

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THOMAS E. PEREZ,)	
SECRETARY OF LABOR,)	
UNITED STATES DEPARTMENT OF LABOR,)	
)	
Petitioner,)	
)	Case No: 4:16CV3066
v.)	
)	
BRYAN A. McFARLAND,)	
)	
Respondent.)	

ORDER

Having considered the Petition to Enforce Subpoena and supporting documents filed by Thomas E. Perez, Secretary of Labor, United States Department of Labor; Respondent having been served with said Petition and supporting documents, and served with the Order of this Court setting this matter for the Show Cause hearing to be held on August 22, 2016; Respondent having failed to file a Response to the Petition to Enforce Subpoena as ordered by this Court; and Respondent having failed to appear at the Show Cause hearing on August 22, 2016:

IT IS HEREBY ORDERED that Respondent Bryan A. McFarland shall comply with the subpoena issued by Karen Chaikin, Regional Administrator, Wage and Hour Division, dated December 14, 2015, and hereinafter described. On Wednesday, September 14, 2016, at 10:00 a.m. at the United States Robert V. Denney Federal Building, 100 Centennial Mall North, #273, Lincoln, Nebraska 68508, Respondent shall appear and testify before Wesley D. Hays, Wage Hour Investigator, and produce the records, papers and documents set forth in the subpoena.

Respondent shall deliver the following documents along with a representation listing the documents produced. If documents of the type requested do not exist, or are not in Respondent's possession or control, Respondent shall so state in his representation. The Secretary has requested the following documents for the 3-year period immediately preceding service of the

subpoena, unless otherwise specified:

1. All documents identifying the names and addresses of all owners, corporate officers and managers and their percentage of ownership of Mo Chara, LLC/Cereus Snowbirds, LLC and any and all of the seven (7) establishments.
2. All documents showing the names and addresses of all other businesses that are partially and/or fully owned by any of the owners of Mo Chara, LLC/Cereus Snowbirds, LLC and the percentage of ownership.
3. All documents showing the total dollar volume of sales or business and the total volume of goods purchased or received by Bryan McFarland and/or Mo Chara, LLC/Cereus Snowbirds, LLC for 2012, 2013 and 2014 for each of the locations, such as tax returns, balance sheets, and/or purchase orders.
4. All documents showing a record of daily food sales per day by Mo Chara, LLC/Cereus Snowbirds, LLC at each of the seven (7) establishments for the period beginning July 1, 2012 through the present.
5. All documents showing a record of daily food sales per each person employed, hired, utilized or retained as a server by Mo Chara, LLC/Cereus Snowbirds, LLC at each of the seven (7) establishments for the period beginning July 1, 2012 through the present.
6. All documents showing the name in full, as used for Social Security recordkeeping purposes, and last known addresses and telephone numbers of each person employed, hired, utilized or retained by and/or who worked for Bryan McFarland and/or Mo Chara, LLC/Cereus Snowbirds, LLC for the period beginning June 1, 2012 through the present, broken down for each of the seven (7) establishments.
7. All documents showing the rate of pay per individual per pay period and any changes and applicable date(s) to their rates of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis for each person employed, hired, utilized or retained by and/or who worked for Bryan McFarland and/or Mo Chara, LLC/Cereus Snowbirds, LLC for the period July 1, 2012 through the present.
8. All documents showing the hours worked each workday and total hours worked each workweek for each person employed, hired, utilized or retained by and/or who worked for Bryan McFarland and/or Mo Chara, LLC/Cereus Snowbirds, LLC for the period July 1, 2012 through the present, such as payroll records, pay stubs, and time cards.
9. All documents showing the total gross wages paid per pay period, tips claimed per pay period for each person employed, hired, utilized or retained by and/or who

worked for Bryan McFarland and/or Mo Chara, LLC/Cereus Snowbirds, LLC for the period July 1, 2012 through the present.

10. All documents supporting any tip credit taken by the employer for each person employed, hired, utilized or retained by and/or who worked for Bryan McFarland and/or Mo Chara, LLC/Cereus Snowbirds, LLC for the period July 1, 2012 through the present, including documents of the amount of tips received and documents describing any tip pooling arrangement.
11. All documents describing any tip pooling arrangement in effect at any time from July 1, 2012 through the present at any and all of the seven (7) establishments.
12. All documents showing the record of any tips contributed to any tip pool by each person employed, hired, utilized or retained by and/or who worked for Bryan McFarland and/or Mo Chara, LLC/Cereus Snowbirds, LLC for the period July 1, 2012 through the present at any and all of the seven (7) establishments.

IT IS FURTHER ORDERED the Motion to Compel (Filing No. 1) is granted.

Dated this 23rd day of August, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge