STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

M. B. ZANINOVICH, INC., Respondent, and UNITED FARM WORKERS OF AMERICA, AFL-CIO, Charging Party.	)	Case Nos. 81-CE-163-D 81-CE-188-D 9 ALRB No. 63

DECISION AND ORDER

On October 18, 1982, Administrative Law Judge (ALJ)[1/] Stuart A. Wein issued his attached Decision in this proceeding. Thereafter, Respondent and General Counsel each timely filed exceptions and a supporting brief, and Respondent timely filed a reply brief.

Pursuant to the provisions of Labor Code section 1146,[2/] the Agricultural Labor Relations Board (Board) has delegated its authority in this matter to a three-member panel.

The Board has considered the ALJ's Decision in light of the exceptions and briefs of the parties and has decided to affirm his rulings, findings, and conclusions, and to adopt his remedial Order, with modifications.

Our remedial Order herein is intended to redress

[1/] At the time of the issuance of the ALJ's Decision, all ALJ's were referred to as Administrative Law Officers. (See Cal. Admin. Code, tit. 8, § 20125, amended eff. Jan. 30, 1983.)

[2/] All section references herein are to the California Labor Code unless otherwise specified.

Respondent's unfair labor practices which clearly interfered with its employees' rights under the Agricultural Labor Relations Act to organize themselves. (Coachella Imperial Distributors (1979) 5 ALRB No. 73.)

ORDER

By authority of Labor Code section 1160.3, the Agricultural Labor Relations Board (Board) hereby orders that Respondent M. B. Zaninovich, Inc., its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Failing or refusing to provide the Board with an employee list as required by Title 8, California Administrative Code, sections 20910(c) and 20310(a)(2).

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

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

(a) Upon the next filing by the United Farm Workers of America, AFL-CIO (UFW or Union) of a Notice of Intent to Take Access as described in Title 8, California Administrative Code, section 20900(e)(1)(B), provide the Regional Director with an employee list as described in Title 8, California Administrative Code, section 20910(c) and 20310(a)(2). The list shall be provided within five days after service on Respondent of the Notice of Intent to Take Access.

(b) Allow UFW representatives, during the next period in which the UFW files a Notice of Intent to Take Access, to organize among Respondent's employees during the hours specified in Title 8, California Administrative Code, section 20900(e)(3), and permit the UFW, in addition to the number of organizers already permitted under section 20900(e)(4)(A), one organizer for each fifteen employees.

(c) Grant to the UFW, upon its filing of a Notice of Intent to Take Access, one access period during the calendar year in which the Notice of Intent to Take Access is filed, in addition to the four periods provided for in Title 8, California Administrative Code, section 20900(e)(1)(A).

(d) Sign the Notice to Agricultural Employees attached hereto and, after its translation by a Board agent into all appropriate languages, reproduce sufficient copies in each language for the purposes set forth hereinafter.

(e) Mail copies of the attached Notice, in all appropriate languages, within 30 days after the date of issuance of this Order, to all agricultural employees employed by Respondent at any time during the period from August 29, 1981 until August 29, 1982.

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

(g) Arrange for a representative of Respondent or

a Board agent to distribute and read the attached Notice, in all appropriate languages, to all of its employees on company time and property at time(s) and place(s) to be determined by the Regional Director. Following the reading, the Board agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions the employees may have concerning the Notice or their rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all nonhourly wage employees in order to compensate them for time lost at this reading and during the question-and-answer period.

(h) Notify the Regional Director in writing, within 30 days after the date of issuance of this Order, of the steps Respondent has taken to comply with its terms, and continue to report periodically thereafter, at the Regional Director's request, until full compliance is achieved.

Dated: November 2, 1983

ALFRED H. SONG, Chairman

JOHN P. McCARTHY, Member

JEROME R. WALDIE, Member

NOTICE TO AGRICULTURAL EMPLOYEES

After investigating charges that were filed in the Delano Regional Office, the General Counsel of the Agricultural Labor Relations Board (Board) issued a complaint which alleged that we, M. B. Zaninovich, Inc., had violated the law. After a hearing at which each side had an opportunity to present evidence, the Board found that we did violate the law by refusing to provide the Board with a complete list of names and addresses of our agricultural employees after the United Farm Workers of America, AFL-CIO (UFW) had filed a Notice of Intent to Organize the employees of this company. The Board has told us to post and publish this Notice. We will do what the Board has ordered us to do.

We also want to tell you that the Agricultural Labor Relations Act is a law that gives you and all other farm workers in California these rights:

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

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

WE WILL NOT hereafter refuse to provide the Agricultural Labor Relations Board with a current list of employees when the UFW or any other union has filed a Notice of Intent to Organize the employees at this company.

Dated: M. B. ZANINOVICH, INC.

By: _____
Representative Title

If you have a question about your rights as farm workers or about this Notice, you may contact any office of the Agricultural Labor Relations Board. One office is located at 627 Main Street, Delano, California, 93215. The telephone number is (805) 725-5770.

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

DO NOT REMOVE OR MUTILATE.

CASE SUMMARY

M. B. Zaninovich, Inc.
(UFW)

9 ALRB No. 63
Case Nos. 81-CE-163-D
81-CE-188-D

ALJ DECISION

The ALJ concluded that General Counsel failed to prove that Respondent discharged packer Domingo Ramos because of his concerted activities and support for the Union.

The ALJ concluded that Respondent unlawfully failed to provide the Board with an adequate prepetition employee list as required by Board regulations. The ALJ recommended that Respondent be ordered to allow the Union extra organizational access to Respondent's employees in addition to the amount of access permitted under Board regulations.

BOARD DECISION

The Board affirmed the ALJ's findings and conclusions, and adopted his proposed remedial order, with some modifications limiting the amount of extra access granted to the Union.

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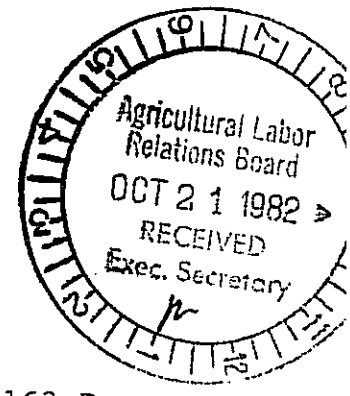
STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD



In the Matter of:	)	
	)	
M.B. ZANINOVICH, INC.,	)	Case Nos. 81-CE-163-D
	)	81-CE-188-D
Respondent,	)	
	)	
and	)	
	)	
UNITED FARM WORKERS OF AMERICA, AFL-CIO,	)	
	)	
Charging Party.	)	
	)	

Appearances:

Juan Arambula
of Delano, California,
for the General Counsel

Sidney P. Chapin, Esq.
Werdel, Chapin & Leverett
of Bakersfield, California,
for the Respondent

DECISION OF THE ADMINISTRATIVE LAW OFFICER

STATEMENT OF THE CASE

STUART A WEIN, Administrative Law Officer:

This case was heard by me on May 17, 18, 19, 20, and 21, 1982, in Delano, California.

