

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

J & F MARTINS DAIRY	)	
	)	Case No. 2026-RC-001
Employer,	)	
	)	
and	)	52 ALRB No. 5
	)	
UNITED FOOD AND	)	(September 21, 2026)
COMMERCIAL WORKERS,	)	
LOCAL 8 – GOLDEN STATE	)	
	)	
<u>Petitioner.</u>	))	

DECISION AND ORDER

On August 31, 2026,¹ United Food and Commercial Workers, Local 8 – Golden State (“UFCW” or “the Petitioner”) filed a petition with the Agricultural Labor Relations Board (“ALRB” or “the Board”) seeking to represent a unit of the agricultural employees of J & F Martins Dairy (“the Employer” or “the Dairy”). A secret-ballot election was held on September 5. The Tally of Ballots was as follows:

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¹ All dates hereafter occurred in 2026.

UFCW, Local 8.....	6
No Union.....	0
Unresolved Challenged Ballots	0
Total	6

On September 10, the Employer filed timely objections to conduct affecting the results of the election, along with supporting declarations.

STANDARD OF REVIEW

Board regulation² section 20365, subdivision (c)(2) requires a party objecting to the conduct of the election or to misconduct allegedly affecting the results of the election to provide declarations setting forth “facts which, if uncontroverted or unexplained, would constitute sufficient grounds for the Board to refuse to certify the election.” The California Supreme Court has upheld the Board’s conditioning of a full evidentiary hearing on election objections upon the presentation of objections and factual declarations that establish a *prima facie* case pursuant to section 20365, subdivision (c) of the Board’s regulations. (*George Amaral Farms* (2012) 38 ALRB No. 5, p. 5, citing *Lindeleaf v. ALRB* (1986) 41 Cal.3d 861, 874-875; *J.R. Norton Company, Inc. v. ALRB* (1979) 26 Cal.3d 1, 17.) The burden is on the objecting party to establish a *prima facie* case based on supporting materials filed timely with the objections petition. (*Monterey Mushrooms, Inc.* (1995) 21 ALRB No. 2, pp. 6-7.) Board regulation section 20365,

² The Board’s regulations are codified at California Code of Regulations, title 8, section 20100 et seq.

subdivision (c)(2)(B) requires that the facts stated in each attached declaration be within the personal knowledge of the declarant, and that the declaration set forth with particularity the details of each occurrence and the way the occurrence could have affected the outcome of the election. Board regulation section 20365, subdivision (d) provides that the Board shall dismiss any objections that fail to meet the requirements of subdivisions (a), (b), or (c).

ANALYSIS

In its objections, the Employer first argues that it “was not allowed to be an observer nor to assess the identification of the purported voters at the election.” (Emp. Obj. Brief at 2.) The relevant guidance surrounding the presence and conduct of observers is found in Board regulation 20350, subdivision (b), and states as follows:

(b) Each party may be represented at the election by observers of its own choosing who should be designated at the pre-election conference, but in no event less than 24 hours before the start of the election. Such observers must be non-supervisory employees of the employer, except the petitioner, if an employee, also may not be an observer. Other persons, with the exception of supervisors or the petitioner, may be observers if agreed to by all parties in writing. Observers so designated should not wear or display any written or printed campaign material or otherwise engage in any campaign activities on behalf of any party while acting as observers. The Board agent has the discretion to determine the number of observers which each party may have. Any party objecting to the observers designated by another party must register the objection and the reasons therefore with the Board agent supervising the election by the close of business the day immediately preceding the election. . . . (Cal. Code Regs. tit. 8, § 20350, subd. (b).)

Here, the Employer presents no facts or argument in its objections brief or in its supporting declarations as to the circumstances surrounding its claim that “[t]he

Employer was not allowed to be an observer.” Indeed, the Employer has not asserted that it ever requested to have an observer present or designated a specific observer for approval by the Board agent, let alone provided any evidence that any such request was denied. In the absence of any argument or factual declarations by the Employer regarding the circumstances behind its allegation that it “was not allowed to be an observer,” we find the Employer has not presented declaratory evidence establishing a prima facie case that the election should be overturned. (*Yamada Bros, supra*, at p. 5 [“The Board agent in charge of an election is responsible for determining the qualifications of observers. Ordinarily, [their] decision will not be disturbed.”])

Additionally, the Employer presents no argument as to the alleged harm it suffered as a result of the failure to have an employer observer present other than its “inability to assess the identification of the purported voters at the election.” (Emp. Obj. Brief at 2.) In *Marlin-Rockwell Corp. v. NLRB*, the Second Circuit made clear that an employer’s lack of opportunity to identify voters does not constitute objectionable conduct, saying:

“[T]he manner in which an election shall be conducted lies in the Board’s discretion. If the Board desires the assistance of a representative of the employer to identify the employees who appear to vote, it may have it. But such assistance is not essential to a fair election; identification of the voters may be obtained by other means. Apparently the Board believes that considerations in favor of the presence of an employer representative are outweighed by the possibility that his presence may act as an inhibiting influence upon the employees’ freedom of choice; hence the Board’s general policy of denying permission unless the labor organization involved consents. There is no showing that the procedure adopted

prevented a fair election.” (*Martin-Rockwell Corp.* (1941) 116 F.2d 586, 587-588, cert. den. (1941) 313 U.S. 594.)

In these circumstances, and with no assertion of election impropriety from the Employer beyond the bare statement that it was “was not allowed to be an observer nor to assess the identification of the purported voters at the election,” we find the Employer has failed to establish facts which, if uncontroverted or unexplained, would constitute sufficient grounds to overturn the election results.

Next, the Employer appears to imply that the Tally of Ballots included employees who did not, in fact, vote in the secret-ballot election, or that the vote count included ballots cast by ineligible individuals. The Employer submits a declaration by Jose Carlos Ormonde Martins, the son of the Dairy’s owner, to support this claim. The declaration consists of hearsay statements that Ormonde Martins heard four employees state that they were not present at the election and did not vote. (Martins Decl. at 2.)³ The

³ Member Broad notes that at the same time the instant election objection was pending, the Petitioner filed an unfair labor practice charge against the Employer in Case No. 2026-CE-061. This charge alleges that on or about September 8, the Employer interrogated employees about how they voted in the representation election, threatened to terminate employees if they were lying about how they voted in the election, threatened to withhold half of employee paychecks if they did not write down on a piece of paper how they voted, and demanded employees fill out a paper saying that they did not wish to be represented by the Petitioner. The charge is currently being investigated by the General Counsel. Without prejudging any future proceedings which may arise from this charge, Member Broad notes that Labor Code § 1160.4 permits the Board to seek appropriate temporary relief or a restraining order from a superior court upon a finding of reasonable cause to believe that any person has engaged in or is engaging in an unfair labor practice.

Board has consistently found such hearsay statements insufficient to establish a *prima facie* case to warrant an evidentiary hearing pursuant to section 20365, subdivision (c) of the Board's regulations. (*SoCal Berry Growers, LLC* (2026) ALRB Admin Order No. 2026-11-P, p. 8 fn. 9 ["The declarations by foremen Juan Morales and Elias Maldonado concerning what they were told by members of their crew clearly constitute hearsay and are to be disregarded."]; *UFW (The Dimare Company)* (2023) ALRB Admin. Order No. 2023-11, 15-16 ["[T]he Board has long held that election objections will not be referred for hearing where they are not supported by declarations stating facts within the personal knowledge of the declarants. Objections that rely on hearsay evidence do not meet this standard."]; *Coastal Berry Co., LLC* (2000) 26 ALRB No. 1, p. 98 [objection dismissed where supporting declaration was "based entirely on hearsay"].) Accordingly, consistent with the evidentiary requirements set forth in Board regulation 20365, subdivision (c)(2), we find this declaration is insufficient to support a claim that the Board should refuse to certify the results of the election.

ORDER

For the foregoing reasons, the Employer's Petition Objecting to Election and Request to Set Aside Election is DISMISSED. IT IS ORDERED that the Executive Secretary issue a Certification of Representative certifying Petitioner United Food and Commercial Workers, Local 8 as the exclusive collective-bargaining representative of the petitioned-for employees.

IT IS SO ORDERED.

DATED: September 21, 2026

Victoria Hassid, Chair

Barry D. Broad, Member

Ralph Lightstone, Member

CASE SUMMARY

J & F MARTINS DAIRY

(United Food and Commercial Workers, Local 8)

Case No. 2026-RC-001

Background

On August 31, 2026, United Food and Commercial Workers, Local 8 (“UFCW” or “the Petitioner”) filed a petition with the Agricultural Labor Relations Board (“ALRB” or “the Board”) seeking to represent a unit of the agricultural employees of J & F Martins Dairy (“the Employer” or “the Dairy”). A secret-ballot election was held on September 5, 2026. The Tally of Ballots established that out of six eligible voters, six votes were cast for representation and zero votes were cast against representation, with zero challenged ballots. On September 10, the Employer filed objections to conduct affecting the results of the election and supporting declarations.

Board Decision

The Board analyzed whether the Employer had submitted “facts which, if uncontroverted or unexplained, would constitute sufficient grounds for the Board to refuse to certify the election.” (Cal. Code Regs. tit. 8, § 20365(c)(2).) The Board determined that the Employer’s blanket argument that it “was not allowed to be an observer nor to assess the identification of the purported voters at the election” did not constitute sufficient grounds to warrant a hearing. The Board found that its regulations prohibited certain individuals, like supervisors of the employer, from serving as election observers, and declined to disturb the determinations of the Board agent conducting the election as to the qualifications of observers. The Board also determined that identification of voters could be achieved through methods other than an employer’s presence as an observer, especially when the presence of the employer would inhibit employee freedom of choice.

Finally, the Board found that the declaration submitted by the dairy owner’s son, Jose Carlos Ormonde Martins, did not meet the Board’s evidentiary standards to warrant a hearing challenging the results of an election, as the declaration consisted entirely of hearsay testimony as to what employees allegedly told him, rather than personal knowledge as required by the Board’s regulations. (Cal. Code Regs. tit. 8, § 20365(c)(2)(B).)

Accordingly, the Board dismissed the Employer’s objections and ordered the Executive Secretary to issue a Certification of Representative certifying United Food and Commercial Workers, Local 8 as the exclusive collective-bargaining representative of the petitioned-for employees.

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