

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
ATLANTA BRANCH OFFICE

SKYLINE BUILDERS, INC.
and

Cases 12-CA-21783
12-RC-8695

UNITED BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA, SOUTH
FLORIDA CARPENTERS REGIONAL COUNCIL

Marcia Valenzuela, Esq. for the General
Counsel.
Mr. Alexander Caccavale, of Sunrise, FL,
for the Respondent.

DECISION

JOHN H. WEST, Administrative Law Judge: The charge in 12-CA-21783 was filed by the United Brotherhood of Carpenters and Joiners of America, South Florida Carpenters Regional Council (Union) on September 6, 2001.¹ It was amended on November 27 and February 27, 2002. A complaint was issued on July 31, 2002, alleging collectively that the Respondent engaged in unfair labor practices within the meaning of Sections 8(a)(1) and 8(a)(1) and (3) of the National Labor Relations Act, as amended, (the Act) in that assertedly it interrogated employees about their union support and activities, threatened not to hire employees because they supported the Union and engaged in Union activities, and discharged employees Mike Solano and David Richardson because they joined, supported and assisted the Union, and engaged in concerted activities, and to discourage employees from engaging in those activities. The Respondent filed an answer denying these allegations, except that the Respondent did not respond to the allegation that it threatened not to hire employees because they supported the Union and engaged in Union activities.

By Order dated September 5, 2002, Case 12-CA-21783 was consolidated with Case 12-RC-8695 which involves objections filed on November 2 by the Union to conduct which allegedly affected the results of an election held on October 30. It was concluded in the Order, that the objections, described more fully below, and the

¹ All dates are in 2001 unless otherwise stated.

challenged ballots (except for the challenge to the ballot of a specified individual) raise substantial and material issues which can best be resolved by a hearing.

5 A hearing on these consolidated cases was held before me in Miami, Florida on October 28 and 29, 2002. Upon the record, including the demeanor of the witnesses, and after due consideration of the brief filed by Counsel for General Counsel,²I hereby make the following:

10 Findings of Fact

I. Jurisdiction

15 The Respondent, a Florida corporation, with an office and place of business in Pompano Florida, has been engaged in the construction industry as a general contractor. The complaint alleges, the Respondent admits, and I find that at all material times herein the Respondent has been an employer engaged in 20 commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Union has been a labor organization within the meaning of Section 2(5) of the Act.

25 II. Alleged Unfair Labor Practices

A. Facts

30 According to the testimony of the Respondent's President and part owner, Alexander Caccavale, the Respondent had one superintendent on the Marriott Renaissance job site just north of Miami, Florida, and the superintendent had the authority to hire, fire, lay off, and discipline employees.

35 The Respondent's Vice President and part owner, John Watson, was subpoenaed by Counsel for General Counsel to appear on the first day of the trial herein, October 28, 2002, General Counsel's Exhibit 2. Caccavale indicated on the record on the first day of the trial herein that Watson was out of town when the involved subpoena arrived, Watson was due back in town on 40 the afternoon of October 28, 2002, and Watson would be happy to appear at the trial herein on October 29, 2002.

45 General Counsel's Exhibit 8(a) is a "90-DAY EVALUATION PERIOD" form for Christopher G. McMann which indicates that his

² Counsel for General Counsel's Motion to Strike Respondent's three page letter (brief) for failure to comply with Section 102.42 of the Rules and Regulations of the National Labor Relations Board (Board) be, and it is hereby, granted

date of hire is "6/1/01" and his position is "Project Supt." On General Counsel's Exhibit 8(b), an "EMPLOYEE DATA FORM," for McMann, his job title of "Project Supt" is crossed out and "Supervisor" is written on the line. Caccavale testified that McMann was not a project superintendent of the Respondent but rather he was a supervisor; that as a supervisor McMann had the authority to hire, fire and lay off; that McMann was hired as a supervisor for the Life Care Center job but when he was transferred to the Marriott Renaissance job he did not have the authority to hire or fire; that the superintendent on the Marriott Renaissance job, Don Perala, had the authority to hire and fire; that if McMann was not on the Marriott Renaissance job he would have had the authority to hire or fire; that it was not true that Perala would follow McMann's recommendation without further investigation concerning hires and fires; and that in his affidavit to the Board he indicated that Perala would follow McMann's recommendation without looking further. McMann was not listed as an eligible voter in the Board election held on October 30.

On August 20 the Union filed a petition with the Board seeking to be certified as the representative of the Respondent's employees. A Board affidavit of service dated August 21, 2001 for the petition was received as General Counsel's Exhibit 10. And fax transmittal documents showing a fax transmission from the Board's Miami office to Caccavale were received as General Counsel's Exhibit 11.

On August 23 the Respondent discharged its employee Mike Solano, who was a deck foreman at the Marriott Renaissance job site. Solano did not have authority to hire, fire, or transfer, suspend, or discipline employees, or effectively recommend the hiring or firing of employees. One "EMPLOYEE CHANGE OF STATUS FORM," General Counsel's Exhibit 14(a), indicates that Solano's departure was a "VOLUNTARY TERMINATION" and the box on the form for "No Reason Given" is checked off. General Counsel's Exhibit 14(b) is a copy of General Counsel's Exhibit 14(a) with the check mark removed from "No Reason Given" and a check mark placed in the box for "Unsatisfactory Performance" under "INVOLUNTARY TERMINATION." General Counsel's Exhibit 14(b) also differs from General Counsel's Exhibit 14(a) in that in 14(b) in the comments box under "INVOLUNTARY TERMINATION" the following appears: "disrupted behavior."³ The Respondent's pay register

³ While Caccavale himself represented the Respondent at the trial herein, formerly attorney Harry O. Boreth entered a notice of appearance, General Counsel's Exhibit 7. There appears to be a striking similarity in the "r"s in Boreth's signature on General Counsel's Exhibit 7 with the "r"s in the words "disrupted

report as of "8/31/2001," General Counsel's Exhibit 19, indicates that during the involved pay period Solano worked 40 hours.⁴ The Respondent's pay register report as of "9/07/2001," General Counsel's Exhibit 22 indicates that during the involved pay
 5 period Solano worked zero hours.

Solano was hired by the Respondent in the beginning of June 2001 as a carpenter on the Marriott Renaissance job, and within hours of starting work he was made a deck foreman. He had been a
 10 carpenter for about 18 years and he had been a member of the Union for about 3 years. Solano began soliciting signatures on union authorization cards at the Marriott job site his second week on the job, speaking about the Union to 20 to 30 of the 40
 15 to 50 employees the Respondent had on the job. Solano continued his efforts up until the day he was dismissed obtaining at least 20 signed union authorization cards. In July 2001 (or about 3 to 4 weeks before he was dismissed) he was soliciting signatures on union authorization cards during a rainstorm while the employees were being paid but not working. When McMann, who Solano
 20 described as a superintendent of the Respondent, saw him doing this McMann said to him "you're organizing, ... you've got big balls Mike" (transcript page 182). Solano testified that he and Richardson were the main organizers on that job site; that about two to three weeks before he was dismissed (after McMann saw him
 25 soliciting signatures on union authorization cards) Superintendent Perala approached him at the Marriott job site and asked him "Mike you're not on the books are you" (transcript page 184); that he told Perala that he was; and that to be "on the books" means to be still affiliated with the Union. Solano
 30 further testified that when he was discharged Perala told him that Caccavale said that there was too much supervision and a low budget,⁵ he hated to see him go because he knew how to push the men, and that he would be paid for Friday; that he believed that they were on the seventh floor of the Marriott Renaissance when
 35 he was dismissed; and that when he went to the job site the day

[sic]behavior." Nancy Sickmiller, who was an employee of the Respondent, signed General Counsel's Exhibit 14 on the supervisor's line. At the trial herein Caccavale indicated that he could call her as a witness regarding the changes on General Counsel's Exhibit 14(b). Sickmiller was never called as a witness. Superintendent Perala testified that Sickmiller was a secretary, she was not his supervisor, and she was not in charge of any of his men in the field.

⁴ The Respondent's pay period is one week.

⁵ Caccavale testified that he had nothing to do with Solano's discharge.

after he was dismissed he saw about 10 new faces on the job. On cross-examination Solano testified that the supervisor of the Respondent who hired him, Bob Hana, knew that he was a member of the Union since he wore a Union T-shirt when he was hired; that at the behest of Hana, he brought journeymen carpenters to the Marriott job site at the end of June or the beginning of July and Hana hired them; that McMann saw him soliciting signatures on union authorization cards just after a safety meeting had been concluded; and that 3 or 4 weeks before he was dismissed he exchanged words with Felix Maturell, the safety man, who did not follow his instructions to cover a hole near an end column with plywood; and that Watson asked him to let the matter go and he did.

The Respondent's former employee Richardson testified that he and Solano were the main union organizers on the Marriott Renaissance job; and that he witnessed supervisor McMann seeing Solano giving union authorization cards to a few of the Respondent's employees who spoke Spanish.

Respondent's Superintendent Perala worked on the Respondent's Marriott Renaissance job which was located at Pine Island Road and Interstate Highway 595. In addition to supervising the Respondent's employees on this job site, he also supervised the Respondent's subcontractors Florida Coast Builders and R.J. Crane, both of which employed union employees. None of the Respondent's employees who worked on this job were union. Perala testified that Solano ceased working for the Respondent on the Marriott Renaissance job around the middle to the end of August 2001 because at the time the Respondent had to trim back supervision on this job; that he told Solano that he was terminated because there was a labor cutback; that at the time of Solano's termination he knew that Solano had worked union jobs before but he did not realize how involved Solano was; that Solano was not terminated because he believed that Solano had anything to do with the Union; that after Solano was terminated, he never filled Solano's position with anyone else; and that he did not believe that he ever asked any employee if they supported union activities on the Marriott project.⁶ When asked by Caccavale what was McMann's position at the Marriott, Perala testified that McMann was a superintendent and performed layout

⁶ Perala answered "[n]o" to the following questions asked by Caccavale: did you ever (a) ask any applicants if they had union background, (b) tell any applicants that they would not be hired because they supported the union or if they engaged in any union activities, (c) fire anybody for supporting the union, and (d) ask any employee if they attended union meetings or what went on at union meetings.

duties at the Marriott Renaissance job. On cross-examination Perala testified that he made the decision to layoff Solano, he did not have any problems at all with Solano's work performance, and Solano was laid off due to labor cutbacks; that before Solano was laid off he knew that Solano had worked union jobs, Solano wore a union sticker on his hard hat, and Solano, along with a lot of the other employees on the Marriott Renaissance job, wore T-shirts with the Union emblem on them; that when he laid off Solano he did not know that Solano supported the Union; that the first layoffs from the Marriott Renaissance job occurred around mid-September 2001 and there could have been five or six employees laid off at that time; that in August 2001 there were 60 to 65 Skyline employees working on the Marriott Renaissance job; that there was a second layoff of Skyline employees at the Marriott Renaissance job site but he could not recall if it occurred in October 2001; that he did not recall how many employees were laid off during the third layoff at this job; that in October or November 2001 11 or 12 employees were transferred from the Marriott Renaissance job to other of the Respondent's projects; that the fourth layoff occurred in January 2002 when the job was completed; and that to his knowledge Skyline did not rehire employees who were laid off in 2001.⁷ Subsequently Perala testified that the Respondent did not hire any additional employees after Solano was terminated.

On August 27 the Respondent discharged its employee David Richardson. Richardson was a layout man who had been on the Marriott Renaissance job site since May 2001. Caccavale testified that as a lay out man, Richardson was a key part of the job. One "EMPLOYEE CHANGE OF STATUS FORM," General Counsel's Exhibit 13(a), indicates that Richardson's departure was a "VOLUNTARY TERMINATION" and the box on the form for "No Reason Given" is checked off. General Counsel's Exhibit 13(b) is a copy of General Counsel's Exhibit 13(a) with the check mark removed from "No Reason Given" and a check mark placed in the box for "Unsatisfactory Performance" under "INVOLUNTARY TERMINATION." General Counsel's 13(b) also differs from General Counsel's 13(a) in that in 13(b) in the comments box under "INVOLUNTARY

⁷ Perala's daily reports from August 2001 to January 16, 2002 referring to the Marriott job were received as General Counsel's Exhibit 29. His payroll records, which he supplied to the Respondent so that it could create a payroll register, were received as General Counsel's Exhibits 30 through 49. The Respondent's payroll records covering the period from January 5, 2001 to June 28, 2002 were received as Respondent's Exhibit 8.

TERMINATION" the following appears: "disrupted (sic] behavior."⁸
 The Respondent's pay register report as of "8/31/2001," General
 Counsel's Exhibit 18, indicates that during the involved pay
 period Richardson worked 40 hours. The Respondent's pay register
 5 report as of "9/07/2001," General Counsel's Exhibit 21, indicates
 that during the involved pay period Richardson worked 2 hours.
 The Respondent's pay register report as of "9/14/2001," General
 Counsel's Exhibit 24, indicates that during the involved pay
 period Richardson worked zero hours.

10 Richardson has been a carpenter for 23 years and a layout
 carpenter for about 4 years. He was hired as a layout carpenter by
 the Respondent for the Marriott Renaissance job. He received
 \$18 an hour whereas the regular carpenters received \$13 or \$13.50
 15 an hour. As a layout carpenter it was his responsibility to
 layout the building. Richardson has been a member of the Union
 since June 1997. He engaged in union activity while employed by
 the Respondent in that from mid-June 2001 until he was terminated
 on August 27 he would tell employees at break time and during
 20 lunchtime about the benefits of union representation, he handed
 out union authorization cards and he was involved in union
 meetings at the job site. Richardson testified that he spoke to
 about 25 to 30 employees about the Union; that at the time the
 Respondent had about 40 to 45 employees on the Marriott
 25 Renaissance job; that about 39 or 40 were interested in the Union
 and signed union authorization cards; that he and Solano were the
 main union organizers on the job; that the Respondent's
 superintendent at the Marriott Renaissance job site, Perala, in
 late July or early August 2001 asked him if he was a union
 30 carpenter and he told Perala that he was; that Perala said that
 he did not like union carpenters because they thought highly of
 themselves and they were "actually fucking nothing" (transcript
 page 88); that Perala's attitude toward him changed dramatically
 after that conversation; that he tried to organize the
 35 Respondent's employees because of safety conditions which he
 discussed with Perala, Watson and Caccavale; that on August 25, a
 Saturday, he spoke to Perala about inadequate support near an

⁸ As noted above, while Caccavale himself represented the
 Respondent at the trial herein, formerly attorney Harry O. Boreth
 entered a notice of appearance, General Counsel's Exhibit 7. There
 appears to be a striking similarity in the "r"s in Boreth's
 signature on General Counsel's Exhibit 7 with the "r"s in the words
 "disrupted behavior." Nancy Sickmiller, who was an employee
 of the Respondent, signed General Counsel's Exhibit 13 on the
 supervisor's line. As noted above, at the trial herein Caccavale
 indicated that he could call her as a witness regarding the changes
 on General Counsel's Exhibit 13(b). Sickmiller was never called as
 a witness.

open elevator pit and open stairway and Perala told him to mind his own business; that on Monday August 27 he told Watson what happened over the weekend and Watson told him to mind his own business and started cursing; that later on August 27 he went to the company trailer to get some tools and Caccavale, with Perala present, told him "you're fired, you're not good for moral on the job, and you're no longer needed here, to take my tools, and to leave his equipment and tools there, and get off the job site, and don't come back here" (transcript page 91)⁹ and that no one from management at Skyline or the general contractor ever told him that there was a problem with his work performance. On cross-examination Richardson testified that in June or July 2001 after he witnessed a piece of plywood falling out of rigging as it was lifted off the building and hitting an employee on the head, he telephoned OSHA and reported the problem but no one ever showed up at the job site; that he did not argue with Perala over safety issues but when he approached Perala about a safety issue Perala would "fuss about it" (transcript page 99); that when he told Perala about a problem Perala told him that he did not like his attitude and he was digging into business that did not concern him; that when he spoke to Watson about the employee getting hit on the head, Watson laughed and said that the employee got a wake up call; that Watson ignored his expressed safety concerns; and that he did not threaten Perala.

Subsequently Richardson testified that he never wore a union T-shirt to the Marriott Renaissance job but it was possible that he had a union sticker on his hard hat at that job site; that no one from Respondent's management ever made an issue of his wearing a union sticker on his hard hat if he did engage in such conduct; that when he was hired he told the superintendent who interviewed him, Frank, about the jobs he had previously worked; that all three of the jobs he described were union jobs; that he personally obtained signatures on 20 to 25 union authorization cards; that he did not think that anyone in management or supervision at the Respondent ever knew that he obtained signatures on union authorization cards; that when he discussed safety issues with Respondent's managers or supervisors he was not accompanied by other employees; that he was not nominated by a group of employees to speak to Respondent's management or supervisors on the employees' behalf with respect to safety measures; and that employees would come to him and tell him about their safety concerns, i.e. the lack of railings in an area, because he was the layout carpenter.

⁹ While Caccavale represented the Respondent at the trial herein, and he was called as a Rule 611(c) witness by Counsel for General Counsel, Caccavale did not specifically deny this testimony.

At one point during his cross-examination of Richardson Caccavale stated "[t]here's so much work out there it's unbelievable that somebody of this man's [Richardson's] caliber ...would be out of work. They'd die to have a guy like that."
 5 (Transcript pages 105 and 106)

Perala testified that he terminated Richardson for disobedience and not performing his job; that Richardson was terminated for being very argumentative and refusing to do his
 10 layout duties; that he guessed that Richardson threatened him with bodily harm when he terminated Richardson; that Watson was there when this happened; and that he was not aware of an employee being hit on the head with a piece of plywood at the Marriott job site when the piece fell from the crane as it was
 15 lifted to the fourth floor. On cross-examination Perala testified that Richardson came to him with safety issues involving all employees probably at safety meetings and at other times. Subsequently Perala testified that he worked with Richardson for four to six weeks before he terminated Richardson;
 20 that he was sure that he disciplined Richardson during that period fro shortcomings in his work performance; that he did not document any prior discipline; that he discussed shortcomings in Richardson's performance with Caccavale at least three or four different times; that Richardson said to him "lets step out of
 25 the trailer and I'll kick your ass so to speak" (transcript page 291)¹⁰; that this was the first time that Richardson indicated a willingness to fight; and that he was sure that he said something to Richardson about his failure to perform an assigned task in a timely manner resulted in the crew not being able to work, and
 30 this may have triggered Richardson's outburst.

On rebuttal Richardson testified that no member of Respondent's management ever talked to him about concerns they
 35 had about his work performance or how fast he was performing his work; and that he never threatened anyone while he was employed by the Respondent. Subsequently Richardson testified that he did not recall any discussion on the day he was terminated with Perala about any tasks he was supposed to perform; that Perala did not say anything to him when he was discharged but rather
 40 Caccavale was the only person who said something to him at the

¹⁰ As indicated above, Perala testified that Watson was present when Perala terminated Richardson. Watson does not corroborate this. Indeed even though Counsel for General Counsel subpoenaed Watson and even though Caccavale indicated on the record at the trial herein that Watson would honor the subpoena, Watson did not testify at the trial herein for either Counsel for General Counsel or the Respondent.

time¹¹; that he did not ask Perala to step outside the trailer on or about the day he was discharged by the Respondent; and that he never had a heated discussion with Perala.

5 General Counsel's Exhibit 20 is a copy of the Respondent's pay register report as of "09/07/2001" which indicates that Felix Maturell worked for 37 hours during this pay period. General Counsel's Exhibit 23 is a copy of the Respondent's pay register report as of "09/14/2001" which indicates that Felix Maturell worked for 40 hours during this pay period. General Counsel's Exhibit 25 is a copy of the Respondent's pay register report as of "09/21/2001" which indicates that Felix Maturell worked zero hours during this pay period. Caccavale testified that Maturell was no longer an employee of the Respondent at this time, he quit in 2001, and the Respondent did not have a change of status form for Maturell. Richardson testified that a carpenter named Felix (Richardson did not remember his last name) had the responsibility to make sure that all of the handrails were up and the holes were covered.

20 By letter dated September 20, 2001, General Counsel's Exhibit 15, the Regional Director of Region 12 of the Board forwarded a copy of the charge in Cases 12-CA-21783 to the Respondent.¹²

25 Before the Board conducted election on October 30 the Respondent distributed T-shirts to employees which read "Vote No" and flyers which advised the employees to "Vote No," General Counsel's Exhibit 12. Caccavale testified that he told a union organizer that he was not interested in the Respondent becoming unionized in 2001; that he did not want to negotiate with the union over the terms and conditions of employment; and that he was afraid that having to negotiate with the union would affect his company financially.¹³

¹¹ Caccavale did not deny this.

¹² Similar letters were forwarded when the charge was amended, General Counsel's Exhibits 16 and 17.

¹³ The Union had a project agreement in late 2000 or early 2001 with the Respondent for the work it did on the Diplomat Hotel. The agreement covered only that job and the Respondent would not have been able to work the job without such an agreement because the Diplomat Hotel was a union-funded job and it was required that any contractor going on that job site would have to at least sign a project agreement to do work there. The Respondent did not have any other contracts with the Union.

On October 29 the Respondent provided its employees at the Marriott Renaissance job site with lunch. This was the only time it provided its employees with lunch before the October 30 Board election.

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Guillermo Choo, who is a millwright and a union member, testified that he went to the Marriott Renaissance job site on October 29 with Paul D'antuono, who is a union organizer; that someone from top management of the Respondent told the employees at the luncheon provided by the Respondent to vote no and there would be other job sites that the Respondent was going to work on; that his friend D'antuono said that if the Respondent had other job sites he wanted to go and work for the Respondent; that the manager from the Respondent said that D'antuono was not going to work for the Respondent, D'antuono asked why not, and the manager said because you are union; that the manager of the Respondent told the employees assembled that the Respondent had other jobs but if they voted for the Union, he was not going to transfer them to the job site; and that D'antuono then said did you guys hear that he is not going to hire me because I'm union. Subsequently Choo testified that on October 29 Respondent's manager told the employees at the Marriott job site to vote no because if they voted for the union, Skyline was going to have another job and they would not be transferred over to the other job site; that D'antuono told Respondent's manager that if the company was going to another job site, he wanted to work for the Respondent; that the manager said that since D'antuono was union he would never work for the Respondent; that D'antuono then said he is not going to hire me because I'm union; that Respondent's manager asked him if he ever worked with his tools; that D'antuono did not have a union sticker on his hard hat nor was he wearing a union T-shirt, not did he have anything on that day to identify him as a union; and that D'antuono did not identify himself as a union organizer.

35

Wallex Dumesle, who was employed by the Respondent as a journeyman carpenter at the Marriott Renaissance job site from May 30 until he was laid off on November 3 - General Counsel's Exhibit 28, testified that he was present on October 29 at the Marriott Renaissance job site at lunchtime when Watson spoke to the Respondent's employees; that this was the only time the Respondent provided its employees with lunch while he was employed by the Respondent; that D'antuono, who identified himself as an ironworker, and Choo were there when Watson spoke to the employees; that when Watson spoke to the employees D'antuono spoke up saying that the union is not a third party It is the employees; that Watson asked D'antuono who he was and D'antuono said that he was an ironworker; that Watson then asked D'antuono what he was doing there since the Respondent did not have jobs for ironworkers; that Watson told D'antuono that he

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would not give him a job and D'antuono asked why; and that Watson said that he would not give D'antuono a job because he was union, and D'antuono said that was not fair. On cross-examination Dumesle testified that a couple of the ironworkers who worked for the Respondent at the Marriott Renaissance job site were in the union; that in August 2001 he started wearing union stickers on his hardhat and a union T-shirt while he worked on the Marriott Renaissance job site; and that he wore the hard hat all the time and the T-shirt once a week until the petition was filed and then he wore it every day. And on recross Dumesle testified that when he was laid off he was working on the ninth floor of the Marriott Renaissance and the hotel had nine floors; and that he was not the only one laid off at that time.

A Board election was conducted on October 30. The Tally of Ballots showed that there were 62 eligible voters, 18 votes were cast for Petitioner, 21 votes were cast against the participating labor organization, and there were 22 challenged ballots.

On November 2, the Petitioner filed timely objections to conduct affecting the election.

Reniel Rodriguez, a carpenter, testified that when he worked for the Respondent on its Pinecrest High School job he "organized for the [Board] election ... [at the] Pinecrest High School [job]" (transcript page 216); that he did not wear Union T-shirts to work; that the Respondent did not terminate him for his union activities; that when he was rehired by the Respondent after a higher paying job did not work out, he was not asked by the Respondent if he was affiliated with the union; that the union meetings with employees were not held on the job site at Pinecrest High School but were held at a store on the corner after work; and that when he testified herein he was no longer a member of the Union.

Sony Lundy, who worked for the Respondent as a carpenter for 18 months, testified that he attended "meetings for the union" (transcript page 220); that the Respondent never interrogated him about his union activities; that he left the Respondent when he obtained a better job; and that he worked on three jobs for the Respondent, which did not include the Marriott Renaissance job.

Eddie Reynoso, who at the time of the hearing herein was employed by the Respondent as a carpenter's helper, testified that he worked at the Marriott Renaissance job; that he did not wear union paraphernalia; and that the Respondent did not ask him if he was a union member.

Jose Cruz, who at the time of the hearing herein was employed by the Respondent as a driver, testified that he was not

in the Union, and the Respondent never interrogated him about union activities.

5 Adolfo Serrera, who at the time of the hearing herein was employed by the Respondent as a carpenter, testified that he has worked for the Respondent since September 2000 and since then he has never been laid off; that he is not a member of the Union; that the Respondent never interrogated him about union activities, and never asked him to wear a "Vote No" shirt; that 10 the Respondent never passed out "Vote No" shirts; and that the Respondent never forced him to wear non-union paraphernalia.

15 Ronald Cruz, who at the time of the hearing herein was a superintendent for the Respondent, testified that he held a union card but it was not up to date; that prior to the Board election the Respondent did not discriminate against any of their employees for supporting the Union; that the Respondent does pass out "Vote No" shirts on the job; that he never told any applicants that they would not be hired for engaging in union 20 activities; that he did not ask any employee what they thought of the union or if they attended union meetings; that he was aware that on the day of the voting in the Board election Reniel Rodriguez sat in a trailer on the side of the Union and he was not asked to nor did he terminate Rodriguez after that; and that 25 he was a union member for eight years and was a journeyman with them. On cross-examination Ronald Cruz testified that the Respondent provided employees with "Vote No" shirts at the Marriott Renaissance job site; and that he did not work full-time on the Marriott job site at any time. On redirect Ronald Cruz 30 testified that on a few occasions he did work on the stairs at the Marriott Renaissance job site. And on recross Ronald Cruz testified that the last time he paid union dues was 1994 and he guessed that he was no longer a union member if he did not pay union dues.

35 Respondent's Exhibits 6(a)-(g) are union flyers which were passed out at the Marriott Renaissance Hotel job.

40 B. Analysis

45 Paragraph 5(a) of the complaint alleges that on various occasions, in or around late July 2001, early August 2001, mid-August 2001, and late August 2001, on dates not more specifically known to the Regional Director of Region 12 of the Board, Respondent, by Don Perala, at Respondent's Marriott Renaissance job site, interrogated employees about their union support and activities. As set forth above, the Respondent called four witnesses who testified that they were not interrogated about 50 their affiliation with the Union. The Respondent indicates that it has hired individuals who are in a union but it has never

knowingly hired someone who is organizing for a union. Only one of the four, Rodriguez, testified that he organized for a Board election which was conducted at another of the Respondent's job sites. However, the Respondent did not develop the record with respect to the extent of Rodriguez's organizing activities, Rodriguez did not wear Union T-shirts to work, the Union meetings with employees were held after work at a store which apparently was not on the job site, and the only union activity of Rodriguez cited by Superintendent Ronald Cruz was the fact that Rodriguez was a Union observer at the Board election. Superintendent Ronald Cruz testified that he was not asked to terminate Rodriguez after he was an observer for the Union at the Board election. Superintendent Ronald Cruz did not testify that he knew anything about any organizing activity on the part of Rodriguez before the Board election. On the one hand, the Respondent did not show that it was aware of any organizing activity on the part of Rodriguez before the Board election. Indeed while the Respondent did rehire Rodriguez, the only union activity the Respondent refers to is the fact that Rodriguez was an observer at a Board election. On the other hand, it has been demonstrated by Counsel for General Counsel that the Respondent was aware of the organizing activity of Solano before he was discharged.¹⁴ Solano's testimony about the interrogation is credited. Perala asked him, after Supervisor Mcmann saw him soliciting signatures on union authorization cards, if he was on the Union books.¹⁵ Perala was not a credible witness. As concluded below, Perala fabricated a scenario with respect to the termination of Richardson. While Perala denied engaging in certain conduct, he never specifically denied asking Solano if he was on the books. This was not an isolated incident. As concluded below, the Respondent does not deny that before the Board election it told employees that they would not be hired for other jobs if they were in the union. While Solano wore a Union T-shirt to the Marriott Renaissance job before this, he was not asked if he was on the Union books until after he was seen by Mcmann soliciting signatures on union authorization cards. The

¹⁴ Although Solano was a deck foreman, he was not a supervisor in that he did not have the authority to hire, fire, transfer, suspend, lay off, or discipline employees, or effectively recommend the hiring or firing of employees

¹⁵ Even Caccavale in his affidavit indicated that on the Marriott Renaissance job Perala would follow Mcmann's recommendation regarding hiring and firing without looking further. Mcmann was a supervisor. He was viewed as a supervisor by the employees. Perala described Mcmann as a Superintendent. And Mcmann was not on the list of eligible voters for the October 2001 Board election.

Respondent differentiated between someone who would wear a Union T-shirt or a Union sticker on his hard hat, and someone who was organizing for the Union. The former was not discriminated against. The latter was. The former was not considered a threat. The latter was. In asking Solano if he was on the Union books, Perala was putting Solano on notice that he was aware of Solano's union activities. It might be argued that since Solano continued his organizing activities, he was not intimidated and the interrogation was not coercive. The test is not a subjective test, however. The timing of the interrogation, only after Solano was seen by a supervisor soliciting signatures on union authorization cards, and the context in which it occurred, during an organizing drive when other unfair labor practices occurred, warrants the conclusion that Solano's interrogation by Perala was coercive.

As noted above, Perala was not a credible witness. Richardson's testimony regarding his interrogation by Perala is credited. Richardson was not open about his union organizing. Indeed Richardson speculated that no one in Respondent's management or supervision ever knew that he obtained signatures on union authorization cards. But he personally obtained signatures on 20 to 25 union authorization cards from the approximately 45 to 60 employees on the job at the time, he was involved in union meetings at the job site, and he was one of the two main union organizers on the job. - Both Solano and Richardson were interrogated by Perala. It has not been demonstrated that any other employee was interrogated by Perala regarding the Union. Perala either knew of or suspected Richardson's organizing activities and he wanted to put Richardson on notice that he was aware of what was going on. Richardson's testimony that Perala's attitude toward him changed dramatically after the interrogation was not refuted by the Respondent. The interrogation was coercive. The Respondent violated the Act as alleged in paragraph 5(a) of the complaint.

Paragraph 5(b) of the complaint alleges that on or about October 29, Respondent, by John Watson, at Respondent's Marriott Renaissance job site threatened not to hire employees because they supported the Union and engaged in union activities. The Respondent did not deny this in its answer to the complaint. Consequently this allegation is admitted. Additionally, Watson did not testify to deny this allegation notwithstanding the fact that he was subpoenaed by Counsel for General Counsel. The unrefuted testimony of the witnesses for Counsel for General Counsel about what Watson said at the October 29 luncheon at the job site is credited. The Respondent violated the Act as alleged in paragraph 5(b) of the complaint.

Paragraph 6 of the complaint alleges that on or about August

23 Respondent discharged Solano, and on or about August 27
Respondent discharged Richardson because they joined, supported
and assisted the Union, and engaged in concerted activities, and
to discourage employees from engaging in these activities.

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As set forth by the National Labor Relations Board (Board) in
Fluor Daniel, Inc., 304 NLRB 970 (1991):

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In Wright Line, 251 NLRB 1083 (1980), enfd. 662 F.2d
899 (1st dr. 1981), cert. denied 455 U.S. 989 (1982) the
Board set forth its causation test for cases alleging
violations of the Act turning on employer motivation. First
the General Counsel must make a prima fade showing
sufficient to support the inference that protected conduct
was a 'motivating factor' in the employer's decision. Once
accomplished, the burden then shifts to the employer to
demonstrate that the same action would have taken place
notwithstanding the protected conduct. It Is also well
settled, however, that when a respondent's stated motives
for its actions are found to be false, the circumstances may
warrant an inference that the true motive is an unlawful one
that the Respondent desires to conceal. The motive may be
inferred from the total circumstances proved. Under certain
circumstances the Board will Infer animus in the absence of
direct evidence. That finding may be inferred from the
record as a whole. [Footnote omitted.]

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In order to establish a prima facie violation of Section 8(a) (1)
and (3) of the Act, the General Counsel must establish union or
concerted protected activity, employer knowledge, animus and
adverse action taken against those involved or suspected of
involvement which has the effect of encouraging or discouraging
union or concerted protected activity. Inferences of animus and
discriminatory motivation may be warranted under all the
circumstances of a case, even without direct evidence. Evidence
of false reasons given in defense may support such inferences.

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General Counsel has demonstrated that Solano engaged in
union activity, the Respondent knew of Solano's union activity
when he was terminated, there was antiunion animus of the part of
the Respondent, and taking the adverse action against Solano had
the effect of discouraging union activity. General Counsel has
made a prima facie showing sufficient to support the inference
that protected conduct was a motivating factor in the
Respondent's decision.

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Has Respondent demonstrated that the same action would have
Taken place notwithstanding the protected conduct? Solano was
Laid off when the Respondent was working on the seventh floor of
The project. The Respondent still had to complete the eighth,

and ninth floors and the roof. Caccavale claims he was not involved in the decision to lay off Solano. Perala testified that Solano was laid off because the Respondent had to trim back on supervision. But Solano was not a supervisor. He was paid slightly more than the other carpenters but this was for being a deck foreman. The Respondent did not demonstrate that any supervisors were laid off when Solano was laid off. Solano was a credible witness. Perala was not a credible witness. Solano's testimony that when he was laid off Perala told him that Caccavale said that there was too much supervision is credited. This is what Perala told Solano when he laid off Solano. Caccavale, however, never testified that he told Perala that there was too much supervision before Solano was laid off. When he testified at the trial herein, Perala testified that Solano was terminated because the Respondent had to trim back supervision and there was a labor cutback. But the labor cutbacks did not commence until mid-September 2001 about 3 weeks after Solano was laid off. The Respondent has not demonstrated that Solano would have been laid off when he was notwithstanding his protected conduct. Additionally, as pointed out by Counsel for General Counsel in her brief herein, Solano's termination documents, the Change of Status forms, are not only inconsistent with each other, but they are inconsistent with the reason supplied by Perala for Solano's termination. Respondent's reason for Solano's termination is pretextual.¹⁶ The Respondent has violated the Act as alleged in paragraph 6(a) of the complaint.

General Counsel has demonstrated that Richardson engaged in union and concerted protected activity, the Respondent knew of Richardson's concerted protected activity when he was terminated, there was antiunion animus on the part of the Respondent, and taking the adverse action against Richardson had the effect of discouraging union and concerted protected activity. General Counsel has made a prima facie showing sufficient to support the inference that protected conduct was a motivating factor in the Respondent's decision.

Has Respondent demonstrated that the same action would have taken place notwithstanding the protected conduct? Caccavale testified that the sole reason for Richardson's termination was "due to the verbal exchanges told to ... by John Watson" (transcript page 49). As noted above, Richardson testified that

¹⁶ Additionally, Counsel for General Counsel points out that the Respondent's own documents, when viewed in conjunction with Perala's underlying payroll documents, demonstrate that it rehired and hired a large number of employees to work at the Marriott job site after Solano was discharged, and hired and rehired numerous employees after the Marriott job ended.

Caccavale, with Perala present, told him "you're fired, you're not good for moral on the job, and you're no longer needed here, to take my tools, and to leave his equipment and tools there, and get off the job site, and don't come back here." Caccavale did not specifically deny Richardson's testimony. Richardson's testimony is credited. Also, at one point during the trial herein Caccavale stated that employers would "die" to have someone of Richardson's caliber working for them. That being the case, why did the Respondent fire Richardson? Perala's explanation is not credited. It is a fabrication.¹⁷ Watson, who according to Perala, was there at the time, did not testify to corroborate Perala that Richardson threatened Perala with bodily harm. While according to Perala, he previously disciplined Richardson for shortcomings in his work performance, there was no documentation to support this allegation. And while according to Perala, he discussed the shortcomings in Richardson's work performance at least three or four different times with Caccavale, Caccavale did not corroborate Perala on this point. If Perala did discuss on three or four occasions the shortcomings of Richardson's performance while Richardson worked for the Respondent, why did Caccavale at the trial herein state that employers would "die" to have someone of Richardson's caliber working for them? The reasons given by the Respondent do not demonstrate that there was a business justification for discharging Richardson, and they do not demonstrate that the Respondent would have discharged Richardson absent his concerted protected activity. While there may be a question whether the Respondent knew of Richardson's union activity, there is no question but that the Respondent knew of Richardson's concerted protected activity. Richardson spoke with the Respondent's management about safety concerns such as insufficient decking, open elevator shafts, open stairways, and the lack of water for employees on a hot day. Such concerns on their face involved not only Richardson but the people working on this job site. It was not refuted that employees came to Richardson and told him about their safety concerns, i.e. the need for railings in an area, etc., because he was the layout carpenter, and because, albeit they wanted to take it up with management, they believed that Richardson was in a better position to get management to address the employees' safety concerns. Richardson's testimony that he conveyed the safety concerns of the employees to management was not refuted. While it was not made a matter of record whether

¹⁷ As noted by Counsel for General Counsel on brief, the Respondent's termination documents for Richardson, the Change of Status forms, are inconsistent with each other and the Respondent did not even attempt to clear up the inconsistency other than to have Perala testify that Sickmiller was not a supervisor on the Marriott job..

Richardson specifically told the Respondent's management or supervisors that he was acting for or on behalf of other workers when he complained about safety concerns, It was obvious from the nature of the safety complaints that Richardson was not just
 5 concerned about his own well being. Indeed, as noted above, even Perala testified that Richardson came to him with safety issues involving all employees probably at safety meetings and at other times. In view of this, even though Richardson did not bring the other employees with him on those occasions when he expressed his
 10 safety complaints when he met individually with members of management, the Respondent had reason to believe that Richardson was not acting alone. Richardson's safety complaints were concerted because he consulted with other employees before he spoke to management and supervisors about safety concerns,
 15 because they involved mutual aid or protection, and because the Respondent, as pointed out by Perala, was aware that Richardson - at safety meetings when other employees were present and at other times when other employees were not present - was speaking about safety issues involving all employees. The Respondent has not
 20 demonstrated that it would have discharged Richardson absent his protected concerted activity. The Respondent has violated the Act as alleged in paragraph 6(b) of the complaint.

III. The Objections

25 As noted above, the Union/Petitioner filed the following objections to conduct allegedly affecting the results of the election:

30 1. Skyline Builders, Inc., (hereinafter, "the Employer"), by and through its agents, interfered with, restrained, and/or coerced its employees in the exercise of their rights guaranteed by section 7 of the National Labor Relations Act, (hereinafter, "the Act").

35 2. The Employer, by and through its agents, created an atmosphere of fear, Intimidation and coercion, interfering with the laboratory conditions necessary for the conduct of a fair election.

40 3. The Employer, by and through its agents, intimidated employees by forcing them to wear vote no for the union t shirts on the days of the election and to the polling site, and by threatening them with termination if they did not wear the vote no t-shirts (sending the message that they
 45 would be terminated if they did not vote against union).

50 4. The Employer, by and through its agents, held anti-union "captive audience" meetings prior to the election.

5 5. The Employer, by and through its agents, created an atmosphere of fear, intimidation and coercion, interfering with the laboratory conditions necessary for the conduct of a fair election by telling employees that If they voted in the Union, they would be out of a job by Christmas.

10 6. The Employer created an atmosphere of fear, intimidation and coercion by surveilling employees at the polling place.

15 7. The Employer created an atmosphere of fear, intimidation and coercion by interrogating employees about their vote at the polling place and on the days of the election.

20 8. The Employer created an atmosphere of fear, Intimidation and coercion by stating on the first day of the election, in front of employees, that it would never hire anyone that is a union member, nor let a union member work at Skyline.

The petitioner, with the approval of the Regional Director for Region 12, withdrew Its Objection number 9.

25 The Union/Petitioner did not itself introduce any evidence with respect to objections. In view of the findings made in this decision regarding the involved alleged unfair labor practices, objections 1, 2 and 8 are sustained. They warrant setting the election aside. The remainder of the objections are overruled. 30 While objection 8 refers to "the first day of the election," the involved unlawful conduct actually occurred the day before.

IV. The Challenged Ballots

35 The Board agent conducting the election challenged the ballots of nine individuals because their names, including that of Richardson, were not on the eligibility list provided by the Employer. The ballots of nine individuals were challenged by the Petitioner as not being in the job classifications covered by the 40 bargaining unit. The ballots of three individuals were challenged by the Petitioner on the grounds that they are supervisors within the meaning of the Act. And the ballot of one individual was challenged by the Employer on the ground that he was not in the job classification covered by the bargaining unit. 45

In her Order Consolidating Cases for Hearing and Notice of Hearing, which was issued on September 5, 2002, the Regional Director for Region 12 indicated that an investigation of the issues raised by the challenged ballots had been conducted, and 50 based on the conflicting positions of the parties as to the

eligibility of the challenged voters, it was her conclusion that the Challenged Ballots raise substantial and material factual issues which can best be resolved at a hearing.

5 Other than the evidence introduced in the unfair labor practice proceeding regarding Richardson, no evidence was introduced regarding the challenged ballots.

10 Conclusions of Law

1. The Respondent is an employer engaged in commerce within the meaning of Sections 2(6) and (7) of the Act.

15 2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

20 3. Respondent violated Section 8(a)(1) of the Act by interrogating employees about their union support and activities, and by threatening not to hire employees because they supported the Union and engaged in union activities.

25 4. Respondent violated Section 8(a)(1) and (3) of the Act by discharging Mike Solano and David Richardson because they joined, supported and assisted the Union, and engaged in concerted activities, and to discourage employees from engaging in these activities.

30 5. The unfair labor practices set forth above are unfair labor practices affecting commerce within the meaning of Sections 2(6) and (7) of the Act.

The Remedy

35 Having found that Respondent has engaged in unfair labor practices, I shall recommend that Respondent be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the purposes of the Act.

40 The Respondent having discriminatorily discharged employees, it must offer them reinstatement and make them whole for any loss of earnings and other benefits, computed on a quarterly basis from the date of discharge to date of proper offer of reinstatement, less any net interim earnings, as prescribed in F.W. Woolworth Co., 90 NLRB 289 (1950), plus interest as computed in New Horizons for the Retarded, 283 NLRB 1173 (1987).

45 On these findings of fact and conclusions of law and on the

entire record, I issue the following recommended:¹⁸

ORDER

5 Skyline Builders, Inc., of Pompano, Florida, its officers,
agents, and representatives shall

1. Cease and desist from:

10 (a) Coercively interrogating any employee about union
support or union activities.

(b) Threatening not to hire employees because they
15 supported the Union and engaged in union activities.

(c) Discharging or otherwise discriminating against any
employee for supporting UNITED BROTHERHOOD OF CARPENTERS AND
20 JOINERS OF AMERICA, SOUTH FLORIDA CARPENTERS REGIONAL COUNCIL
or any other union.

(d) In any like or related manner interfering with,
restraining, or coercing employees in the exercise of the rights
25 guaranteed them by Section 7 of the Act.

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

(a) Within 14 days from the date of this Order, offer
30 Mike Solano and David Richardson full reinstatement to their
former jobs or, if those jobs no longer exist, to substantially
equivalent positions, without prejudice to their seniority or any
other rights or privileges previously enjoyed.

(b) Make Mike Solano and David Richardson whole for any
35 loss of earnings and other benefits suffered as a result of the
discrimination against them, in the manner set forth in the
remedy section of the Decision.

(c) Within 14 days from the date of this Order, remove
40 from its files any reference to the unlawful discharges, and
within 3 days thereafter notify the employees in writing that

¹⁸ In the event no exceptions are filed as provided in Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

this has been done and that the discharges will not be used against them in any way.

5 (d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in
10 electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

15 (e) Within 14 days after service by the Region, post at its facility in Pompano, Florida and at all of its job sites in southern Florida copies of the attached notice marked "Appendix"¹⁹ Copies of the notice, on forms provided by the Regional Director for Region 12, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous
20 places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of
25 business or closed the facility Involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since late July 2001.

30 (f) Within 14 days after service by the Region, mail a copy of the attached notice marked "Appendix" to all employees who were employed by the Respondent at its Marriott Renaissance job site in Miami, Florida at any time from the onset of the unfair labor practices found in this case until the completion of
35 these employees' work at that job site. The notice shall be mailed to the last known address of each of the employees after being signed by the Respondent's authorized representative.

40 (g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

¹⁹ If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

IT IS FURTHER ORDERED that all of the objections, except objections 1, 2, and 8, are overruled.

5 AND IT IS FURTHER ORDERED that the election conducted in Case 12-RC-8695 be set aside and this matter be remanded to the Regional Director to take whatever action she deems appropriate under the circumstances existing here.

10 Dated, Washington, D.C.

15

John H. West
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

5 Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

10 The National Labor Relations Board has found that we violated
Federal labor law and has ordered us to post and obey this
notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

15 Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and
protection
Choose not to engage in any of these protected activities

20 WE WILL NOT discharge or otherwise discriminate against any of
you for supporting UNITED BROTHERHOOD OF CARPENTERS AND JOINERS
OF AMERICA, SOUTH FLORIDA CARPENTERS REGIONAL COUNCIL or any
other union.

25 WE WILL NOT coercively question you about your union support or
activities.

30 WE WILL NOT threaten not to hire you because you support UNITED
BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, SOUTH FLORIDA
CARPENTERS REGIONAL COUNCIL and engaged in union activities.

35 WE WILL NOT in any like or related manner interfere with,
restrain, or coerce you in the exercise of the rights guaranteed
you by Section 7 of the Act.

40 WE WILL within 14 days from the date of the Board's Order, offer
Mike Solano and David Richardson full reinstatement to their
former jobs or, if those jobs no longer exist, to substantially
equivalent positions, without prejudice to their seniority or any
other rights or privileges previously enjoyed.

45 WE WILL make Mike Solano and David Richardson whole for any loss
of earnings and other benefits resulting from their discharge,
less any net interim earnings, plus interest.

WE WILL within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharges of Mike Solano and David Richardson, and WE WILL, within 3 days thereafter notify the employees in writing that this has been done and that the discharges will not be used against them in any way.

SKYLINE BUILDERS, INC.

(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal Agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

201 East Kennedy Boulevard, South Trust Plaza
Suite 530, Tampa, FL 33602-5824
(813)228-2641, Hours: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE
DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY
ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR
COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE
REGIONAL OFFICE'S COMPLIANCE OFFICER (813)228-2662

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

5

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

10

WE WILL NOT discharge or otherwise discriminate against any of you for supporting UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, SOUTH FLORIDA CARPENTERS REGIONAL COUNCIL or any other union.

15

WE WILL NOT coercively question you about your union support or activities.

20

WE WILL NOT threaten not to hire you because you support UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, SOUTH FLORIDA CARPENTERS REGIONAL COUNCIL and engaged in union activities.

25

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

30

WE WILL within 14 days from the date of the Board's Order, offer Mike Solano and David Richardson full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

35

WE WILL make Mike Solano and David Richardson whole for any loss of earnings and other benefits resulting from their discharge, less any net interim earnings, plus interest.

40

WE WILL within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharges of Mike Solano and David Richardson, and WE WILL, within 3 days thereafter notify the employees in writing that this has been done and that the discharges will not be used against them in any way.

45

SKYLINE BUILDERS, INC.

50

(Employer)

Dated _____ By _____
(Representative) (Title)