.

After the conversation with Gonzales, and about one week before the election, Antuna asked Eladio Campos if it was true that if the union came in they would dismiss those who had not signed

cards. Campos replied that he did not know.

Santos Gonzales testified that he did speak with Estela Antuna at her apartment but denied that he ever asked her to sign an authorization card or told her that the union could have her dismissed if she failed to sign. He stated that he talked with Antuna about a Spanish language leaflet distributed by the employer.^{11/} Antuna asked Gonzales about it and said that the company was offering benefits better than the current ones. Gonzales talked to her about the benefits the UFW offered.

It was established by uncontroverted testimony that Estela Antuna was the wife of the Section 13 foreman. This fact was surely known to Gonzales and may have made solicitation of her signature on a UFW card seem futile to him. Yet, Gonzales testified that he did speak to Select employees about the effect of a union security clause on workers who did not eventually join the union. I find that this fact, and Estela Antuna's credible testimony, are sufficient to establish that Gonzales made the statement about loss of jobs.

I also find that Gonzales's statement to Antuna was coercive, for the reasons stated in Incident #2, which also concerned conduct by Gonzales.

7) Statements by Santos Gonzales to Melquiades Correa (a/k/a Elias Sandoval)

It was established by uncontradicted testimony that Melquiades Correa also used the name Elias Sandoval. Correa testified that he was an employee in Section 6 during the campaign and the election. He stated that he spoke with Santos Gonzales about authorization cards twice before the election. The testimony by this witness was somewhat confused, and no evidence was brought out concerning a second conversation.

^{11/} UFW Exhibit #2.

According to Correa, Santos Gonzales spoke to him the first time at the meeting of approximately fifty Select workers at the park in La Habra. On direct examination, Correa stated that Gonzales talked to him about the union, offered "improvements," and said that Correa should sign for the union. When asked on direct examination what Gonzales said would happen if Correa did not sign an authorization card, Correa testified variously, "If the union came in they could fire us;" "Santos urged^{12/} one to vote for the union;" and "Santos said he could take our work away from us." Correa testified that Gonzales was talking directly to him; he was not sure how many other workers were listening.

On cross examination, Correa acknowledged as correct a declaration signed by him on June 11, 1977^{13/} which stated in part:

"2. I attended a UFW meeting in La Habra Central Park on June 5, 1977 at 5:30 p.m. Approximately 40 people were at the meeting, most of them SELECT employees.

"3. At the meeting TANIS YBARRA, an organizer employed by the UNITED FARM WORKERS, told the crowd that if the UFW won the election, the minimum wage at SELECT NURSERY would be raised to \$3.50 an hour.

"4. At the same meeting JUAN S. DURAN and RODRIGO VILLA, two SELECT employees who are active on behalf of the UFW, told me that if the UFW won the election, the employees at SELECT could fire supervisors by collecting signatures. The union would then see that the supervisor was discharged. All the SELECT employees present were able to hear the statement."

12/ The term used by the witness was "exigir," which can be translated to mean "to require" or "to demand." The employer and the UFW, however, agreed that it should be interpreted as "to urge."

13/ UFW Exhibit #1.

Correa stated that the declaration referred to the meeting about which he was testifying, and he then repeated that Santos Gonzales had said "he could take our jobs away from us." On cross examination by the UFW, Correa stated that Gonzales might have said, "the union could take jobs away from supervisors." According to the witness, statement #4 in the declaration actually referred to comments by Duran and Villa on Gonzales's statement about supervisors; Rosario Mesa, Juan Duran, Rodriguez Villa and Tanis Ybarra all stated at the meeting that, if the UFW won the election, Select employees could fire supervisors by collecting cards. Later, on cross examination, Correa again backtracked to say that Santos Gonzales did not in fact state that he could have people fired for failing to sign cards.

I discredit Melquiades Correa because of the inconsistencies in his testimony and because he is also flatly contradicted by Santos Gonzales. I therefore find that Gonzales did not make a statement to Correa about loss of employee jobs for failure to sign UFW authorization cards.

