

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

COAST KING PACKING, LLC,)	Case No. 2020-CE-016-SAL
)	
Respondent,)	
)	
and,)	ORDER GRANTING GENERAL
)	COUNSEL’S REQUEST FOR
ISAIAS JOSE ENRIQUEZ,)	SUBPOENA ENFORCEMENT
)	
)	
Charging Party.)	
)	Admin. Order No. 2020-16
)	
)	(September 2, 2020)
_____)	

On August 19, 2020, the Agricultural Labor Relations Board (ALRB or Board) issued an order to show cause why the Board should not grant the August 17, 2020 request by the General Counsel for authorization to initiate a superior court action to enforce a subpoena duces tecum (Subpoena) issued to respondent Coast King Packing, LLC (Coast King) in the above-captioned matter. Coast King filed its response on August 27, 2020. The Board has considered the General Counsel’s request, Coast King’s response, and the record in this case and grants the General Counsel’s request.¹

¹ On August 28, 2020, the General Counsel filed a request with the Board to respond to Coast King’s response to the order to show cause. The Board finds that no further response is necessary and, on that basis, denies the General Counsel’s request.

Pursuant to its authority to investigate unfair labor practice charges, the Agricultural Labor Relations Act (ALRA or Act) grants the ALRB access to any evidence of any person subject to investigation. (Lab. Code, § 1151, subd. (a); *King City Nursery, LLC* (2020) ALRB Admin. Order No. 2020-01-P, p. 4.) Board regulation 20217 authorizes the General Counsel to issue and serve investigative subpoenas requiring testimony or the production of records to aid in her investigation of unfair labor practice charges. (Cal. Code Regs., tit. 8, § 20217; *King City Nursery, LLC, supra*, ALRB Admin. Order No. 2020-01-P, p. 4.) The General Counsel’s investigative subpoena power is broad and limited only by the requirement that the information sought be relevant to the inquiry. (*King City Nursery, LLC, supra*, ALRB Admin. Order No. 2020-01-P, p. 5.) A person who does not intend to comply with a subpoena must file a petition to revoke the subpoena. (Cal. Code Regs., tit. 8, § 20217, subd. (d).) A person who fails to petition to revoke a subpoena thereby waives objections to the subpoena. (*King City Nursery, LLC, supra*, ALRB Admin. Order No. 2020-01-P, p. 11; *NLRB v. Fredrick Cowan & Co.* (2nd Cir. 1975) 522 F.2d 26, 28; *EEOC v. Cuzzens of Georgia, Inc.* (5th Cir. 1979) 608 F.2d 1062, 1064.)

Where a person fails to comply with an investigative subpoena, “the general counsel may request that the Board apply to an appropriate superior court for an order requiring compliance . . .” (Cal. Code Regs., tit. 8, § 20217, subd. (g).) The Board will grant the request “unless in the judgment of the Board the enforcement of such subpoena and notice would be inconsistent with law or the policies of the Act.” (Cal. Code Regs., tit. 8, § 20217, subd. (k).)

On the record before the Board, it is not disputed the Subpoena was issued in accordance with the provisions of Board regulation 20217. The records sought by the Subpoena appear relevant to the General Counsel's investigation of the underlying unfair labor practice charge and are described with sufficient particularity. (*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.) Moreover, Coast King failed to file any petition to revoke the subpoena in accordance with the Board's regulations. The Board thus finds no basis to conclude that enforcement of the Subpoena would be inconsistent with law or the policies of the Act.

Notwithstanding the foregoing, Coast King represents that, since the filing of the General Counsel's request, the General Counsel has agreed to limit certain portions of the Subpoena and Coast King has agreed to provide additional documents and information. Coast King thus argues that the General Counsel's enforcement request is unnecessary at this time. However, even assuming the accuracy of these representations for present purposes, it appears that Coast King has not yet actually supplied the additional records or information. Coast King further continues to object to other portions of the Subpoena and refuses to produce documents, despite not having filed a petition to revoke, thereby waiving any such objections.

If the General Counsel obtains voluntary compliance with the Subpoena, she may exercise her discretion to decline to seek judicial relief. However, the

fundamental facts are that Coast King has waived all objections to the subpoena and more to the point, has not supplied all the records subpoenaed by the General Counsel.²

PLEASE TAKE NOTICE that the General Counsel's request for subpoena enforcement is GRANTED pursuant to sections 20217, subdivision (g) and 20250, subdivision (k) of the Board's regulations. (Cal. Code Regs., tit. 8, §§ 20217, subd. (g); 20250, subd (k).) Authority is delegated to the General Counsel to commence such enforcement proceedings in superior court pursuant to Labor Code section 1151, subdivision (b), as necessary.

DATED: September 2, 2020

VICTORIA HASSID, Chair

ISADORE HALL III, Member

BARRY D. BROAD, Member

RALPH LIGHTSTONE, Member

CINTHIA N. FLORES, Member

² We note the General Counsel first requested these records informally about four months ago.