The complaint, dated 22 February 1982, was based on two charges filed by the UNITED FARM WORKERS OF AMERICA, AFL-CIO (hereafter the "UFW" or "Union"), on or about 12 August 1981 (81-CE-163-D) and 1 September 1981 (81-CE-188-D).[1/] Charges were served on the Respondent, M.B. Zaninovich, Inc., on 12 August 1981 and 1 September 1981 respectively. By oral motion and stipulation of the parties, the complaint was amended at the first day of the hearing to properly include the Respondent in the prayer for relief.

The complaint alleges that Respondent committed various violations of the Agricultural Labor Relations Act (hereinafter referred to as the "Act") relating to the termination of employee Domingo Ramos, and to the provision of a pre-petition employee list subsequent to the Union's filing of a Notice of Intent to Organize.

The General Counsel and Respondent were represented at the hearing and were given a full opportunity to participate in the proceedings. Both filed briefs after the close of the hearing.

Based on the entire record, including my observation of the demeanor of the witnesses, and after consideration of the arguments and briefs submitted by the General Counsel and Respondent, I make the following:

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1. All dates refer to 1981 unless specified otherwise.

FINDINGS

I. JURISDICTION

Respondent M. B. Zaninovich, Inc., is an employer engaged in agricultural operations -- specifically the growing and harvesting of (Thompson seedless) grapes in Kern County, California, as was admitted by Respondent. Accordingly, I find that the Respondent is an agricultural employer within the meaning of Section 1140.4(c) of the Act.

As was also admitted by Respondent, I find that the United Farm Workers of America, AFL-CIO, is a labor organization within the meaning of Section 1140.4(f) of the Act, and that Domingo Ramos was at all relevant times an agricultural employee within the meaning of Section 1140.4(b) of the Act. Finally, Respondent admitted the supervisorial status of labor relations manager Philip Maxwell and supervisor Pedro de Jesus pursuant to Section 1140.4(j) of the Act.

II. THE UNFAIR LABOR PRACTICES:

The General Counsel's complaint charges that Respondent violated Sections 1153(a) and (c) of the Act by discharging packer Domingo Ramos on 24 July 1981 because of the latter's concerted activities and support for the United Farm Workers. It further charges Respondent with violation of Section 1153(a) of the Act by refusing (from 31 August and continuing to the present) to provide the UFW or the Board with a pre-petition list as required by Section 20310(a)(1) of the Board's regulations.

The Respondent denied that it violated the Act in any respect. Rather, it contends that Ramos was not engaged in protected concerted activity at the time of his discharge, and, in

any event, was fired for cause (gross insubordination -- challenging the supervisor to fight). The Respondent further alleges that it made a good faith effort to provide an adequate pre-petition employee address list.

III. BACKGROUND

Domingo Ramos commenced working for Respondent in 1976 as a general laborer. He worked steadily thereafter except for a five-month period (February-June 1981) during which Ramos was disabled due to a work-related injury. He was an experienced packer of the Thompson seedless table grapes which were being harvested on "T-30" ranch in the Arvin area in southern Kern County on the day of his discharge. Ramos had never been previously disciplined for poor work throughout his tenure with Respondent.

On 24 July, 1981, Mr. Ramos worked as the packer for a picking group which included his wife Juana, Sammy Morales and Rafael Stevenson Cruz. The crew supervisor was Pedro de Jesus; the crew foreman was Willian de Jesus; and the assistant foreman was Pedro Delgado. On 24 July, William de Jesus' crew was composed of approximately 82 individuals, broken down into picking/packing groups of 3-4 people each. The crew was starting a second picking of the grapes in Blocks 4 and 5 after having completed the first pick during the preceding two (2) days. The pickers were to pick the Thompson seedless grapes and place them in boxes which were then moved out of the rows to the nearby avenue and the packing table. Both on the 24th of July and on the previous day, William de Jesus' crew, including Mr. Ramos, had been instructed to pick all the grapes with color (the ripe grapes) by Pedro de Jesus. On the

morning of 24 July 1981, Mr. Ramos had discussions with both foreman William de Jesus and assistant foreman Pedro Delgado concerning "stripping the vines" -- picking too many grapes.

IV. FACTS

A. THE DISCHARGE OF DOMINGO RAMOS

1. July 24, 1981:

Domingo Ramos testifed that supervisor Pedro de Jesus ("Junior") approached his packing table at approximately 1:15 p.m. and stated in a loud voice: "Hey, devil, how many boxes do you have?" (R.T. Vol. 1, p. 23, ll. 4-5.) Junior, accompanied by Pedro Delgado, then entered the field to inspect the rows picked by Ramos' group. De Jesus returned and asked Ramos who had given the order to pick all the grapes. Ramos insisted that he was not stripping the rows, but was doing exactly what he had been ordered to do that morning. Ramos asked Delgado to confirm their earlier conversation, but the assistant foreman demurred. A verbal dispute between the two (Pedro de Jesus and Ramos) ensued resulting in William de Jesus calling the Ramos picking group out of the rows. Approximately 10-15 workers from adjacent groups congregated along the avenue to observe the confrontation. Ramos testified that at this juncture, Junior stated that he knew Ramos liked to fight, and that if Ramos had anything against him that it should be settled after work. Ramos urged them to go to a nearby field to settle the matter immediately. De Jesus allegedly told Ramos that the workers could not be told anything because they were always complaining to the labor commission, the state, the union, or the company office. Ramos threatened to turn in de Jesus for his actions, contending

that the supervisor could not get away with the treatment he gave others. In Ramos' perception, Junior was used to doing whatever he wanted with the illegals [but that] he wasn't going to do the same to Ramos because he was Puerto Rican. (R.T. Vol. I, p. 29, ll. 21-28.)

According to Ramos, the conversation ended with Ramos stating that he would go to the union to report the supervisor. De Jesus then fired the worker, and Ramos insisted on his check. The group of four left the premises in Ramos' pickup truck and went to file a claim with the labor commission in Bakersfield, as the union office in Lamont was closed.

That evening, William de Jesus met Ramos at Lamont Park in Delano at approximately 6:00 p.m., and gave Mr. Ramos his final check. When Ramos' asked about his wife's check, de Jesus stated that she had not been fired. Ramos insisted that there was no reason to fire him either as he was only speaking for his pickers. De Jesus then told Ramos that had he kept quiet, nothing would have happened. Ramos ended the conversation by telling de Jesus to have his brother come to the park to settle things.

General Counsel witness Ruben Bermudes -- a former employee of Respondent -- testified to having worked on the packing table next to Ramos' on 24 July 1981. Mr. Bermudes corroborated the Ramos version of the dispute, particularly Mr. de Jesus' threat to meet at 4:00 p.m. to settle the matter. (R.T., Vol. II, pp. 70-74.)

Juana Ramos recalled the following portion of the conversation:

"Domingo Ramos to Pedro Ramos: 'No one can ever tell you anything. You're used to doing whatever you want -- insulting, humiliating, and spitting on faces, especially of the illegals. You're not going to shout at my wife or my group. They take out their handkerchiefs, but you're not going to do that with me or my group. I'll bring in the state, the labor commission, and the union to take care of these abuses.'

Pedro de Jesus to Domingo Ramos: 'You think you're very smart. I'll wait for you after work.'

Domingo Ramos: 'Don't be an imbecile. We're not speaking about personal problems, but the work. If that is what you want, let's go to Nalbanian Vineyards. You can't be much more of a man than I am.'

Pedro de Jesus to William de Jesus: 'Get the time vouchers, especially for Domingo Ramos because he no longer has work here.'

Domingo Ramos to Pedro de Jesus: 'Okay, give me my check this afternoon in my hands, not the way you placed Jose Rivera's check in his fence. Just wait, I'll bring in the union.'" (R.T., Vol. II, pp. 92-95.)

For the Respondent, supervisor Pedro de Jesus testified that he was checking the work of the various crews in the early afternoon of 24 July. He found problems in the work of Manuel Natal's group in that they picked some green grapes and the grapes were not properly cleaned. He instructed foreman William de Jesus and assistant foreman Pedro Delgado that that group would have to be told to improve their work. He then proceeded to the rows adjacent

to Mr. Ramos' picking table and found that the grapes were being stripped. When the supervisor mentioned this to his brother, William de Jesus related that this matter had already been called to Ramos' attention earlier that morning. William de Jesus added that he had earlier told Ramos (at approximately 8:00 a.m.) that the latter was not classifying the grapes very well. The supervisor then told his brother that since the workers had been told twice and the fields were in such a condition, the best plan was to send them home for the rest of the day and for them to come back on Monday.2/ He instructed William to call Ramos' group so that they could see the condtion of the rows. William de Jesus approached Ramos and proceeded to tell Ramos that his group would be laid off. Ramos then approached the supervisor and said (in a fairly loud voice) that his group was not stripping the vines, that all the groups were picking green grapes, and that the supervisor should go check other rows. The supervisor replied that that was not Ramos' job, and that Ramos should take care of his own work; that that was what was wrong with Ramos -- that he could never admit that he had made a mistake, and always spoke in a loud voice as if he were very brave. Ramos responded that he was not afraid of anybody, and didn't give a "mother" (damn) about his job, that de Jesus had everybody in the crew afraid of him, but not Ramos. De Jesus then told Ramos that if he had a problem, he could speak about it after work, but that the supervisor did not want any fights during work hours. Ramos

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2. Apparently, picking was scheduled of Saturday. However, it was later decided that because of the condition of the fields, the next picking did not occur until the following Monday.

retorted in a very loud voice that they should take care of the matter right then. De Jesus stated that he was not going to fight anybody in the fields, but that if Ramos kept it up, he was going to be fired. Ramos persisted that he didn't give a damn about work and wasn't afraid of anybody. De Jesus finally said that if Ramos didn't give a damn about work, he was fired and would not work another minute. In the supervisor's perception, Ramos was fired because he kept shouting in a loud voice, and humiliating him -- by challenging him to fight in front of the other workers. (R.T. Vol. 3, p. 27, ll. 23-28; p. 28, ll. 1-8.)

Foreman William de Jesus and assistant foreman Pedro Delgado corroborated Pedro de Jesus' narration of the events of 24 July, including the two previous warnings given to Mr. Ramos on that day, and Ramos' angry retort that he didn't give a damn about his job.

Samuel Morales -- half-brother of foreman Hector Luis Morales, and former brother-in-law of Pedro de Jesus[3/] worked as a picker in Ramos' group on 24 July. He testified that Ramos told him that morning to strip the vines, even though William de Jesus had ordered them to pick only the ripened vines. Ramos allegedly told Morales that it was okay to strip the vines because the worst possible discipline would be suspension. Morales then stated that his group went out and picked everything. He singled out Ramos as the instigator of the challenge to fight during the de Jesus/Ramos confrontation. (R.T., Vol. IV, p. 99, ll. 20-28; p. 100, ll. 1-11.)

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3. Pedro de Jesus was formerly married to Morales' sister.

Workers Delfina Carrillo (swamper) and Martha Rendon (packer) both witnessed portions of the 24 July confrontation and confirmed Respondent's version that Ramos originally threatened the fight and goaded the supervisor to fire him. (R.T., Vol. IV, pp. 145-146; 163-165.)

2. July 25, 1981:

According to Domingo Ramos, at approximately 12:00 noon, supervisor Pedro de Jesus (accompanied by Hector Luis Morales) drove up to Mr. Ramos' house in Lamont, California. De Jesus asked Ramos why he had been looking for him. Ramos stated "He knew what had been planned." De Jesus then admitted that he did not leave his house because he was afraid. Ramos asked why he was fired. De Jesus answered because he had been humiliated in front of his workers, and because he had been threatened with the union. Had Mr. Ramos "kept his mouth shut" and done what he was told, he still would have his job like the other three people in his group. Ramos retorted that they did not need to be threatened and humiliated and that they had never been accused of bad work. De Jesus repeated that had Ramos not threatened the company with the union, he would have his job like the others. De Jesus then stated that the matter was no longer in his hands, and it was up to Chris and Mark Zaninovich. Ramos then read a statement from a notebook to the effect that he was fired because Pedro de Jesus challenged him to fight:

"I'm going to gather signatures in order to get the union in so that Mr. de Jesus' abuses will stop."

Hector Morales then interjected: "Brother-in-law, cut that

out. People are just going to talk. I bet he doesn't get 12 signatures." (R.T. Vol. I, pp. 49-52.)

Juana Ramos corroborated her husband's version of this discussion, adding that she explained to the supervisor that they had picked so many boxes the day before because they had worked eight rows, not just four. Pedro de Jesus allegedly responded that if this had been explained to him the day before, none of this would have happened. However, since Domingo Ramos had threatened and humiliated him in front of the crew, and threatened him with the union, he could not have his job back. (R.T., Vol. II, pp. 95-99.)

Ramos' friend Benigno Quesada arrived (with passenger Jose Antonio Rivera) toward the end of this conversation, and recalled Ramos stating that he was going to report de Jesus to the union. Mr. Rivera, a former employee of Respondent, recalled de Jesus stating that Ramos had been fired because he threatened the company with the union.

Pedro de Jesus testified that he told Ramos that he wanted to settle any personal problems that he had and that several people had told him that Ramos was looking for him with a gun. De Jesus said that he had three children and they were very afraid. Ramos denied that he was looking for de Jesus and both parties assured each other that they would speak to each other before letting rumors spread. De Jesus denied that any discussion of Ramos' job status took place or that Ramos threatened to bring in the union. (R.T., Vol. III, pp. 30-32.)

Hector Luis Morales corroborated this version -- adding that he did recall Ramos having a booklet with him that had names on

it. He denied that any discussion took place regarding the union or Mr. Ramos' work. The conversation allegedly ended with Ramos and de Jesus shaking hands. (R.T., Vol. V, pp. 11-14.)

3. Ramos/Maxwell Meeting

Later in the afternoon of 24 July, Ramos spoke with Respondent's Earlimart office to set up an appointment to meet with labor relations manager Philip Maxwell. The meeting was arranged for 2:00 p.m. the following Thursday. Unlike the confrontation of 24 July and the discussion of 25 July, there is general agreement with respect to the substance of this "post-discharge" session.

Ramos went to the Respondent's office accompanied by his wife and UFW representative Juan Cervantes. Maxwell refused to meet with the Union representative as the "matter did not involve union business", and Cervantes was escorted to an anteroom. A meeting between Maxwell, Mrs. Ramos and Juan Trevino (an office worker who translated for the parties) ensued. Mr. Ramos spoke approximately 80-90% of the time and explained his version of the events of 24 and 25 July. Ramos referred to de Jesus' suggestion that the matter be "settled in the afternoon" and his (Ramos') reply that it should be settled right then. Ramos mentioned that he had gone to the labor commissioner's office as well as to the park to wait for Pedro de Jesus. He described the discussion in front of his house on 25 July, and explained his views of the supervisorial capabilities of Pedro Delgado, Pedro de Jesus, and William de Jesus. He also provided Maxwell with a list of witnesses. A few days later, Trevino communicated to the Ramoses the Company decision to uphold the discharge.

B. THE PRE-PETITION LIST

As was admitted by Respondent, the UFW filed a Notice of Intent to Organize (81-NO-5-D) on 24 August 1981. ALRB Field Examiner Beatrice Espinoza called Respondent's office on that date informing them that the pre-petition list was due on 29 August. She requested current addresses rather than post office box addresses, but Mr. Maxwell stated that people refused to give them home addresses. The Board "packet" (proof of service, applicable regulations, Notice of Intent to Organize) was delivered thereafter. On 26 August, attorney Jay Jory telephoned Ms. Espinoza on Respondent's behalf stating that the list would be submitted by 29 August. Ms. Expinoza called Mr. Maxwell on 28 August to remind him to submit the list. Maxwell stated then that he was making his best efforts to obtain current addresses. On 29 August, Mr. Trevino brought in a list at approximately 3:15 p.m. The list was refused because Ms. Espinoza found too many "deficiencies" -- approximately 25% post office boxes and other insufficient information. She telephoned Respondent's attorney Chapin to explain that the list was inadequate and that the Respondent would be given until the following Monday (31 August) to submit a better list.

On 31 August, Mr. Trevino brought in a revised list just before 5:00 p.m. Over 23% "deficiencies" were found by Ms. Espinoza -- post office boxes/out of area addresses. (See GCX 3.) The list was accepted with the "deficiencies" noted.

On 1 September , Ms. Espinoza told Respondent attorney Sagaser that the second list was inadequate. The latter indicated that he would inform his client of this fact and would keep

"chipping away." The relevant charge was filed thereafter. Attorney Jory spoke again to Ms. Espinoza stating that the Respondent had made every effort to get current addresses, that the workers had a right to privacy, and that two attempts had already been made to get the addresses out in the fields. When Ms. Espinoza queried about the out-of-town addresses, Jory replied that farm workers were transient and that he would submit new addresses as they become available. None had been submitted as of the date of the hearing.

UFW organizer Juan Cervantes testified that the inadequate pre-petition list hampered the Union organization drive because it included a lot of post office boxes, and indefinite references to "labor camp #2". He stated that it was important for the union to be able to contact employees at their home so that they could have a chance to speak in confidence away from supervisorial observation. The Union organizational effort terminated at the end of September.

Employee Miguel Mojarro stated that he and his crew were asked on two occasions for their street addresses. When queried as to why this information was needed, the foreman (Zaid Mohamed) responded that it was because "the Union had asked for the information so that they could visit the employees' houses late in the afternoon." Mojarro testified that he had informed the foreman that his current residence address was not as indicated on the list (GXC 5), but that the foreman told him that the new information was not needed.

For the Respondent, foreman William de Jesus testified that he was given instructions on two occasions to obtain exact street

addresses of the employees (in case something happened to them on the job). He indicated that he was presented with lists (RX 2, RX 3) which contained certain addresses that had been crossed out. Only those "crossed-out" addresses had to be vertified. Juan Trevino confirmed that he distributed the crew lists to the supervisors in order for them to get direct physical addresses from the crew foremen. When the list was first rejected and returned from the ALRB, he reiterated his instructions to the supervisors. He stated that actual addresses should be noted if only post office box numbers were contained on the list. No other efforts were made after the second list had been accepted (with reservations) by the Board agent.

VI. ANALYSIS AND CONCLUSIONS

A. The Discharge of Domingo Ramos

Labor Code Section 1152 provides, inter alia, that agricultural employees have the right to engage in "concerted activities for the purpose of collective bargaining or other mutual aid or protection." Labor Code Section 1153(c) makes it an unfair labor practice for an employer "by discrimination in regard to the hiring or tenure of employment, or any term or condition of employment, to encourage or discourage membership in a labor organization." Labor Code Section 1153(a) makes it an unfair labor practice for an agricultural employer to interfere with, restrain, or coerce agricultural employees in the exercise of their rights guaranteed in Section 1152. A section 1153(a) discharge for engaging in concerted activity must be proved by establishing the same elements as in proving a Section 1153(c) discharge for engaging

in Union activity because they are essentially identical violations tried under separate sections of the Act. "Both involve employer discrimination against one or more employees' involvement in an activity protected by Section 1152 of the Act including union activity, which is, of course, one form of protected concerted activity (the second one described in Section 1152)." Lawrence Scarrone (June 17, 1981) 7 ALRB No. 13. In order to establish that an employer violated Section 1153(a) (or 1153(c)) of the Act by discharging an employee, the General Counsel must prove by a preponderance of the evidence that the employer knew, or at least believed, that the employee had engaged in protected concerted (or union) activity and discharged the employee for that reason. Lawrence Scarrone, supra, citing United Credit Bureau of America, 242 NLRB No. 138, enf'd March 10, 1981, 4th Cir. [106 LRRM 2751, 2753, 2754]; Mid-American Machinery Company (1979) 238 NLRB 537, 543; Super Value Stores, Inc. (1978) 236 NLRB 1581, 1590.

In "dual motive" situations -- where evidence suggests the existence of both a lawful and an unlawful basis of an employee's discharge -- the Board has adopted the Wright Line approach.4/ (See Nishi Greenhouse (Aug. 5, 1981) 7 ALRB No. 18; Martori Brothers Distributors v. Agricultural Labor Relations Board (1981) 29 Cal.3d 721). Where the General Counsel establishes that protected (or union) activity was a motivating factor in the employer's decision, the burden (of production) then shifts to the employer to show that it would have reached the same decision absent the protected

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4. Wright Line, a division of Wright Line, Inc. (Aug. 27, 1980) 251 NLRB 1083 [105 LRRM 1169].

activity. The ultimate burden of proof remains with the General Counsel. Martori Brothers Distributors (March 1, 1982) 8 ALRB No. 15, citing Texas Department of Community Affairs v. Burdine (1981) 450 U.S. 248 [101 S.Ct. 1089].5/

In the instant case, it is clear that the discharge of Mr. Ramos was precipitated by the confrontation of July 24. He had not been disciplined during his six-year tenure with Respondent, and his work was always considered satisfactory. Nor did his infrequent "union" or other protected activities -- allegedly speaking with co-workers, concerning working conditions -- causally relate to his termination. I find this alleged activity to be too infrequent, and too remote in time from the date of his termination to explain the conduct herein. Nor is there any persuasive evidence that Respondent was aware of these alleged activities. Indeed, Mr. Ramos conceded that his activity had been greatly restricted since he had been out of work for five months during the first part of 1981 with a work-related injury. As the rationale for the discharge then relates directly to the 24 July confrontation between supervisor de Jesus and packer Ramos (and to a lesser extent the subsequent discussion of 25 July), a resolution of the factual controversy surrounding this event becomes determinative. As various witnesses perceived only portions of the confrontation, credibility resolutions concerning Mr. Ramos and supervisor de Jesus are

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5. In Royal Packing Company (Oct. 8, 1982) 8 ALRB No. 74, this Board overruled Martori Brothers Distributors, supra, 8 ALRB No. 15, holding that both the burdens of production and persuasion shift to the employer once the General Counsel has carried its burden of proof.

paramount.

In the first instance, supervisor de Jesus had a somewhat more precise recollection of the events in question. He responded to examination in a straightforward manner and controlled his temperament throughout the hearing.6/ Ramos, on the other hand was highly emotional and demonstrative in his reactions during his testimony. Perhaps because of his emotional involvement in the matter, he was unable to clearly recollect the chronology of events of either day (the 24th or 25th), often testifying in a loud, very intense tone of voice and in a rapid manner as he became increasingly frustrated about his inability to explain the events in question. The other witnesses to the conversations -- particularly Juana Ramos, Ruben Bermudes, William de Jesus, Pedro Delgado, Martha Rendon, and Delfina Carrillo -- either did not observe the entire sequence of events (Rendon, Rivera, Quesada, William de Jesus, Juana Ramos), demonstrated poor recollection with respect thereto (Pedro Delgado), or seemed particularly motivated (interested) in directing their testimony to selected "highlights" of the confrontation (Ruben Bermudes, Samuel Morales). They thus do not shed much further light as to what actually happened on the days in question. Therefore, in considering the entire record, the demeanor of the two "protagonists", and the corroborative (albeit limited) testimony of the other witnesses, I am inclined to find that the events of the

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6. Some portions of Mr. de Jesus' recollection seemed a bit selective -- particularly his failure to recall Ramos' statement regarding the "spitting on the workers' faces", as well as his failure to recall that any matter concerning Ramos' employment was discussed on July 25.

24th and 25th transpired as perceived by Mr. de Jesus -- i.e., that Ramos stated on numerous occasions that he did not give a damn about his job, that he was not afraid of anybody, and that the latter instigated the threat to fight.

I also find that Mr. Ramos had been warned on two previous occasions about stripping the vines that morning. Additionally, there is significant evidence in the record that he did strip the vines in spite of the order to the contrary. Apart from the testimony of Sammy Morales,[7/] Respondent has produced evidence that Ramos' group picked more boxes of grapes (49) in fewer hours (7½) than any other group. Indeed, the next highest group -- Manuel Natal -- picked only 45 boxes in a full 8 hours, and were also criticized for their work. The Ramoses' explanation that everyone was stripping the grapes is not supported by the evidence. Nor am I persuaded by the explanation that the Ramoses picked more rows. Unless his group was much more efficient than other groups, the number of rows should not determine the total number of boxes picked, assuming that all workers are employed for an equivalent amount of time. As Mr. Morales only recently had been hired, and had actually worked only that day in Ramos' group, I find it even more incredulous that the group would be so efficient on that particular day. General Counsel has offered no further explanation

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7. I do not credit Mr. Morales' testimony entirely because of 1) his familial relationship with supervisor de Jesus; and 2) Morales' apparent willingness to follow directions from Mr. Ramos in stripping the vines and filing a complaint without basis with the labor commission. I find these latter admissions by Mr. Morales to render it more likely than not that he could be similarly instructed as to his testimony at the hearing.

of the differential in the number of boxes picked, and there is no indication from the record that the Ramos' group frequently "out-picked" the other groups in the 80-odd numbered crew. I thus find there is evidence that Ramos -- an experienced picker -- understood that he was stripping the vines in defiance of his supervisor, and was fully aware of the likely discipline should the supervisor become aware of Ramos' action.

I further do not credit Ramos' assertion that de Jesus stated on either the 24th or 25th that had Ramos not threatened the Respondent with the union he would have been fired. Both the testimony of Mr. and Mrs. Ramos in this regard appeared to be more of an afterthought. In Mr. Ramos' declaration to the labor commission,[8/] the union activities were omitted as a rationale for the firing (RX 4). In the declaration supporting the charge which gave rise to the instant proceeding, no reference was made to any such statement from Mr. de Jesus. (GCX 1-A.) While Ramos may well have intimated at the end of the discussion of the 24th and 25th that he would bring this matter to the union's attention, I credit Mr. Quesada's recollection on the 25th, as well as Samuel Morales' statement that Ramos did not threaten de Jesus with the union until after he had been fired on the 24th. Such a statement made subsequent to the termination decision, certainly cannot be deemed causally related to the supervisor's previous conduct in this regard. As I find there is no relationship between the discharge and either the threat of Ramos to bring in the Union, and/or his

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8. This declaration was filed immediately after the incident of 24 July.

"union activities", I therefore recommend dismissal of the 1153(c) allegation. The critical question for analysis thus becomes whether or not Ramos engaged in concerted protected activity in protesting his discipline on July 24th.

The purpose of section 1152 is to assure employees the fundamental right to present grievances to their employer to secure better terms and conditions of employment, recognizing that employees have a legitimate interest in acting concertedly to make their views known to management without being discharged for that interest. (Jackson & Perkins Rose Co. (1979) 5 ALRB No. 20 citing Hugh H. Wilson Corp. v. N.L.R.B. (3d Cir. 1969) 414 F.2d 1345, 1347-50, cert. denied 397 U.S. 935.

While mere "griping" about conditions of employment is not protected, when "griping" coalesces with expression inclined to produce group or representive action, the statute protects the activity. Mushroom Transportation Co. v. N.L.R.B. (3d Cir. 1964) 330 F.2d 683, 685. Nor are the protections accorded employees under the Act dependent upon the merit or lack of merit of the concerted activity in which they engage. Jack Brothers & McBurney, Inc. (February 25, 1980) 6 ALRB No. 12; Bob Henry Dodge, Inc. (1973) 203 NLRB 78. An after-the-fact determination that the employee(s)' actions were unwise would not defeat the basic right of such employee(s) to act concertedly regarding working conditions.[9] An individual's activity under certain circumstances[10] may be

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9. Anaconda Aluminum Co. (1966) 160 NLRB 35, 40.

10. E.g., individual complaint to a governmental agency about safety conditions. See Miranda Mushroom Farms (May 1, 1980) 6 ALRB No. 22.

concerted in nature and therefore protected. Foster Poultry Farms (March 19, 1980) 6 ALRB No. 15; Alleluia Cushion Co. (1975) 221 NLRB 999 [91 LRRM 1171].

In the instant case, Ramos was the group leader "responsible" for his picking crew. No form of grievance procedure (or collective bargaining agreement) existed by which employees could protest perceived inequities at work. The protest was made in the presence of at least 10-15 witnesses from de Jesus' larger crew of 80, and it involved working conditions of the crew -- to wit, Ramos' plea that he was just following orders, and the perceived abuses of his supervisors. Here, as in Bill Adam Farms (December 21, 1981) 7 ALRB No. 46, Ramos acted as spokesperson and voiced his complaints while the other workers stopped and listened. Respondent was aware of this activity, and its concerted nature: William de Jesus had to go among the groups and attempt to persuade them to return to their jobs during the confrontation. I therefore find that General Counsel established a prima facie case that the work-related complaint raised by Ramos on behalf of his group (concerted and protected activity) was a motivating factor in his discharge.

Respondent suggests that Ramos was fired for a legitimate non-discriminatory reason -- to wit, he humiliated his supervisor by challenging him to fight, and saying that he didn't give a damn about his job in front of the crew. I find this justification to be persuasive. Ramos' assertion that he did not give a damn about the job, that he was not afraid of de Jesus, that de Jesus could spit on the faces of other workers, but not his, indicated a clearly

insubordinate attitude which would constitute a just (non-discriminatory) cause for discharge. See Martori Brothers 8 ALRB No. 15, supra.11/ Unlike the situation in Royal Packing (March 3, 1982) 8 ALRB No. 17,12/ I find that Ramos instigated the instant confrontation, and not supervisor De Jesus. Here, the humiliation of the supervisor and the challenge to fight would have caused the discharge, regardless of any protected activity. Indeed, other members of the group were only suspended for one-half hour and offered work the following Monday. Juana Ramos, for example, also engaged in comparable activity -- in explaining her version of events and protesting Mr. de Jesus' treament on July 25 -- yet she was not terminated.

I conclude that Respondent's evidence of its non-discriminatory reasons for discharging Ramos amply satisfied its burden of proof. General Counsel did not overcome this evidence so as to persuade that the discharge constituted a violation of the Act.

Nor does General Counsel's reliance upon "leeway" 13/ decisions alter this conclusion. As the Board has enunciated in Giannini & Del Charo, Co. (July 17, 1980) 6 ALRB No. 38, "The law allows employees leeway in presenting grievances over matters relating to their working conditions. Such activity loses its

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11. I conclude that Respondent has proved by a preponderance of the evidence that the adverse action would have been taken even absence Mr. Ramos' protected activity. See Royal Packing, supra, 8 ALRB No. 74.

