

STATE OF CALIFORNIA
AGRICULTURAL LABOR RELATIONS BOARD

BOAVISTA HARVEST, INC.,)	Case Nos. 2015-CE-010-SAL
)	2015-CE-011-SAL
Respondent,)	
and)	ORDER GRANTING THE GENERAL
)	COUNSEL'S REQUEST TO SEEK
ROSALINDA MONTES and DIONISIO)	COURT ORDER ENFORCING
ESCUADERO,)	SUBPOENAS DUCES TECUM
)	
)	Cal. Code Regs., tit. 8, §20250, subd. (k)
)	
)	Admin. Order No. 2016-03
)	
Charging Parties.)	(February 01, 2016)

On December 24, 2015, the General Counsel of the Agricultural Labor Relations Board (General Counsel) filed with the Board a Request for Enforcement of Investigative Subpoenas in the above-captioned matter.

The General Counsel's Request for Enforcement alleged as follows: The General Counsel issued two subpoenas duces tecum on November 5, 2015, to Boavista Harvest, Inc. (Boavista) requiring production of responsive documents by November 18, 2015. Boavista did not file a Petition to Revoke the investigative subpoenas. In response to the General Counsel's subpoenas seeking documents responsive to twelve separate requests for each charge, Boavista produced twelve pages of documents without the required explanations and did not produce requested payroll records for agricultural employees that worked in the same crew as the charging parties, though it is required to maintain accurate payroll records subject to civil penalties for the failure to do so. Despite continued attempts by the General Counsel to meet and confer

regarding the issues, as of the filing of the current request by the General Counsel, Respondent has failed to respond to the subpoenas.

The General Counsel requested that the Board seek judicial enforcement of the subpoenas pursuant to section 20250, subdivision (k) of the Board's regulations. (Cal. Code Regs., tit. 8, § 20250, subd. (k).)

In Administrative Order 2016-2, the Board allowed Respondent until January 27, 2016, to file a response to the Request, and Respondent timely filed its response (Response). Respondent argues in its Response that it has already produced all documents it has in its possession and control that are responsive to the subpoenas duces tecum issued by the General Counsel, and copies of electronic payroll records are being produced to the General Counsel concurrently with the Response. The Respondent further states it will continue to search for additional documents responsive to the subpoenas, and will produce those documents if located. Respondent requests that the General Counsel's request for enforcement be denied. On January 29, 2016, the General Counsel requested leave to respond to Respondent's response. The Board's order did not provide for, and the Board will not consider, such a response.

Sections 20217, subdivision (e), and 20250, subdivision (b) of the Board's regulations require that subpoenas seek information that is material to the issues involved in the case. The Board has reviewed the subpoenas in the instant matter and finds that they seek materials consistent with the standard set forth in these regulations. Respondent may raise its arguments against the subpoenas, as stated in its Response, during the enforcement proceedings before the superior court. Respondent may also seek an informal resolution of the matter with the General Counsel.

PLEASE TAKE NOTICE that the General Counsel's Request for Leave to Respond to Respondent is DENIED. The General Counsel's Request to seek Court Order enforcing Subpoenas Duces Tecum is GRANTED pursuant to Board regulations sections 20217, subdivision (g), and 20250, subdivision (k).

PLEASE TAKE FURTHER NOTICE that in this matter the General Counsel is delegated the authority on behalf of the Board to initiate the appropriate court proceedings, as necessary.

Dated: February 1, 2016

William B. Gould IV, Chairman

Genevieve A. Shiroma, Member

Cathryn Rivera-Hernandez, Member