

**The Black & Decker Corporation and International Brotherhood of Electrical Workers, Local Union #1605, AFL-CIO. Case 11-RC-5353**

10 February 1987

**DECISION AND ORDER**

**BY CHAIRMAN DOTSON AND MEMBERS  
JOHANSEN AND BABSON**

The National Labor Relations Board, by a three-member panel, has considered objections to an election held 23 May 1986 and the Acting Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 154 for and 415 against the Petitioner, with 2 challenged ballots, an insufficient number to affect the results.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the Acting Regional Director's findings<sup>1</sup> and recommendations, and finds that the election must be set aside and a new election held.<sup>2</sup>

[Direction of Second Election omitted from publication.]

CHAIRMAN DOTSON, dissenting.

Contrary to my colleagues, I find that the Employer had not engaged in objectionable conduct as found by the Acting Regional Director. Accordingly, I would not set aside the instant election on this basis. Rather, for the reasons discussed below, I would overrule the objection in question and, in accordance with the Acting Regional Director's alternative recommendation, I would remand this

<sup>1</sup> In reaching our decision, we find it unnecessary to rely on the Acting Regional Director's discussion of the document entitled "Do You Know?"

<sup>2</sup> Contrary to our dissenting colleague, we agree with the Acting Regional Director that the Employer engaged in objectionable conduct. Had the Employer's literature relied on objective facts to show that unionization could make the Company less profitable, then the Employer's conduct would have been permissible. Here, however, as is clear from the attached portions of the Acting Regional Director's report marked "Appendix," the Employer failed to do that. In very general terms the Employer stressed the necessity for teamwork and the alleged deleterious effects unionization had on teamwork. Additionally, the Employer stressed that the Company must remain competitively priced in order to receive new product lines and pointed out that unions drive costs up. Finally, the Employer advised employees of the "close eye" company management was keeping on the plant and the election, how management was opposed to unionization, and how management was instrumental in placing new products. The overall effect of the Employer's literature was to make it clear that acquisition of new products for that plant and continued job security were based on rejection of unionization. By implication the Employer was threatening employees that a union victory would insure higher costs, loss of teamwork, and, because of management's antiunion stance, a loss of new product lines and a concomitant loss of jobs. Such conduct is clearly objectionable.

case for a hearing on Objections 1-5, 7-12, 14, 17, and 18.<sup>1</sup>

The Petitioner alleges that the Employer, through literature distributed to employees, implicitly threatened that the instant (Asheboro) plant would not be awarded new product lines, and would therefore lose jobs, if the Union won the election. The material facts are as follows. All references are to statements contained in literature distributed by the Employer to employees during the critical period.<sup>2</sup>

The instant petition was filed on 10 April 1986 and the election was held on 23 May.<sup>3</sup> On 11 April, in a newsletter apparently written prior to learning of the instant petition, the Employer stated:

Our future looks extremely bright especially since we no longer have a petition facing us. . . . There are new products out there to be had and many of those products could easily have gone to the power tool plants who still have excess capacity. In this same 11 April newsletter, the Employer stated that it was discontinuing in-house production of a particular product in order to make production space available for manufacture of an anticipated new product in the summer.

By 14 April the Employer was aware of the instant petition. In a newsletter of that date, the Employer announced that it intended "to vigorously oppose the union's organizing effort to the fullest legal extent." The Employer also stated that "if a union were to be organized here, we can be assured that our Asheboro plant would change—but not for the better. . . . THE BEST WAY TO INSURE OUR FUTURE IS TO REMAIN UNION FREE."

On 25 April Asheboro Plant Manager Ken Kolling stated that higher management wanted to make a "substantial investment" in the plant, but that the decision to do so would be "influenced by the outcome of the next month's events" (the instant election was scheduled for 23 May). Kolling went on to state that he was opposed to unions because they "add cost to our business by attacking teamwork spirit and attempting to develop very costly work rules." Kolling stated that "there is tension on the floor today . . . . Teamwork has slipped . . . with major defects increasing, our costs have

<sup>1</sup> I agree with my colleagues to adopt the Acting Regional Director recommendation to overrule Objections 6, 13, 15, and 16.

<sup>2</sup> Inasmuch as my colleagues do not rely on the Acting Regional Director's discussion of the document entitled "Do You Know?" which was distributed by employees, I do not discuss that document herein.

<sup>3</sup> All dates are 1986 unless otherwise stated.

risen. Our business is *not* healthy with these type of circumstances" (emphasis in original). Kolling also noted that wages were "significantly higher" in the instant Asheboro plant than in the Employer's other two nonunion plants in North Carolina, and yet Asheboro was the site of union activity. Additionally, Kolling stated that production of "core products" was declining and that it was mandatory that the Asheboro plant get new products "if we are to survive and protect the jobs of our low service people."

On 2 May the Employer distributed a summary of remarks made by Dennis Heiner, president of the Employer's Household Products Group, during a recent visit to the plant. Heiner stated that the Company was currently confronted by the problems of excess production capacity and high overhead costs, which had contributed to the layoff of over 2000 employees since 1982. Due to a general lack of product innovation and growth in the household products industry, competition had become increasingly price sensitive. Heiner stated that in response to this situation the Employer planned to reduce manufacturing capacity and eliminate some salaried positions in order to reduce overhead costs. Heiner then stated:

Decisions on new product locations will be influenced by the plant's ability to quote competitively and to produce a high quality product in a timely manner. New products must be earned and this will require tremendous teamwork, something for which Asheboro is noted. I cannot stress strongly enough how important it is to maintain the teamwork atmosphere that this plant has enjoyed in the past.

Heiner described the Employer's operating strategy as one of controlling costs and expanding sales. He stated that the reputation of the instant plant for "teamwork, pride and cooperation" was giving it an advantage in getting new products, but that "in the final analysis, new products will be placed in plants that can quote competitively, can deliver, and can be depended upon." In response to a question from the audience, Heiner gave his opinion of unions:

We are in a highly competitive business. We need teamwork; we need to be cost conscious and in my opinion unions are in direct conflict with these goals.

In a 5 May newsletter, Plant Manager Kolling stated, *inter alia*, "Ultimately our plant's future is determined by our competitiveness. Unions definitely impact a plant's competitiveness." In this same newsletter, Kolling expressed his view that

unions add to the cost of doing business by sponsoring "unrealistic" work rules. In response to a question "If the union got in, would the plant close?" Kolling responded:

It wouldn't help our situation. We are a very marginal business. We are spending a great amount of time on the union issue. It would be best that our time would be spent on production problems instead of the union. Unions add a great deal of friction, attack teamwork spirit, and are responsible for very costly restrictive work rules.

In a 9 May newsletter, Kolling stated that the election was important to top management—"They are following our situation very closely." He stated that the Employer's chief executive officer's concern about the election was "not good for us. We do have a bright future, but this depends on the upcoming election." In the same newsletter, Kolling also stated that decisions about new products would be made shortly after the election.

In a 13 May newsletter, in response to a question about whether the plant would close if the Union won the election, Kolling stated that it was difficult to foresee the future, but that the instant plant was the "highest cost" plant in the entire worldwide corporation; that the Employer's other two North Carolina plants had the capacity to add new products which Kolling hoped to obtain for the instant plant; and that it would hurt the plant very badly if it did not get to produce the new products.

In a 16 May newsletter, Kolling again emphasized that the election was important to the Employer, and that the plant had to send a "strong message" to corporate headquarters that the plant wanted to remain nonunion. Kolling went on to state that the plant was at a "crossroads"; that there were other Employer plants that would "truly love to have our new products"; and that "we must make sure that we get those products placed here in [A]sheboro. The vote . . . is very serious. We have earned the right to a bright future."

Finally, a newsletter summary of a speech made by the Employer's chief executive officer included the following remarks:

I am intimately familiar with unions, and *I'm here today because I definitely do not want a union in this plant!*

I consider this election vitally important:

*A significant victory will tell me that you are ready to move ahead with the corporation.*

*A union victory could demonstrate a loss of pride, a loss of enthusiasm, and a loss of teamwork.*

*By your hard work and effort, you have earned a bright future! The entire Asheboro Black & Decker team deserves it! I'm asking for your support in a decisive victory over the union! Remember, a "No" vote is a vote to remain union free.*

The Acting Regional Director found that the cumulative effect of the Employer's comments on the siting of new products was "to draw a clear and threatening picture of the consequences of unionization—the loss of new products and jobs." I disagree, and I find, contrary to the Acting Regional Director and my colleagues, that the Employer did not threaten its employees with the loss of new products and jobs if the Union won the election.

It is well settled that an employer is permitted, in the midst of a union campaign, to make predictions as to the adverse consequences of unionization on its employees, when such predictions are based on objective facts and convey the employer's belief about demonstrably probable consequences of unionization which are beyond the employer's control.<sup>4</sup> More specifically, an employer may properly raise the possibility of a loss of jobs due to unionization, when such possible loss is attributed to economic considerations.<sup>5</sup> I find that this Employer had done precisely that.

Plant Manager Kolling and Group President Heiner consistently stressed in their statements the economic importance of the assignment of new products for manufacture by the Asheboro plant—in short, jobs depended on it. Kolling and Heiner consistently linked the assignment of new products to Asheboro to the plant's continued production teamwork and manufacturing cost efficiency. They consistently informed employees that these would be crucial factors evaluated by corporate management officials in deciding which plants should be assigned new products for manufacture. Finally, Kolling and Heiner consistently expressed their view that unionization of the plant would conflict with and undermine production teamwork and manufacturing cost efficiency at Asheboro, making it less likely that higher management would assign new products for manufacture at Asheboro.

Thus, I find that Kolling and Heiner did no more or less than what the law, as set forth above, permitted them to do. They predicted adverse economic

consequences of unionization, based on objective factors—a corporate emphasis on production teamwork and manufacturing cost efficiency in the selection of plants for the manufacture of new products. They conveyed to the Asheboro employees their beliefs about the demonstrably probable economic consequences of unionization—loss of new products to manufacture and resultant loss of jobs. In short, Kolling and Heiner clearly and permissibly told the employees that if they chose to be represented by a union, then production teamwork and manufacturing cost efficiency would be seen to be jeopardized, the chance to receive new products to manufacture would diminish, and jobs would be lost as a result. These statements concerning the adverse economic consequences of unionization were clearly and permissibly linked to economic considerations, were moderate in tone, and were not threats of retaliation springing from union animus. Informing employees about these reasonably probable adverse consequences of unionization does not constitute objectionable conduct.<sup>6</sup> Accordingly, I would overrule this objection.

<sup>6</sup> See *Kawasaki Motors Mfg. Corp.*, 280 NLRB 491 (1986), *Tri-Cast*, supra. See also my dissenting position in *Bay State Ambulance*, 280 NLRB 1079 fn 3 (1986), and my separate dissenting opinion in *Diner's Drive-In*, 280 NLRB 971 (1986).

I find *National Micronetics*, 277 NLRB 993 (1985), relied on by the Acting Regional Director in finding objectionable conduct, to be inapposite. In *National Micronetics*, the employer was found to have violated the Act and engaged in objectionable conduct interfering with the election when on three occasions during the week before the election the employer threatened to close the plant and relocate its operations if the union won the election. The Board stated, as a preliminary matter, that an employer may lawfully tell its employees that changed economic conditions due to unionization could cause the employer to relocate its operations.

Thus, when an employer points out specific effects of unionization that might cause it to become unprofitable, such as higher wages or production losses during strikes, it may properly raise the possibility that a loss of jobs could result from unionization.

277 NLRB at 995 citing *Tri-Cast*, supra. Unlike the instant case, however, the employer in *National Micronetics* did not point to any objective facts that would be likely to change as a result of unionization and cause it to become unprofitable. Rather, the employer in that case merely noted that its New York plants in question (the union sought to represent employees in three co-located plants) were *already* uncompetitive compared to other employer plants in California and Mexico, and told the employees that it could easily relocate those already unprofitable plants if the union won the election. Thus, in *National Micronetics*, the employer did not predict that unionization might effect a detrimental *change* in its operations that could cause them to *become* unprofitable or uncompetitive, the employer's operations in question already were unprofitable and uncompetitive. Rather, the employer made it clear to the employees that unionization *per se*, rather than any anticipated or probable adverse consequences of unionization, would directly result in a shutdown and relocation of operations. But contrary to the employer in *National Micronetics*, Plant Manager Kolling and Group President Heiner made it clear to the employees here that the probable adverse effect of unionization—loss of production teamwork and manufacturing cost efficiency—and not merely unionization itself would make it less likely that the instant plant would receive new products for manufacture, and thus reasonably probable that some jobs might be lost as a result. Thus, I find *National Micronetics* to be distinguishable in this crucial respect, and the Acting Regional Director's reliance on it to be misplaced.

<sup>4</sup> *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 618 (1969).

<sup>5</sup> See *Tri-Cast, Inc.*, 274 NLRB 377, 378 (1985).

## APPENDIX

**OBJECTION 16:**

The Petitioner alleges in this objection that the Employer issued written reprimands to employees who were allegedly harassing other employees in an effort to get them to support the Petitioner's organizing effort. The Petitioner filed unfair labor practice charges in Cases Nos. 11-CA-12006 and 11-CA-12045 regarding the three reprimands alleged to be objectionable herein. The Petitioner presented witnesses in support of the unfair labor practice charges and this objection.

Inasmuch as the evidence presented by the Petitioner indicated that the written reprimands were issued outside the critical period, the undersigned therefore recommends that Petitioner's Objection 16 be overruled.

**BY THE ABOVE AND OTHER ACTS:**

The Petitioner alleged in its final objection that "By the above and other acts, Black & Decker Corporation has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act." The Petitioner's contention with regard to this objection is that the Employer, through literature distributed to employees at the workplace, impliedly threatened its employees that the Asheboro plant would not be awarded new product lines, with a concomitant loss of jobs. In support of this objection, the Petitioner presented approximately 45 pieces of literature distributed to employees by the Employer or by an unidentified anti-union employee group. Twenty pieces of literature submitted were either undated or bore dates outside the critical period and were, therefore, not considered herein. Twelve of the remaining 25 pieces of literature referred to the "new products issue" at the root of the Petitioner's objection herein.

The Employer used four basic forms of written communication with its employees: "Speakout", "Straight Talk", "Newsletters", and memoranda which were distributed by supervisors during working hours.

The "Speakout" distributed on April 11, contained the following answer to an employee's question:

Our future looks extremely bright especially since we no longer have a petition facing us. I have received many positive calls from our headquarters talking about the future of our plant now. There are new products out there to be had and many of these products could have easily gone to the power tool plants who still have excess capacity. We want to line up to have Dennis Heiner into our plant as soon as possible so hopefully some of these new products can be announced.

The new product issue was also raised in the reply to other employee questions in that issue of "Speakout" as follows:

Q) Is cordset shutting down in June?

A) It looks very possible at this time that we will go to a vendor on the outside for our cordsets. That vendor can produce these cordsets at a cheaper price and we need the floor space if we are to get new products in the plant. I expect this to happen

some time this summer, however we don't foresee any layoffs.

Q) Why is the Mold Room still on 12-hour shifts when only 75% of our presses are running?

A) The decision to stay on a 12-hour shift was made on the basis that we are going to get the anticipated new products in the plant. The future new products will mean that we need to stay on 12-hour shifts.

On April 14, the Employer distributed an issue of "Straight Talk", telling the employees that the Petitioner had failed the instant petition. The April 14, "Straight Talk" contained the following language:

It would appear that the organizers are trying to sell to a few people the notion that a union can provide change. We agree, unions *can be* responsible for change. Unfortunately, if a union were to be organized here, we can be assured that our Asheboro plant would change—but not for the better. Therefore, *do not be misled into thinking that change stands for "better", or "more"*.