8) Statements by Santos Gonzales to Salvador Camarillo

The only evidence presented by the employer on this issue was hearsay testimony by Melquiades Correa who stated that Gonzales spoke to Salvador Camarillo, one of the employees in Section 6, and "urged^{14/} him to vote for the black eagle...If Camarillo did not sign, Santos said he probably could lose his work."

Santos Gonzales testified that he asked Camarillo one time to sign a card but never threatened him or told him he would be fired

14/ "Exigir." See footnote #12, supra.

or would probably lose his job if he did not sign a card or did not vote for the "black eagle." Gonzales stated that he only asked Camarillo to sign and explained the union's benefits to him.

No testimony by Salvador Camarillo or by anyone else was presented to corroborate Melquiades Correa's testimony concerning this statement by Santos Gonzales. Gonzales flatly denies the statement. Uncorroborated hearsay cannot support a finding of fact.^{15/} I therefore discredit Correa's testimony and find that Gonzales did not make the alleged statement.

9) Statements by Santos Gonzales to Miwa Irving

A part-time worker in Section 5 named Miwa Irving testified that Santos Gonzales spoke to her on two occasions. Although Gonzales did not ask her to sign an authorization card, he told her in their first conversation that the UFW would provide good pay and benefits to its members but that she would not be able to work if she did not vote for the union. He also told her that the union did not want part-time workers. However, on cross examination, Irving testified that Gonzales told her that, as a union member, she would get UFW benefits such as vacation pay even though she was part-time worker. In the second conversation, three days before the election, Gonzales told Irving that, if she did not join the union, it would not give her a job.

Santos Gonzales testified that he never spoke to Miwa Irving about the UFW and its benefits or about signing an authorization card. He knew that she was a friend of forewoman Shinomiya and would not sign a card. He denied telling Irving that if the union won

^{15/} Patterson Farms, Inc., 2 ALRB No. 59 (1976).

she would not be able to keep her part-time job or that the union disfavored part-time work.

Miwa Irving's testimony contains internal contradictions; her statements about the UFW's attitude towards part-time workers are inconsistent. Her testimony is also inconsistent concerning the languages used in the conversations. The two rather sophisticated conversations that Irving said she had with Gonzales were presumably in English since she testified that she only understands "a little" Spanish. Yet, Gonzales testified that he speaks only Spanish and understands a little English. Gonzales used an interpreter at the hearing and did not give the impression that he could have understood the questions and responded in English. No other witness testified that Gonzales speaks English, and the other alleged incidents concerning him involved workers who speak Spanish as their primary language and who testified through an interpreter at the hearing (Roberto Garcia, Vicente Silva, Estela Antuna, Melquiades Correa). Moreover, Gonzales flatly denies he ever spoke to Irving about signing cards or loss of jobs. His explanation that he would not expect a friend of a company forewoman to want to sign a union card is reasonable and is reinforced by the fact that he did not try to solicit a signature from forewoman Shinomiya either.

From the above analysis, I discredit Miwa Irving's testimony concerning statements made by Gonzales to her because I find that the language barrier prevented Gonzales from speaking to her on the subject.

10) Statements by Raudel Rodriguez to Socorro Vasquez

Socorro Vasquez, an employee in Section 7, testified that Raudel Rodriguez, another Select employee, asked her twice before the election to sign a UFW authorization card. She said that in the

first conversation, about one week before the election, he told her that if she did not sign "[they] were going to fire [her]." Her response was "ni modo."^{16/} Vasquez states that she did not see Rodriguez carrying any cards. She also testified that she did not believe what he had told her. In the second conversation, the next day, Rodriguez again told Vasquez that she should sign a card. On redirect examination, Vasquez testified that when she refused, he told her she might be fired if she did not sign. Her interpretation on recross examination was that he said she would be fired if she did not sign a card. She did not sign an authorization card.

Vasquez stated that she did not know whether Raudel Rodriguez made such statements to other workers in her section. Rodriguez did not testify at the hearing.

Because Raudel Rodriguez did not testify at the hearing and no other witness countered his testimony, I credit Socorro Vasquez. However, no evidence was presented concerning the relationship between Raudel Rodriguez and the union. I therefore find that he is not an agent of the UFW and that the statement is not attributable to the union.

There is no evidence that Rodriguez talked to workers at Select about the effect of a union security clause. I therefore, find that Rodriguez's statements to Socorro Vasquez were coercive.

From the above analysis, I conclude that Santos Gonzales, Pedro Salazar and Raudel Rodriguez made threats to other Select workers in the course of the UFW's campaign. Even in cases where threats occur, however, the ALRB will not set aside an election unless the misconduct created a general atmosphere of fear of retaliation in which the

^{16/} See footnote #8.

employees were unable to freely choose a collective bargaining representative. Harden Farms, 2 ALRB No. 30 (1976); Jack or Marion Radovich, 2 ALRB No. 12 (1976); C. Mondavi & Sons, 3 ALRB No. 65 (1977). The third issue raised in this case squarely faces the question whether such an atmosphere was created at Select Nursery.

C. Whether the conduct alleged above created an atmosphere of fear and confusion so that employees could not choose a Bargaining representative in a free and uncoerced manner.

1. Findings of Fact

Field Personnel Director Eladio Campos testified that he observed "about seventy percent" of the UFW's campaign at the nursery and that he noticed a change in the employees' attitude as the campaign progressed. Although the workers were initially enthusiastic about the campaign, some became confused and fearful as the election approached.

When asked for the basis of his impressions of the workers' reactions to the campaign, Campos gave several sources. He testified that a worker named Reyes Luna called him on the eve of the election, told Campos that he was afraid, and asked for advice as to whether he should vote. Another worker named Carlos Juarez told Campos after the election that he signed a UFW authorization card "just to keep the union off his back." Several times during the lunch hour, said Campos, workers from Sections 3 and 15 would ask him questions about the promises made them by the union. Campos named three workers who asked such questions but could remember no other names.

Campos also testified to rumors circulating throughout the nursery prior to the election to the effect that, if employees did not sign UFW authorization cards and if the union won the election, those employees would be fired once the union was established at the

nursery. Campos stated that he heard this on five to ten occasions from workers, but the only name he could remember was Estela Antuna. She spoke to him about one week before the election; she was confused and asked him if it was true that the card obligated employees to vote for the union. He told her that he thought it was only to authorize an election. At one point, Campos also held a meeting with the employees from Section 3 in which they discussed the rumors; he did not have meetings with other sections. Campos referred in his testimony to the company meetings held during the last seven to ten days before the election with groups of employees and said that he was unsure whether he heard the rumors repeated after the meetings.

The statements to Campos by workers Luna and Juarez fall within the present state of mind exceptions to the hearsay rule ^{17/} and can support a finding of fact. However, Campos's testimony that he heard rumors about loss of jobs for failure to sign union authorization cards lacks sufficient foundation. The one named source of the rumor, Estela Antuna, made statements to Campos unrelated to loss of jobs. The other sources were referred to as "the employees from Section 3." The lack of specific sources for the statements detracts from the weight of Campos's testimony.

Felix Chavez Lomeli, a worker in Section 1, gave uncontroverted testimony for the UFW that during the last two weeks before the election he talked with most of the nine employees in his section and heard their conversations. He stated that the workers spoke of benefits and of better working conditions under the union. He heard

17/ California Evidence Code §1250.

no one speak of rumors about people being fired for failing to sign union cards, nor did he hear of threats by persons circulating the cards. He stated that the workers did express fear that if the union lost the election, there might be retaliation by the foremen, but no one expressed fear of union retaliation. Lomeli acknowledged on cross examination that he was known by the workers in his section as a UFW supporter. He did not, however, participate in the union's campaign.

In Section 4, where there were approximately twenty-five workers during the campaign, a threatening statement was made by Pedro Salazar and was heard by one worker, Trinidad Negrete. (See discussion above.)

The forewoman of the Section 5 employees, Kiyomi Shinomiya, testified that in June 1977 there were approximately seventeen employees working in the section. As forewoman, she had daily contact with all of the employees as she walked around the section, and she was able to observe the UFW campaign carried on there. Shinomiya testified that she saw Santos Gonzales and Jesus Nungaray, who were workers in her section, soliciting authorization card signatures from the other employees; however, they did not ask her to sign a card. This portion of her testimony attributes no misconduct to Gonzales and Nungaray.

