

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**NFI AND TRI-STATE STAFFING,
A JOINT EMPLOYER**

and

WAREHOUSE WORKERS UNITED

**Cases 31-CA-63360
31-CA-63620
31-CA-65731
31-CA-66952**

ORDER¹

NFI's petition to revoke in part subpoena duces tecum B-614533 is denied as untimely. Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations requires that a petition to revoke an investigative subpoena must be filed within 5 days after the date of service of the subpoena. The subpoena at issue here was served on the subpoenaed party on December 21, 2011. Thus, the instant petition, which was filed January 3, 2012 is untimely.

In addition, even assuming that the petition was timely filed, it is lacking in merit. The subpoena seeks evidence relevant to the investigation of the charge and describes such evidence with sufficient particularity as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. NFI has failed to establish any legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).²

Dated, Washington, D.C., March 5, 2012

MARK GASTON PEARCE,

CHAIRMAN

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² In considering the petition to revoke, we have evaluated subpoena B-614533 as clarified by the Region in its opposition brief.

BRIAN E. HAYES,

MEMBER

RICHARD F. GRIFFIN, JR.,

MEMBER