

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

L'OREAL USA

and

Case 22-CA-099835

**LOCAL 262 OF NEW JERSEY
RWDSU, UFCW**

ORDER¹

The Employer's petition to revoke subpoena duces tecum B-705089 is denied. The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena.² See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v.*

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 the subpoena in light of the Region's statement that it has modified the scope of the subpoena so that it is "no longer seeking the documents with regard to hiring decisions that were made before February 2012." (Region's Opposition, p. 4, fn. 1). In addition, we observe that with respect to subpoena paragraphs 1, 2, and 3, the Region stated that "[t]he Employer has produced information to the Region's satisfaction." (Opposition, p. 2.)

With respect to the Employer's objection that paragraph 4 is not sufficiently particular, we note that the Region subsequently stated that it "is seeking interview notes, policies, and e-mails that the Employer relied on in making relevant hiring decisions." (Opposition, p. 5.) Without passing on whether the original subpoena language described the documents sought with sufficient particularity, we find that the Region's subsequent clarification has removed any ambiguity. Finally, we reject the Employer's argument that the relevant investigatory period ended April 30, 2013. Since the Union contends that the Employer's discrimination is ongoing, we agree with the Region that the relevant investigatory period extends "to the present," as clearly set out in subpoena paragraph 2.

Carolina Food Processors, Inc., 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., September 27, 2013.

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER