



IN THE MATTER OF

ASSOCIATION OF FARM WORKER
OPPORTUNITY PROGRAMS,

Case No: 84-JSA-2

v.

EWERS ORCHARDS,

ASSOCIATION OF FARM WORKER
OPPORTUNITY PROGRAMS,

Case No: 84-JSA-3

v.

MT. LEVELS ORCHARDS

ASSOCIATION OF FARM WORKER
OPPORTUNITY PROGRAMS,

Case No: 84-JSA-4

v.

TRI-COUNTY GROWERS, INC.,

ORDER DENYING PROTECTIVE ORDER

In response to subpoenas duces tecum served on them prior to the hearing in this case, held on January 3, 1985 in Martinsburg, West Virginia, each respondent produced its payroll records for apple pickers for the years 1980 and 1981. These documents were admitted into evidence over respondents' objections to their relevance as Complainant's Exhibits 14 (Mt. Levels), 16 (Ewers) and 25 (Tri-County). Following their admission into evidence, respondents requested that these exhibits be sealed, or their contents otherwise protected, to be made public only in the event back pay to their workers is ordered. They were given an opportunity to brief the issue; at the same time, a temporary protective order prohibiting complainant from copying or disclosing the contents of these documents was granted. Subsequent to the hearing, respondents filed a short memorandum restating their arguments for granting a protective order. Basically, they are contending that their workers' privacy is being invaded by making their payroll records public. Moreover, they allege that complainant's counsel may make use of these records in unrelated

proceedings if he is given unfettered access to them. Complainant filed a memorandum objecting to a protective order, contending that payroll records are not confidential.

I agree with complainant. There is nothing of a privileged or confidential nature in routine payroll records, and I am not aware of any case law to the contrary. The only case cited by respondents in support of their position, E.I. DuPont de Nemours v. Finklea, 442 F.Supp. 821 (S.D.W.VA. 1977), is not on point since it is not concerned with the production of documents for the purpose of litigation. Further, since the documents in that case, which were of a private nature (medical records), were nonetheless ordered to be turned over to the government, it does not support respondents' position.

Since respondents have failed to demonstrate that there is any necessity to treat these documents as confidential, their motion for a protective order is denied. Consistent with this ruling, the oral protective order issued at the hearing is dissolved.

JEFFREY TURECK
Administrative Law Judge

Dated: JAN 28 1985
Washington, D.C.
JT/ebf