Shinomiya stated that the workers were confused and upset by statements made by Gonzales and Nungaray. According to her, all the women employees in Section 5, and the women working in the cutting and potting rooms^{18/} came to Shinomiya with their problems. Those who spoke only Spanish would first talk to Section 5 employee Connie Melendrez who acted as Shinomiya's interpreter when the forewoman had "important" information to relate to the seven or eight Spanish-speaking

18/ There were approximately seventeen women employees in the three sections.

employees in her section.^{19/} Melendrez would then speak to the forewoman alone, or with the employee, about the employee's problem.

Shinomiya testified that it was Connie Melendrez who told her that the workers were confused and upset by the campaign. Melendrez told her that the women employees had heard that the union would take over the placement of supervisors in the sections and that if the employees did not sign union cards they would be fired. Shinomiya testified that Melendrez, sometimes accompanied by individual employees, frequently expressed to Shinomiya the workers' concern and fear that they would lose their jobs. Shinomiya stated that she told Melendrez and the workers who came to her that they could sign cards or join the UFW if they wished, but that the union could not fire them since, even if the union came in, it was company president Tomlinson who hired, fired and paid Select employees. According to Shinomiya, she "asked around" about the union's power to fire and was told it did not have that power. She also stated that the workers were still afraid after she talked to them.

Melendrez's statements to Shinomiya that the workers were confused and upset is hearsay evidence, but it is corroborated by the statements of the individual workers to Shinomiya. Their statements fall within the present state of mind exceptions to the hearsay rule, but the fact that these workers are unnamed lessens the value of this evidence.^{20/} The number of workers affected is unclear.

Melendrez's statement to Shinomiya that employees told her that they had heard they could be fired if they did not sign cards,

19/ Shinomiya stated that she understands little Spanish and speaks none at all.

20/ California Evidence Code §1250.

and Shinomiya's testimony that individual workers also came to her with such statements, constitute hearsay evidence not falling within any exception to the hearsay rule. Moreover, this evidence is not corroborated by Miwa Irving's testimony which I discredit, as discussed below.

Miwa Irving testified that on one occasion she had heard Santos Gonzales tell three or four workers in Section 5 that "if [the employees] did not sign cards, maybe the union would fire [them]." Although she testified that Gonzales said this on several occasions, Irving stated that she was only present once, and she did not name any of the employees involved except one woman named Flora, who did not testify.

On cross examination by the UFW, Irving first stated that Gonzales always spoke to the other Section 5 workers in English and never in Spanish, but later she stated that he spoke both English and Spanish to them. She also testified that half of the employees spoke Spanish but that almost all understood English. She said that she understood "a little" when Gonzales spoke Spanish.

Irving testified that workers in Section 5 were concerned about losing their jobs. Connie Melendrez, and women named Flora, Socorro, and Maria expressed their concern to Miwa and asked if it was true that the union would not give them jobs. They told Irving that Santos Gonzales had told them this. Connie Melendrez told Irving that other women employees were also afraid.

Gonzales testified that he spoke to approximately six workers in Section 5 about signing authorization cards; he stated that he always spoke to them in Spanish because he does not speak English, although he understands "a little" English. Gonzales testified that

he talked to the six employees only about what he thought working conditions would be like under a union contract. He denied ever telling workers in the section that the union would have them fired if they did not sign cards.

Irving's inconsistent statements about the languages used in the conversations and her inability to understand conversational Spanish cast doubt on the credibility of her testimony that she overheard and understood Gonzales's conversations with other Section 5 workers. I have already found that Irving's allegations about Gonzales's statements are not credible due to the language barrier.^{21/} I discredit Irving because I find that Gonzales's conversations with employees in Section 5 were in Spanish, a language Irving does not understand.

Another Section 5 employee, Juan Duran, testified for the UFW that he talked with workers in his section during the last two weeks of the campaign and that no one told him that they had heard that the union could have them fired if they did not sign a card. Nor did anyone tell him they feared being fired for that reason or that they feared the persons who were circulating UFW cards; no one he spoke to had been threatened by those persons. On cross examination, Duran testified that he did not participate in the union's campaign but that he had spoken out in favor of the UFW and that the workers in his section knew he supported the union. He stated that the employees were his old friends and co-workers and that there was no reason they would not confide in him their impressions of the union. Santos Gonzales testified that prior to the election he did not hear

^{21/} See Incident #9, in Issue #2, supra,

any employees in Section 5 say that they had heard that the union would have people fired if they did not sign authorization cards or if they vote "no" in the election.

Three workers from Section 6 testified about the atmosphere in their section during the campaign. Melquiades Correa stated that he knew all eight of the workers in the section and that his impression from conversations with them was that they were concerned about losing their jobs if they did not sign cards for the UFW. According to Correa, Santos Gonzales spoke to most of the workers in the section and, said Correa, he had urged^{22/} them to vote for the union. Maria Rodriguez testified that she had conversations with only a few of the employees in the section but that she had heard some of those workers say that they feared losing their jobs. She was unable to identify the speakers.

The statements by workers in Section 6 fall within the present state of mind exception to the hearsay rule,^{23/} but the sources are not named. The weight of this evidence is decreased accordingly.

Maria Inez Nungaray testified for the UFW that during the two weeks prior to the election she had conversations with two workers in Section 6 about the campaign. She said that those employees did not talk about persons being fired for not signing UFW cards, nor about threats by persons circulating the cards. Nungaray stated that neither she nor the employees she talked to were afraid of the UFW, but she gave no foundation for her conclusions about the employees' state of mind. The value of this evidence is accordingly decreased.

^{22/} "Exigir" See footnote #12, supra.

^{23/} California Evidence Code §1250.

Section 7 employees Roberto Garcia and Vicente Silva were both threatened with loss of jobs on one occasion by Santos Gonzales. Another employee from that section, Socorro Vasquez, was threatened once by Raudel Rodriguez. (See discussion above.) Vicente Silva also testified that he knew of several other workers in the section who had heard that they would be fired if they did not sign union cards, but he did not give any details. This testimony is uncorroborated hearsay evidence, insufficient to support a finding of fact. Roberto Garcia testified that he had not heard any other workers in the section express fear of being fired, nor had Vicente Silva told him that he felt such a fear.

Another Section 7 employee, Cruz Gomez, testified for the UFW that during the last two weeks before the election he spoke to three or four of the approximately twenty workers in his section about the election. He also talked to three or four workers from other sections. According to Gomez, all the workers he talked to expected that the UFW would win the election and would provide them with better benefits. He stated that they did not mention to him any rumors about workers being fired for not signing union cards nor any threats by the persons circulating the cards. Gomez also stated that the workers in his section were not afraid of the union, but he gave no details. On cross examination, Gomez testified that the six or eight workers he talked to were all pro-UFW workers. The fact that the statements by these workers are not based on named sources decreases their evidentiary weight.

I found earlier that Santos Gonzales made a threat of job loss on one occasion to Estela Antuna, a Section 13 employee. (See discussion above.) Another worker from that Section, Eugenio Limon,

testified for the UFW that during the two weeks prior to the election, he spoke with five of the approximately nine to twelve workers in the section about the election. He reported that none of the five talked about rumors that employees would be fired if they did not sign union cards or about threats by the persons circulating cards. Nor did they express fear of the union. On cross examination, Limon stated that he believed that all five favored the UFW. He stated that the other workers in Section 13 did not talk about the election because Estela Antuna, the wife of the section foreman was an employee in the section.

Estela Antuna testified that she heard other employees say prior to the election that they were afraid they would lose their jobs if they did not sign cards. She could not remember their names. This testimony has the same evidentiary weight as the testimony by Melquiades Correa and Maria Rodriguez about workers in Section 6. The number of workers Antuna was talking about is unclear.

Tomas Duran testified that employees in his section (#15) expressed support for the union prior to the election. He stated that he did not ever hear anyone in the section say they feared the union would have them fired if it won, nor did he ever hear anyone complain of threats by the persons collecting card signatures.

Finally, Felipe Duran Villegas, a worker from Section 26, testified for the UFW about the impact of the campaign there. He stated without contradiction that during the last two weeks before the election he talked with all twelve of the workers in the section about the election and also talked with eight or ten other employees at the nursery. In those conversations no one mentioned any rumors that workers would be fired if they did not sign UFW cards. Nor did

anyone mention threats by the persons circulating the cards. They talked about better benefits and working conditions under the UFW, but no one expressed fear of the union. On cross examination, Villegas stated that he thought that all twelve of the workers in Section 26 favored the UFW.

From the above analysis, I find that, at the most, five Select employees were directly threatened, on one occasion each, with loss of jobs for failure to sign UFW authorization cards. In addition, an undetermined number of Section 5 employees were confused and upset about the election. Rumors about loss of jobs circulated among an undetermined number of employees in Sections 3, 6 and 13, in which there were a total of about thirty employees. These rumors are not attributable to the UFW and therefore will not be analyzed as misconduct affecting the election. They will be considered only as continuing to the atmosphere surrounding the campaign and the election.

2. Conclusions of Law

In order for the Board to set aside the Select Nursery election, the employer must have presented evidence that the misconduct which was committed created such an atmosphere of confusion and fear of reprisal among the employees at the nursery that they were unable to freely choose a collective bargaining representative. Jack or Marion Radovich, 2 ALRB No. 12 (1976); Harden Farms, 2 ALRB No. 30 (1976); C. Mondavi & Sons, 3 ALRB No. 65 (1977). Even where misconduct is not attributable to one of the parties to an election, the election may be set aside under this standard. Patterson Farms, Inc., 2 ALRB No. 59 (1976); Owens-Corning Fiberglas Corp., 179 NLRB No. 39 (1969), enforced 435 F.2d 960 (4th Cir.). However, non-party misconduct will be accorded less weight than party conduct in determining whether

the atmosphere test has been met. Patterson Farms, Inc., supra; Takara International, dba Niedens Hillside Floral, 3 ALRB No. 24 (1977); Owens-Corning, supra; Urban Telephone, 196 NLRB No. 6 (1972), 499 F.2d 239, 86 LRRM 2704 (7th Cir. 1974). The impact of the misconduct on the election must be considered cumulatively as well as incident by incident. Superior Farming Co., 3 ALRB No. 35 (1977).

The misconduct found in the present case consists of threats by three rank and file employees, made to five other employees, that if the UFW won the election and if workers did not sign authorization cards for the union, they would lose their jobs.^{24/}

NLRB and ALRB cases have established a number of considerations which must be examined when determining whether threats have created such a coercive atmosphere that an election must be set aside.

At the outset, the employer must overcome the presumption established by NLRB precedent that threats of job loss to non-union employees by rank and file pro-union employees are not sufficient to overturn an election.^{25/} The threats made by Gonzales, Salazar and Rodriguez at Select are similar to those made in Bukfor-Pelzner.^{26/}

24/ The objection that Rosario Mesa threatened Trinidad Negrete by saying that Negrete would be deported if he did not sign a card has not been established by the evidence and is therefore dismissed.

25/ Bukfor-Pelzner Division, Inc., 197 NLRB No. 140, 80 LRRM 1577 (1972), enforced F.2d , 84 LRRM 2432 (9th Cir. 1972) , citing; Gruen Watch Co., 108 NLRB 610; Poinsett Lumber and Manufacturing Co., 107 NLRB 234; Owens-Corning Fiberglas Corp., supra; Tunica Manufacturing Inc., 182 NLRB No. 111; Bona Alien, Inc., 190 NLRB No. 37.

26/ In that case, a rank and file employee told two other employees that if they did not sign authorization cards or vote for the petitioning union, and the union won the election, the union would not allow them to work for the company.

As in that case, the persons who made the threats at Select were not agents of the union, and they were not authorized by the union to make such statements. Takara International, supra; Tennessee Plastics, supra; Urban Telephone, supra. Nor were the statements part of any union policy of threatening a large portion of the voters.

There was no evidence that the threats dissuaded Select employees from voting. Votes by 176 out of 196 eligible voters constituted a ninety percent turnout. Such a high voter turnout indicates that the threats did not have a substantial impact on the workers' selection. Patterson Farms, Inc., supra; Takara International, supra; C. Mondavi & Sons, supra.

Although evidence was presented that several employers, upon hearing the threats, expressed fear that they would lose their jobs, the fact that such evidence is subjective lessens its importance. Labor board and court decisions have held that particular employees' subjective reactions to remarks by a party are not competent evidence to prove a coercive or objectionable effect. The correct test is objective: whether the conduct is of a type which may reasonably tend to produce a coercive effect or otherwise interfere with the free exercise of employee rights under law.^{27/}

In applying this objective test, the Boards have considered the contents of the threats, the reasonable reaction of employees to such threats and any reassurances made to the employees which may have neutralized the impact of the threats. Bukfor-Pelzner, supra; Urban Telephone, supra. In Bukfor-Pelzner, the NLRB upheld the

27/ Dan Tudor & Sons, 3 ALRB No. 69 (1977); NLRB v. Link-Belt Co., 311 U.S. 584 (1941); Janler Plastic Mold Corp., 186 NLRB No. 80, 75 LRRM 1366 (1970); Tex-Cal Land Management, Inc. v. ALRB (5th Dist. Calif. 1978} 5 Civ. 3395, affirming 3 ALRB No. 14.

election because the threats neither involved physical violence nor related matters within the union's control.^{28/} The Board also noted that a threat of this nature might, if believed, persuade the workers to vote against the union to avoid such an eventuality. The same reasoning applies to the present case. The employer here is objecting that the vote was affected by a threat that, if the UFW won and the workers did not sign authorization cards, they would lose their jobs. The employer is apparently contending that the threats and rumors caused the workers to vote for the union, and that if the threats had not been made, more workers would have voted against the union. Yet, it would seem more likely that the reasonable Select worker would have reacted to the threat by voting against the UFW, not for it, in an attempt to prevent the union from winning and subsequently carrying out the threats.^{29/} In addition, there were no threats of physical

28/ The Board did not analyze the statements as possible references to negotiation of a union security clause.

29/ The employer presented evidence that eight of the nine employees who voted challenged ballots cast their ballots for "no union." The employer contends that this reduces the margin of UFW victory to three votes, thus making the election a very close one. It argues that because of the closeness of the election, the misconduct must be examined with greater scrutiny. The UFW points out, correctly, that there is no evidence that any of the challenges would have been overruled had they been outcome determinative. The employer's suggestion that the margin of victory was only three votes is therefore hypothetical and is conditioned on facts not in evidence.

Although this testimony as to how individual workers cast their ballots was of no evidentiary value in the present case, I recommend that such evidence not be admissible in future hearings. It is destructive of the Act's principle of secret ballot elections and opens the door to coercion of voters. The NLRB stated in *Semi-Steel Casting Co.*, 66 NLRB No. 94 (1946) that an employee's identification of his " ballot choice at a subsequent hearing would render the ballot void. The Board also stated that the respondent's argument that the secrecy of the ballot in a Board election is a privilege of the (cont. next page)

violence in this election, and no violence occurred. C. Mondavi & Sons, supra; Urban Telephone, supra.

On several occasions, Select management representatives conveyed assurances to employees that the threats and rumors were untrue and would not be carried out. Foreman Jimmy Gorey told Roberto Garcia that the union could not have people fired for failing to sign authorization cards. Forewoman Kiyomi Shinomiya reassured employees on several occasions that the union could not unilaterally cause them to lose their jobs. At the company meetings mentioned by Eladio Campos, President Bill Tomlinson told employees that they could not be fired if they did not vote for the UFW. The employees who heard such assurances by management personnel could have reasoned that the threats would not be carried out. Urban Telephone, supra.

I conclude that the employer's objections number two and three concerning threats by Select employees should be dismissed. The three individuals involved, Santos Gonzales, Pedro Salazar and

29/ (cont. from page 50) individual voter and may be waived by him or her was without merit. The Board's elections are designed not only to protect the anonymity of the voter but also to assure the entire electorate that the vote will be as free and uncoerced as possible.

The 8th Circuit, enforcing the Board's decision, stated:

To permit the employee to testify as to his intention in marking the ballot as he did would, as the Board asserts, effectively destroy the secrecy of the ballot which the Board's policy is designed to protect and which the Act commands. The reception of such evidence would also expose the employee to the hazard of union or employer coercion and thus imperil his freedom of . choice of a bargaining representative. Semi-Steel Casting Co. v. NLRB, 160 F.2d 388 (8th Cir. 1947).


Raudel Rodriguez were not agents of the UFW, and they did not engage in misconduct under instructions from UFW agents. The union cannot be held responsible for their conduct, and title employer has failed to show that this non-party misconduct created such an atmosphere of fear that employees at Select Nursery were unable to choose a collective bargaining representative freely and without coercion. The threats did not involve physical violence, and the voter turnout was extremely high. Management had the opportunity to neutralize the impact of the misconduct on the workers by responding to the threats and rumors, and it did so on several occasions.

RECOMMENDATION

Based on the findings of fact, analysis and conclusions herein, I recommend that the employer's objections be dismissed and that the United Farm Workers of America, AFL-CIO, be certified as the exclusive bargaining representative of all the agricultural employees of the employer in the State of California.

DATED: May 11, 1978

Respectfully submitted,



JUDY WEISSBERG
Investigative Hearing Examiner

State of California
AGRICULTURAL LABOR RELATIONS BOARD
Estado de California
CONSEJO DE RELACIONES DE TRABAJADORES AGRICOLAS

SELECT NURSERY,
Employer,
and
UNITED FARM WORKERS OF AMERICA, AFL-CIO,
Petitioner.

CERTIFIED COPY
STATE OF CALIFORNIA
County of ~~Sacramento~~ **SS**
No. **77-80-18** - April
I, RALPH FAUST, Executive Secretary of California, do hereby
certify that this document is a full and correct
copy of the original on file in the office, and that
I have carefully compared the same with the original.
Witness my hand and the seal of said Agricultural
Labor Relations Board this
15th day of **Sept.** 19 **78**
RALPH FAUST, Executive Secretary
R. Faust

CERTIFICATION OF REPRESENTATIVE
CERTIFICACION DEL REPRESENTANTE

An election having been conducted in the above matter under the supervision of the Agricultural Labor Relations Board in accordance with the Rules and Regulations of the Board; and it appearing from the Tally of Ballots that a collective bargaining representative has been selected; and no petition filed pursuant to Section 1156.3(c) within the time provided therefore;

Habiendose conducido una election en el asunto arriba citado bajo la supervision del Consejo de Relaciones de Trabajaders Agricolas de acuerdo con las Reglas y Regulaciones del Consejo; y apareciendo por la Cuenta de Votos que se ha seleccionado un representante de negociacion colectiva; y que no se ha registrado (archivado) una petision de acuerdo con la Section 1156.3(c) dentro del tiempo estipulado por consiguiente;

Pursuant to the authority vested in the undersigned by the Agricultural Labor Relations Board, IT IS HEREBY CERTIFIED that a majority of the valid ballots have been cast for

De acuerdo con la autoridad establecida en el suscribiente por el Consejo de Relaciones de Trabajadores Agricolas, por LA PRESENTE SE CERTIFICA que la mayoria de las balotas validas han sido depositadas en favor de

United Farm Workers of America, AFL-CIO

and that, pursuant to Section 1156 of the Agricultural Labor Relations Act, the said labor organization is the exclusive representative of all the employees in the unit set forth below, found to be appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

y que, de acuerdo con la Section 1156 del Acto de Relaciones de Trabajadores Agricolas, dicha organization de trabajadores es el representate exclusivo de todos los trabajadores en la unidad aqui implicada, y se ha determinado que es apropiada con el fin de llevar a cabo negociacion colectiva con respecto al salario, las horas de trabajo, y otras condiciones de empleo.

UNIT: All agricultural employees of Select Nursery employed at its
UNIDAD: Brea facility.

On behalf of
AGRICULTURAL LABOR RELATIONS BOARD

Signed Sacramento, CA _____
On the 15th day of September 1978

De parte del
CONSEJO DE RELACIONES DE TRABAJADORES