

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

PALMA’S PRODUCE, INC.,	)	Case Nos. 2017-CE-081-SAL
	)	2017-CE-082-SAL
Respondent,	)	
	)	
and,	)	ORDER GRANTING GENERAL
	)	COUNSEL’S REQUEST FOR
FELIPE HERNANDEZ and	)	BOARD ACTION TO ENFORCE
MARCELINA SANCHEZ,	)	SUBPOENA DUCES TECUM
	)	
Charging Parties.	)	Admin. Order No. 2018-11
	)	
	)	(September 5, 2018)
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On August 17, 2018, the General Counsel of the Agricultural Labor Relations Board (the “ALRB” or “Board”) filed with the Board a Request for Board Action to Enforce Subpoena Duces Tecum (the “Request”) and supporting declaration of Assistant General Counsel Mariela Murillo.

The General Counsel asserts that a subpoena duces tecum (the “Subpoena”) was properly served upon Respondent Palma’s Produce, Inc. (“Respondent”) and that Respondent did not respond to the subpoena within the required time or file a petition to revoke the subpoena. (Declaration of Mariela Murillo (“Murillo Decl.”) ¶¶ 10 – 12.) The General Counsel states that the subpoenaed documents are relevant and necessary to its investigation of the unfair labor practice charges filed against Respondent, and requests that the Board authorize subpoena enforcement proceedings in superior court

pursuant to California Code of Regulations, title 8, section 20250, subdivision (k). The underlying unfair labor practice charges generally allege Respondent violated the Agricultural Labor Relations Act (Lab. Code, § 1140 et seq.) by terminating the employment of several employees because they engaged in protected concerted activity.

On August 23, 2018, the Board issued an administrative order permitting Respondent to file a response to the General Counsel's Request. The response was due by 4:00 p.m. on August 30, 2018. Respondent did not file a response.

Board regulation 20217 authorizes the General Counsel to issue and serve investigative subpoenas to aid in her investigation of unfair labor practice charges. A person who does not intend to comply with a subpoena may file a petition to revoke with the Board's Executive Secretary. (Cal. Code Regs., tit. 8, § 20217, subd. (d).)

Respondent filed no such petition after being served the General Counsel's investigative subpoena. Pursuant to subdivision (g) of Board regulation 20217, the General Counsel may request the Board commence an action in superior court to enforce an investigative subpoena where a party has not or refuses to comply. (See Cal. Code Regs., tit. 8, § 20250, subd. (k).)

The Board has reviewed the General Counsel's request for enforcement and supporting declaration. On the record before the Board it appears the Subpoena was issued in accordance with the provisions of Board regulation 20217. The records requested by the Subpoena are identified with sufficient particularity and further appear relevant to the General Counsel's investigation of the underlying unfair labor practice charges. (See *ALRB v. Laflin & Laflin* (1979) 89 Cal.App.3d 651, 663-664; *NLRB v. G.H.R. Energy Corp.* (5th Cir. 1982) 707

F.2d 110, 113; see also *NLRB v. Kava Holdings, Inc.* (C.D.Cal. Aug. 8, 2017) 2017 U.S. Dist. LEXIS 142405.)

PLEASE TAKE NOTICE THAT the General Counsel's Request for Board Action to Enforce Subpoena Duces Tecum is GRANTED pursuant to sections 20217, subdivision (g), and 20250, subdivision (k) of the Board's regulations. Authority is delegated to the General Counsel to commence such enforcement proceedings pursuant to Labor Code section 1151, subdivision (b), as necessary.

DATED: September 5, 2018

Genevieve A. Shiroma, Chairwoman

Cathryn Rivera-Hernandez, Member

Isadore Hall, III, Member