12. See General Counsel Brief, p. 11.

13. See General Counsel Brief, pp. 12-13.

mantle of protection only in flagrant cases in which the misconduct is so violent or of such a serious nature as to render the employee unfit for further service." Firch Baking Co. (1977) 232 NLRB 772 [97 LRRM 1192]; American Telephone & Telegraph Co. v. N.L.R.B. (2nd Cir. 1975) 521 F.2d 1159 [89 LRRM 3140]. As long as the character of the conduct is not indefensible in the context of the grievance involved, the activity remains protected. Hugh H. Wilson Corp. v. N.R.L.B., supra. In the Giannini case, the Board found that the employee's conduct during a protest -- engaging in a short, heated argument provoked by the supervisor's actions -- was not so egregious as to warrant loss of the Act's protection. Here, as in Giannini, the employee had worked for several years with no history of outbursts. He had been considered to be a very satisfactory worker. A short, heated argument resulted in the discharge. Unlike the situation in Giannini, however, I find that Ramos more likely than not provoked this heated argument. His initial remarks to Pedro de Jesus were couched in strong and provocative language. Here, unlike Giannini, the employee made it very clear that he wished to fight his supervisor and the threat of violence was real and immediate. While one might take the supervisor's remarks that the matter should be discussed after work to be a threat of a fight, at the very least, de Jesus made it clear that he wanted no part of any fight immediately thereafter. Ramos, on the other hand, goaded the supervisor not only to fight, but to fire him.[14]/ Ramos further

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14. Both Mr. & Mrs. Ramos conceded that Domingo Ramos told Pedro de Jesus on July 25 that he would not take his job back even if offered, but only if ordered by a judge.

demonstrated his willingness to fight by waiting for his supervisor in a park that night after work. All of these factors were known to Respondent's labor management personnel in reviewing Ramos' discharge the following week.

In contrast to the Giannini decision, I find Ramos' threat to immediately fight, (as exacerbated by his later conduct in waiting for de Jesus at the park that evening) plus his goading of the supervisor to fire him, to be sufficiently serious to render him unfit for further service with the employer. Where, as here, the basis for the protest was particularly dubious, 15/ Ramos' reactions seem even less understandable. Unlike the situation in Webster Clothes, Inc. (1976) 222 NLRB 1262 [91 LRRM 1432], the employer's (or supervisor's) statements were not largely responsible for creating a tense atmosphere.

In balancing the right of the employer to run its business against the employee(s)' right to act in concert without fear of retaliation, I find Ramos' behavior to be sufficiently serious to warrant his discharge absent any participation in protected activity. These protected rights are not equivalent to a license to threaten and offend supervisors. Trustees of Boston University v. N.L.R.B. (5th Cir. 1977) 548 F.2d 39 [94 LRRM 2500]. This is not a situation where a grievance itself triggered the discipline. The stripping caused the suspension -- and the threats made to the supervisor motivated the discharge. Nor is there any indication

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15. Credited testimony suggests that Ramos expected the type of discipline he originally received, and utilized the event to humiliate the supervisor.

that the employer feared future concerted activity by members of Ramos' group, or the crew as a whole. No other similarly situated employees were treated differently. See, St. Rita's Medical Center (April 27, 1982) 261 NLRB No. 57. I therefore recommend that this allegation of the complaint be dismissed.

B. THE PRE-PETITION LIST

8 Cal.Admin. Code Section 20910 provides in pertinent part that within five days from filing of a Notice of Intention to Organize, "employers shall submit its pre-petition list to the Board's Regional Office." 8 Cal. Admin. Code Section 20310(a)(2) defines such list as "A complete and accurate list of the complete and full names, current street addresses and job classifications of all agricultural employees, . . . in the payroll period immediately preceding the filing of the petition." This Board has already ruled that supplying lists of names with either post office boxes or street addresses outside the (Bakersfield-Delano) area of employment clearly interferes with employees' section 1152 rights, which include the opportunity of workers to communicate with and receive information from labor organizations about the merits of self-organization. Henry Moreno (May 11, 1977) 3 ALRB No. 40; see also, San Diego Nursery Company v. Agricultural Labor Relations Board (1979) 100 Cal.App.3d 128, 131, fn. 2. The rationale for this rule is simple:

> "A labor organization's ability to have any sort of effective communcation with workers employed at such places as these where the workers are present only 4½ days to two weeks, only once or twice a year, is severly impeded by the task of locating and talking with workers through post office boxes or addresses beyond commuting distance for the Coachella Valley." (Laflin and Laflin, aka Laflin Date Gardens (May 19, 1978) 4 ALRB No. 28.

In Silver Creek Packing Company (February 16, 1977) 3 ALRB No. 13, the ALRB held that communications at the homes of employees is not only legitimate, but crucial to the proper functioning of the Act. And the NLRB has indicated that employee (post-petition) lists are critical because:

> "[. . . it [is] the Board's function to conduct elections in which employees have the opportunity to cast their ballots for or against representation under circumstances that are free not only from interference, restraint, or coercion violative of the Act, but also from other elements that prevent or impede a free and reasonable choice. Among the factors that undoubtedly tend to impede such a choice is a lack of information with respect to one of the choices available. In other words, an employee who has had an effective opportunity to hear the arguments concerning representation is in a better position to make a fully informed and reasonable choice." (Excelsior Underwear, Inc., 156 NLRB 1236, 1240, 61 LRRM 1217 (1966).

In the instant case, uncontroverted testimony indicates that a large percentage of the addresses provided by the employer were deficient -- either because they were too indefinite (Labor Camp No. 2), were not in the Bakersfield-Delano area, or were post office box numbers. Specifically, the original list submitted by the Respondent included 952 employees. Two hundred fifty-four employees were listed by post office box number (27%), one hundred thirty-seven by "Camp No. 2" (14%), sixty-five (6%) were remote addresses, and an additional 17 (2%) had incomplete addresses (e.g., General Delivery) for a total of four hundred seventy-three (49%) deficiencies. The "revised" list was not substantially improved. It included 218 post office addresses (23%); 190 references to "Labor Camp No. 2" (19%); 45 remote addresses (5%); and 15 (2%) incomplete addresses or 468 (47%) deficiencies. The inadequate information is clearly of the magnitude found violative of the Act

in Laflin and Laflin, supra, (40-75%) and Jack T. Baille Co., Inc. (Dec. 12, 1979) 5 ALRB No. 72 (18-40%).

In the Yoder decision cited by Respondent,16/ a total of nine omissions (six from clerical errors) from a list of 160 eligible voters were found. The Board thus held that there was substantial compliance with the requirements of Section 20310(a)(2), and that the deficiencies in the list were not sufficient grounds for setting aside an election. No showing of gross negligence or bad faith could be made. In Tom Buratovich and Sons (Jan. 19, 1976) 2 ALRB No. 11, there was no evidence of the number of incomplete addresses, and therefore the Board was unable to ascertain what effect, if any, the list had on the Union's efforts to communicate to the workers. In H.H. Maulhardt Packing Company (July 24, 1980) 6 ALRB No. 42, there was no evidence regarding the employer's diligence (or lack thereof) in obtaining current employee addresses, and only 19 of 135 (14%) were deficient.

In the instant case, UFW organizer Juan Cervantes described the difficulty presented by the Respondent's deficient lists -- particularly the indefinite reference to "Labor Camp No. 2" which neither Mr. Cervantes (nor board agent Espinoza) recognized. Furthermore, there is evidence in the record that Respondent's efforts at rectifying the situation -- not bothering to revise a known wrong address, and instructing supervisors to check only those addresses which had been crossed out -- were somewhat less than diligent. Indeed, of the list of 952 employees, a total of only 4

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16. See Respondent's Brief, p. 26, citing Yoder Brothers (Jan. 7, 1976) 2 ALRB No. 4.

improvements were made during the additional two-day period afforded Respondent.

Finally, Respondent's agents variously contended that the information was confidential, that they were "pecking away", or that farm workers were transient. I find that said responses exhibited a somewhat cavalier attitude about supplying the requisite information. I thus find Respondent's efforts in this regard perfunctory, and certainly far short of its obligation to supply accurate, and complete updated lists of names and addresses in accordance with the applicable statutory provisions and regulations. Therefore, I conclude that Respondent has violated section 1153(a) by its failure to provide an adequate pre-petition list and will recommend an appropriate remedy therefor.

THE REMEDY

Consistent with the Board's analysis in the Laflin decision (with respect to respondents Laflin, Moreno, and Peters, where there was no petition for election) and the General Counsel's prayer for relief, the remedial order is intended to redress the Respondent's unfair labor practice which interfered with the employees' rights to self-organization. Accordingly, I will recommend that:

1. Respondent, M.B. Zaninovich, Inc., be ordered to allow UFW organizers to organize among their employees during the hours specified in 8 Cal. Admin. Code Section 20900(e)(3) during the next period in which the UFW has filed a Notice of Intent to Take Access. The UFW shall be permitted, in addition to the number of organizers already permitted under Section 20900(e)(4)(A), one organizer for each fifteen employees.

2. Charging Party shall have one additional such access period for each one month access period during which the Respondent refuses to provide an employees' list as set for in 8 California Administrative Code section 20910(c).

3. Respondent, M.B. Zaninovich, Inc., be required to permit the Union, during one hour of regular working time, to disseminate information to and conduct organizational activities among said Respondent's employees.

ORDER

Respondent, M.B. Zaninovich, Inc., its officers, agents, successors, and assigns shall:

1. Cease and desist from:

a. Refusing to provide the ALRB with an employer list as required by 8 Cal. Admin. Code Section 20910(c) and Section 20310(a)(2).

b. In any other like manner interfering with, restraining or coercing any employee in the exercise of rights guaranteed by Section 1152 of the Agricultural Labor Relations Act.

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

a. Execute the Notice to Employees attached hereto. Upon its translation by a Board Agent into appropriate languages, Respondent shall reproduce sufficient copies in each language for the purposes hereinafter set forth.

b. Post copies of the attached Notice for a period of 90 consecutive days, and at places to be determined by the Regional Director. Respondent shall exercise due care to replace any Notice

which has been altered, defaced, or removed.

c. Mail a copy of the Notice, in all appropriate languages, to each of the employees during the next peak season, at his or her last known address.

d. Provide for a representative of the Respondent or a Board Agent to read the attached Notice in appropriate languages to the assembled employees of the Respondent on company time. The reading or readings shall be at such times and places as are specified by the Regional Director. Following the reading, the Board Agent shall be given the opportunity, outside the presence of supervisors and management, to answer any questions employees may have concerning the Notice or their rights under the Act. The Regional Director shall determine a reasonable rate of compensation to be paid by Respondent to all non-hourly wage employees to compensate them for time lost at this reading and the question-and-answer period.

e. Allow UFW representatives, during the next period in which the UFW files a Notice of Intent to take Access, to organize among Respondent's employees during the hours specified in 8 Cal. Admin. Code Section 20900(e)(3), and permit the UFW, in addition to the number of organizers already permitted under Section 20900(e)(4)(A), one organizer for each fifteen employees.

f. Grant to the UFW, upon its filing a written Notice of Intent to take Access pursuant to Section 20900(e)(1)(B) one additional access period for each one-month access period during which the Respondent refuses to provide an employees' list as set forth in California Administrative Code section 20910(c).

g. Provide for the UFW to have access to Respondent's employees during regularly scheduled work hours for one hour, during which time the UFW may disseminate information to and conduct organizational activities among Respondent's employees. The UFW shall present to the Regional Director its plans for utilizing this time. After conferring with both the Union and Respondent concerning the Union's plans, the Regional Director shall determine the most suitable times and manner for such contact between organizers and Respondent's employees. During the times of such contact no employee will be required to engage in work-related activities, or forced to be involved in the organizational activities. All employees will receive their regular pay for the one hour away from work. The Regional Director shall determine an equitable payment to be made to non-hourly wage earners for their lost production time.

h. Notify the Regional Director in writing, within 30 days from the date of the receipt of this Order, what steps have been taken to comply with it. Upon request of the Regional director, the Respondent shall notify him/her periodically thereafter in writing what further steps have been taken to comply with this order.

DATED: October 18, 1982

STUART A. WEIN
Administrative Law Officer

NOTICE TO EMPLOYEES

After a trial at which each side had a chance to present its facts, the Agricultural Labor Relations Board has found that we interfered with the right of our workers to freely decide if they want a union. The Board has told us to send out and post this Notice.

We will do what the Board has ordered, and also tell you that:

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

(1) to organize themselves;

(2) to form, join, or help unions;

(3) to bargain as a group and choose whom they want to speak for them;

(4) to act together with other workers to try to get a contract or to help or protect one another;

(5) to decide not to do any of these things.

Because this is true we promise that:

WE WILL NOT do anything in the future that forces you to do, or stops you from doing, any of the things listed above.

Especially:

WE WILL NOT refuse to provide the Agricultural Labor Relations Board with a current list of employees when the UFW or any union has filed its "Intention to Organize" the employees at this company.

Dated: M.B. ZANINOVICH, INC.

(Representative) (Title)

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

DO NOT REMOVE OR MUTILATE