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Annotations

Tate's Bake Shop union supporters say an anti-union employee threatened violence and claimed he was an MS-13 gang member

PABLO GUTIERREZ APRIL 13, 2021

Workers at Tate's Bake Shop, known for its crispy cookies, have until April 21 to vote in a union election.

Juana Arias for the Washington Post; Samantha Lee/Insider

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- A Tate's employee threatened union sympathizers and said he was a gang member, sources told Insider.
- Three workers said they're allowed only three short bathroom breaks during eight-hour manufacturing shifts.

- Tate's accused the union of a smear campaign. The anti-union employee denied the allegations.
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For a decade, Paul and Rachel Demasi have woken up to the smell of the Tate's Bake Shop factory in East Moriches, New York. "We call it the Tate's smell," they said during a recent stroll through their neighborhood. "In the morning, it's really strong, and then it just kind of lingers on."

But recent news reports, describing allegations that some Tate's employees threatened undocumented, pro-union workers with deportation, have unsettled the Demasis, they told Insider.

"If it's true what they say, wow, I think it's just awful," Rachel said.

Tate's, which was sold to the Fortune 500 food conglomerate Mondelēz for $500 million in 2018, distributes many of its "uniquely crispy" cookies through mom-and-pop shops and high-end supermarkets including Whole Foods. The company prides itself on "nourishing the soul and delighting the world," and it has a "community of loyal customers and lines that stretch out the door," its website says.

But as Tate's workers approach the final week of a union vote, some have shared new allegations with Insider — that an employee threatened to hurt them if they supported the union, bragged about earning a new car with his loyalty to Tate's, and claimed he was a member of the gang MS-13. The employee denied these allegations.

Three workers also spoke out about conditions at the cookie company's manufacturing facility, saying that some employees are given only three short bathroom breaks during eight-hour shifts.

A spokesman for the company denied all these claims and accused union supporters of a smear campaign. "The allegations being made against Tate's are categorically false," he told Insider.

A union van parked in front of the Tate's manufacturing facility in East Moriches, New York.
Pablo Gutierrez

The anti-union Tate's employee 'threatened us with slashing our tires,' one worker says

The hamlet of East Moriches is 77 miles east of Manhattan on the South Shore of Long Island. In recent years, it's become less rural and more residential, but it's home to picturesque farmland. Its population of under 6,000 is mostly white and middle-class.

Tate's Bake Shop workers, by contrast, are largely Hispanic and commute from villages such as Maspeth, Shirley, Patchogue, and Riverhead — places where recent immigrants from Central America have settled.

One Salvadoran father who works at Tate's, who declined to share his name with Insider because he said he fears retaliation, told Insider that he came to the US because of El Salvador's maras, or gangs. "The maras took over my country," he said in Spanish.

The Salvadoran father said he hopped on one of the freight trains known to migrants as la Bestia, or the Beast, and crossed into Texas without papers three years ago. Friends helped him travel to Long Island and let him sleep under their roof, he said, and within a few weeks he got a job at Tate's.

He told Insider that he never expected to worry about gang violence in his new job — helping to create America's best chocolate-chip cookie, according to Consumer Reports and Rachael Ray.

But it's hard not to, he went on, when a fellow employee has "threatened us with slashing our tires if we voted in favor of the union." The same anti-union employee "told us we need to bring him the ballots we get in the mail," he said.

'There's a lot of fear'

The anti-union worker is identified as an "agent of the company" in one of several complaints that union organizers have filed to the National Labor Relations Board. Insider is withholding his name because the NLRB is investigating the complaint. The agency declined to comment further.

The anti-union worker "told employees to bring them their ballots and that he would check NO and send the ballots in," the NLRB complaint says. The union alleges that Tate's has violated the National Labor Relations Act by interfering with their right to organize and retaliating against workers who joined the union effort. Tate's denied this.

A Tate's employee stands in front of a union van from the Eastern States Joint Board, an affiliate of the AFL-CIO.

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"We support our employees' rights to decide for themselves if they want to be in a union and we respect their rights to a free and fair election process," the Tate's spokesman said. "As part of this process, we believe it is equally important that employees base their decision on facts and accurate information."

The spokesman also questioned the NLRB complaints, adding that the union previously filed and withdrew six complaints of unfair labor practices. Three open complaints against Tate's appear on the NLRB website.

Cosmo Lubrano, a union organizer who was approached by Tate's workers last August, acknowledged that he had withdrawn past complaints. At first, workers were afraid to describe their experiences directly to the NLRB, he said. "They were scared because of all the threats the company was placing on them," he said. Three workers told Insider that they have since been interviewed by the agency.

The anti-union employee called the police on a union official

Lubrano also told Insider that the anti-union employee threatened him with physical harm. The first day that he and other organizers gathered outside of Tate's Bake Shop, he said, the employee told him he could leave because workers didn't support the union.

"He told me, 'When I come out outside later, if you are still here, I'm going to take care of you,'" said Lubrano, who serves as president of the Eastern States Joint Board, an affiliate of the AFL-CIO.

"That same day, he ended up calling the police on me and told the police that he was going to assault me after work," Lubrano added. A local police report from November 2020 confirmed that the anti-union employee complained to the police that Lubrano was filming the Tate's parking lot "due to people congregating handing out union literature." It does not mention threats, and the Suffolk County Police Department declined to comment.

A longtime Tate's worker, who shared his name with Insider but spoke on condition of anonymity, echoed Lubrano.

"He said he would break the face of the union president," the longtime worker said. "When union representatives are outside, he makes signs with some of the other workers that are against the union, and they go out during their shift and antagonize them."

The anti-union employee denies claims that he identified himself as a gang member

Two workers told Insider that the anti-union employee had previously identified himself as a gang member. The longtime Tate's worker mentioned MS-13, a gang that spans the US and Central America and has been accused of dozens of murders on Long Island.

"When he first started working with us, he said he was part of the gang," the longtime worker said. "He told us he had to flee to the US because local

authorities were looking for him."

"He has always said he is mara," the Salvadoran father said.

The anti-union employee denies ever being part of a gang, or telling workers that he was.

But Lubrano told Insider that "four to five workers" have approached the union with concerns that the man could be affiliated with MS-13. This claim does not appear in the active NLRB complaints.

"There's a lot of fear," Lubrano added.

A teenager who worked at Tate's was previously arrested and accused of MS-13 ties

If these claims are true, it would not be the company's first encounter with MS-13.

In late May 2019, a 17-year-old former Tate's employee was accused of murder, and local prosecutors identified him as an MS-13 member. The Tate's spokesperson confirmed that the teenager, who pleaded not guilty and is in jail awaiting trial, worked for the cookie company until early May 2018.

If the prosecutors correctly identified the teenager's age, his employment at Tate's would have ended when he was no older than 16 — the minimum

age for factory work in New York.

Yet the teenager had worked at Tate's for at least one and a half years before that, recalled the longtime worker and a Salvadoran mother who works at Tate's. "He was about 15 years old when he started working with us," said the mother, who shared her name with Insider but requested anonymity because she feared retaliation. Suffolk County prosecutors did not respond to requests for comment.

"We follow the law when it comes to our obligations as an employer, including following all child-labor laws," the Tate's spokesman said when asked about this discrepancy. "According to the permanent resident card that this employee submitted upon hire, he was eligible to work under New York state law at all times during his employment with Tate's."

Lubrano said: "Factories and companies like Tate's, that employ a high percentage of Hispanic workers — many of whom may be undocumented — I think they generally take advantage of the employees. That is all the more reason a union could be so valuable."

"Tate's holds itself to the highest standards when it comes to treating our employees with the respect they deserve," the spokesperson said. "We are proud to be a company with a long heritage of providing good jobs and competitive pay and benefits to our employees."

Tate's Bake Shop sold to the Fortune 500 food conglomerate Mondelēz for $500 million in 2018.

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Anti-union incidents

The longtime worker and the Salvadoran mother both said that at one time the anti-union employee seemed to support the union. They both said management met with him when it found out about the organizing effort. "When he came out of that meeting, his attitude changed," the mother said.

"Before that meeting," the longtime worker said, "he was moving pallets and packaging. Now he sits behind a computer."

The Salvadoran mother said the anti-union employee seemed to imply on at least one occasion that the company had paid for his car. "One of my

coworkers asked him, 'How much did you pay for your car?'" she told Insider. "He responded, 'I paid for it with my loyalty to the company.'"

The NLRB complaint says that Tate's hired a consultant, Carlos Flores, who helps companies stay "union-free," according to his LinkedIn profile. Tate's has also hired Rubenstein PR, a public-relations firm whose services range from media relations to crisis management and litigation support.

Jim Vogt, a union official, told Insider that dozens of Tate's employees joined an anti-union protest outside of Tate's in early March. But he said that afterwards some told him they "didn't want to be there," and alleged that supervisors had been present in the crowd. Because of this, he suspects that "the company has been forcing employees to protest against the union."

"These accusations are categorically false," the Tate's spokesman said. "We support our employees' rights to exercise their free speech, which many decided to do at that protest. We also respect their right to decide for themselves if they want to be in a union and to do it as part of the free and fair election process that is now underway."

The anti-union employee says the union threatened him — not the other way around

Reached by phone, the anti-union employee denied the allegations against him. He acknowledged that he had delivered an anti-union petition to the union on behalf of its signatories, and was involved in an altercation with

Lubrano. But he alleged that Lubrano threatened him, not the other way around. He said he has a video of the exchange, but he declined to share it.

When asked if he was ever an MS-13 member, he said "never."

"I've never been part of the Mara Salvatrucha," using the Spanish name for MS-13. He also denied boasting about a gang affiliation to anyone at Tate's. The only tattoo on his body is in honor of his son, he said.

He denied allegations that he threatened employees, even before Insider asked him about those claims. "I've worked there for five years," he said. "They say I've threatened them. If that were true, that union would already be in there. If people felt harassed at work, not many would work there."

"They say that I'm profiting from the company, that they paid for my car, and that is a big, big lie," he went on.

Asked why he believes the union has targeted him, during a second phone interview, he accused Insider's reporter of working for the union. "All you are looking for is information," he said. "You are not a reporter … you are one of the union's workers."

The union vote continues through April 21

On March 27, the National Labor Relations Board mailed union ballots to Tate's workers. Because of the COVID-19 pandemic, they have until April 21 to vote by mail.

On a Monday in late March, union officials parked a billboard truck outside of Tate's Bake Shop and encouraged workers to vote yes. "WE ARE HERE FOR YOU & YOUR FAMILY," the billboard said in Spanish and English. "STRENGTH IN UNITY."

"They are baking now," one of the officials said. "You can smell the cookies."

In late March 2020, a billboard truck urged Tate's employees to vote in favor of the union.
Pablo Gutierrez

Moments later, a Hispanic woman in her 30s pulled over to greet the organizers and voice her support. "It's been a long fight, and many people are afraid," she said. "Did you know they time us when we go to the bathroom? You can't go for more than five or six minutes, and no more than three times a day … even if you are pregnant."

Two other employees echoed the same concern. "You ask permission to go and they just ignore you, so you wait and wait," the Salvadoran mother said.

An employee who works on the cookie line, who shared her identity but requested anonymity because she said she is undocumented and fears retaliation, told Insider that a supervisor ignored a request to use the restroom. She said that after half an hour, she said, "Stop the line — I need to pee!" When her request was refused again, she said, she felt physically unable to wait any longer and walked off the line.

"Employees are free to use the bathroom whenever the need arises," the Tate's spokesman said.

The cookie-line worker said: "Just because we are undocumented doesn't mean we are not going to speak out. If they deport me, they deport me."

Tate's is telling employees they won't be deported based on their union votes

On March 23, days before the NLRB mailed ballots to employees, Tate's sent its employees a notarized letter in Spanish, signed by Tate's Bake Shop CEO Nancy Pak. The document, reviewed by Insider, lists 10 "guarantees," including "fostering a family environment" and maintaining a fun workplace. It then urges employees to vote against the union.

It promises: "No employee will be deported based on how he or she decides to vote. We would never do that to our employees."

"When I saw that, I said, 'They are actually admitting that they have undocumented workers,'" Lubrano, the union president, told Insider. He also considers the document an admission "that somebody was telling people that they were going to be deported."

Tate's follows all "federal government requirements of I-9 verification to ensure our employees are lawfully authorized to work in the United States," the company's spokesman said. He declined to comment directly on the letter.

With the deadline for the union vote approaching, Lubrano seemed uncertain about the future of the Tate's union.

"This is probably one of the most difficult elections to predict," he said. "That fear factor is a very difficult thing to overcome."

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