We have a very bright future here at Asheboro Black & Decker. We've earned it, and we deserve it; however, it is up to *each one of us* to do everything possible to insure that our bright future becomes a reality. **THE BEST WAY TO INSURE OUR FUTURE IS TO REMAIN UNION FREE.**

(Emphasis in original)

In the "Speakout" distributed on April 25, the Employer had this to say:

Dennis Heiner has stated publicly that he wants to make Asheboro the premier Household Product Plant in the country. It is his desire to make a substantial investment in our operation, but that will be influenced by the outcome of the next month's events.

Why does Dennis feel this strongly about our plant? Is it because we have a nice Mold Room, manufacture Coffeemakers, or have a nice clubhouse? *No, it's because we produce quality products, we have a strong desire to do things right the first time, or simply put, the Asheboro Black & Decker Team has world-wide recognition for having extremely strong teamwork. That's why we receive so many visitors. We cannot allow this to slip away from us.*

Many people ask me why I am against unions. . . . Unions add cost to our business by attacking teamwork spirit and attempting to develop very costly work rules.

Consider the relationship on the floor today and compare that to what it was this time last year. There is no question that there is tension on the floor today. Many people who tour our plant comment on our teamwork. What would they see if they took a tour of our plant today? Teamwork has slipped. Friendship among employees has suffered. With major defects increasing, our costs have risen.

Our business is *not* healthy with these type of circumstances.

(Emphasis in original)

I am happy to report that there is no union activity in either Tarboro or Fayetteville. However, the question continually goes through my mind of how Nolan Archibald, our Chief Executive Officer, is viewing this whole situation? I ask myself these questions. Did Tarboro and Fayetteville take a wage cut? "Yes." Did Asheboro salaried take a cut in pay where the salaried exempt did not take a cut in pay in Tarboro and Fayetteville? Aren't the wages in Asheboro significantly higher than they are in Tarboro and Fayetteville. "Yes." And where is the union activity? "Asheboro." This is a very dangerous situation for our plant to be in. However, I have all the confidence in the world about our future—but it's up to each one of us to make it happen.

In this issue of "Speakout", the Employer also presented its employees with the following comments in the guise of answers to questions raised by employees:

Q) How much of a production cutback will SDC take:

A) Our SDC production will go from 3530 units to 2530 units per day which is still good volume. However, this only points out that our core products are declining and it is mandatory that we get new products if we are to survive and protect the jobs of our low service people. Today there are 6 or 7 competitors for the spacemaker coffeemaker business. We continually stress quality, and it pays off when you read about Sunbeam. They are recalling many of their SDC's because of a safety hazard.

Q) What future products have been put on hold?

A) Plant locations for the following products have not yet been decided. Powerbrush, Spacemaker Popcorn Popper, the new line of coffeemakers, a 4-cup SDC, stainless steel percolater, plastic percolater, and a filter dispenser.

The May 5, "Speakout" contained these remarks:

Our corporation is closely watching our plant. On the way back to Connecticut from his speech at Asheboro, Dennis Heiner stopped in Maryland where he briefed our President and CEO, Nolan Archibald, on our situation. We have a very bright future in store for us, but we must make it a reality.

In the May 9, "Speakout", Plant Manager Ken Kolling is quoted as follows:

I would like to emphasize one event which occurred last week. Dennis Heiner stopped over in Towson to see Nolan Archibald after visiting our plant. This highlights how important this election is

to our top managers. They are following our situation very closely.

Mr. Archibald is very fair, and understanding, as well as a very sound businessman. He believes very much in the future of our plant, but he is concerned about the election and that is not good for us. We do have a bright future, but this depends on the upcoming election.

The May 9, issue of "Speakout" also contained this employee question and Employer answer:

Q) Is it true we will not get a new product until after the election?

A) Those decisions will be made soon after we have the election results. There are three Black & Decker plants in this state and each plant has excess capacity.

Plant Manager Kolling is quoted again in the Employer's May 16 "Speakout":

I want to emphasize one more time how important this election is to us. Dennis Heiner made a special side trip after leaving the plant on the day of his speech to report to Nolan Archibald on the day's activities here at Asheboro. We must send a strong message to our Corporation that this plant wants to remain non-union. A slight victory against the union will not do the job. We need to clearly demonstrate by our votes that we are dedicated to working as a strong team with all employees.

We have gone through some hard times in the last few years. There isn't anybody here who doesn't need their job. But this plant is at a crossroads. If it were not for the Allentown and Brockport products, we would have an additional 150 employees on lack of work. There are other plants within Black & Decker who would truly love to have our new products. We must make sure that we get these products placed here in Asheboro. The vote on Friday, May 23rd, is very serious. We have earned the right to a bright future.

The "Questions from Employees" section of the May 16, "Speakout" also contains this comment:

*Another comment from an employee:* I have come to the conclusion that it is very foolish to vote for the union. I am afraid the new products will go to Tarboro and Fayetteville who receive less pay than we do. To me it is certain we will die a slow death. I don't look forward to finding a new job. I don't want to start over with a new vacation schedule, a new seniority. In addition, I know there would not be severance pay for the majority of people because the plant would be reduced over a couple year period. For these reasons, I hope everybody votes NO.

In a document dated May 2, which was distributed to employees by their supervisors, the Employer offered a summary of the remarks made by Dennis Heiner, Presi-

dent of the Household Products Group. The bulletin, which is attached as Exhibit 3, includes these remarks, among others:

Decisions on new product locations will be influenced by the plants' ability to quote competitively [sic] and to produce a high quality product in a timely manner. New products must be earned and this will require tremendous teamwork, something for which Asheboro is noted. I cannot stress strongly enough how important it is to maintain the teamwork atmosphere that this plant has enjoyed in the past.

It has been a pleasure for me to be in Asheboro today. I know this plant has a proud tradition based on teamwork, pride, and cooperation. It's a plant that gets things done. These virtues are giving you an edge towards winning new products, but in the final analysis, the new products will be placed in plants that can quote competitively, can deliver, and can be depended upon. *I believe Asheboro can and will compete and deliver. Your future, however, is up to you. I solicit your total support over the next few weeks to reach for a bright future for the Asheboro Plant.* (Emphasis in original)

*Here are several questions that Mr. Heiner responded to:*

Q) What's your opinion of unions?

A) As you know, we are in a highly competitive business. We need teamwork; we need to be cost conscious and in my opinion unions are in direct conflict with these goals.

The May 2, "Newsletter" is yet another of the Employer's handouts which refers to the new products issue, as follows:

Many exciting new products will soon be released, however the product assignment locations have yet to be determined.

Dennis was asked his opinion on unions. 'As you know we are in a highly competitive business. We need teamwork; we need to be cost conscious and in my opinion unions are in direct conflict with these goals,' explained Dennis.

The May 13, "Newsletter" includes an account of a briefing for local ministers by the Employer, including the following question and answer:

*Question From One Minister*

I would like to know if the union gets in, what is the chances the plant would close?

Ken's Response: It's difficult to foresee the future; however, right now we are the highest cost plant in Black & Decker world-wide. Our other two N.C. plants have capacity to add the new products we

hope will come to Asheboro. It would hurt us very badly if we did not get the new products.

The May 15, "Newsletter" discusses a planned visit to the plant by the Employer's Chief Executive Officer (CEO) and includes these comments:

It goes without saying that the plant must look its best. This is Nolan's first visit to our plant. First impressions can have a lasting effect. As you know, Mr. Archibald has a great deal to say where new products are placed. It is a privilege to have our CEO visit our plant.

Finally, in a document addressed to "All Black & Decker Families", which summarizes the speech to employees made by the Employer's Chief Executive Officer, the following remarks are included:

Now, let me share with you my thoughts on a topic that interests us both. That is the union election scheduled for this Friday. I am intimately familiar with unions, and *I'm here today because I definitely do not want a union in this plant!* I understand that, in the union election of 1970, some employees who didn't want a union voted "yes" anyway, in order to send General Counsel Electric a message. That election was won by only *one vote*. Believe me, I understand how you feel and that's why I'm here today. I have gotten your message.

I consider this election vitally important:

*A significant victory* will tell me that you are ready to move ahead with the corporation.

*A union victory* could demonstrate a loss of pride, a loss of enthusiasm, and a loss of teamwork.

*By your hard work and effort, you have earned a bright future! The entire Asheboro Black & Decker team deserves it! I'm asking for your support in a decisive victory over the union!* Remember, a "No" vote is a vote to remain union free.

(Emphasis in original)

An unsigned publication titled "Do You Know" and attached as Exhibit 2, was one of a number of similar documents distributed on the work floor by anti-union employees before each shift began, according to evidence presented by the Petitioner. The Employer submitted a position letter on June 23, 1986. Information provided in that letter makes it clear that the document was distributed during the critical period. Counsel for the Employer telephonically informed the Regional office that the Employer had never seen this particular "Do You Know" document. The Employer further denies that the Asheboro facility had bid on any new products during the time immediately before, during, or after the critical period. If, as the Petitioner's evidence indicates, "Do You Know" was distributed on the work floor before each shift began, it is improbable that the Employer did not see it. The pertinent portion of the "Do

You Know" document in question for purposes of discussion of the instant objection is:

The Union is already having an effect on our plant. Last Friday, Don Graber and his boss Mr. Heiner, were to be in Asheboro to make an announcement. Asheboro was to get a new product. Because of the petition, Don came alone, and the product was put on hold. As we learned at our first meeting, the blue prints were rolled up and shipped away. We are in jeopardy of losing this product and more. This plant has survived because of new products. How long can we survive without new products?

The Board has noted that an Employer may properly raise the possibility of a loss of jobs due to unionization of its employees where it points out specific effects of unionization which could cause it to become unprofitable. *National Micronetics, Inc.*, 277 NLRB 993 (1985). However, as was true in *National Micronetics*, the Employer in the case herein did not point to any objective facts such as higher wages which could lead to changed economic conditions such as loss of new product lines. The Employer herein, through a series of publications distributed to its employees, first stressed the importance of new products and the fact that new products would go to one of the plants with excess capacity. The Employer then pointed out that its other two North Carolina plants have excess capacity and have had *no* union activity. The literature distributed by the Employer repeatedly referred to the need to "earn" new products by teamwork and quality and to the alleged effects of the Petitioner's campaign on teamwork in the plant. The Employer's literature, as noted above, emphasized the close eye being kept on the plant and the election by the Employer's chief executive officer. The literature notes that the Chief Executive Officer is the one who makes decisions about where new product production will be located. The cumulative effect of the Employer's com-

ments on the siting of new products is to draw a clear and threatening picture of the consequences of unionization—the loss of new products and jobs. The Employer's literature does not, in any significant way, link the possible consequences of unionization to objective factors such as higher wages. Thus, the Employer, through the literature distributed to its employees impermissibly threatened its employees with the loss of new products and the resulting loss of jobs. The undersigned, therefore, recommends that the Petitioner's objection to "the above and other acts" be sustained, that the election in this matter be set aside, and that a second election be ordered.

**OBJECTIONS 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 17, AND 18:**

In the event that the above recommendation to sustain the Petitioner's objection to "the above and other acts" is not adopted, the undersigned, having considered the initial evidence presented in this matter on Petitioner's Objections 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 17, and 18, and noting that threats are involved and that it appears that substantial and material factual issues exist which can best be resolved by record testimony, would recommend that a hearing be held before a duly designated Hearing Officer for the purpose of receiving testimony to resolve the issues raised by the Petitioner's objections.

**CONCLUSIONS AND RECOMMENDATIONS**

The undersigned has recommended that Petitioner's Objections 6, 13, 15, and 16 be overruled.

The undersigned has further recommended that the Petitioner's objection to "the above and other acts" be sustained, that the election be set aside, and a second election be ordered. In the event the undersigned's recommendation regarding Petitioner's "above and other acts" objection is not adopted, it is recommended that Petitioner's Objections 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 17, and 18 be remanded for hearing by a duly designated Hearing Officer to resolve the issues raised therein.