UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

JUNG SUN LAUNDRY GROUP CORP.

and **Case 29-CA-29946**

LAUNDRY, DRY CLEANING AND ALLIED WORKERS JOINT BOARD, WORKERS UNITED, A SERVICE EMPLOYEES INTERNAL UNION AFFILIATE

ORDER

The Charging Party Union's Request for Special Permission to Appeal Administrative Law Judge Keltner Locke's Order denying the Union's petition for partial revocation of the Respondent's subpoena is granted, and the judge's order is overruled to the extent consistent with the discussion below.

1. Subpoena paragraphs 10-11 seek certain of the Union's collective-bargaining agreements with employers other than the Respondent. In its brief, without conceding that the documents are relevant, the Union offered to provide the following documents to the Respondent:

> [First], the two current collective bargaining agreements . . . . that the Union has with hospitality laundries, with the names of the companies, and the contracts' effective dates redacted out of the agreement ...[and not including] the contract for the other hospitality laundry that is a former association member, since there is no such contract at this time.... Second, ... the excerpted [most favored nations] clause from every single one of its current contracts that has such a clause, along with a cover page and signature page for that contract, again, with the names of the companies and terms redacted out of the agreement.

It appears that when the judge ruled on the Union's petition, the Union had not yet offered to provide the above documents, so the judge had no opportunity to consider

the merits of the Union's offer. Therefore, we review that offer de novo.[1] We find that the documents the Union has offered to provide may be sufficient for the Respondent to evaluate whether the most favored nations clauses are relevant to the party's negotiations, and, if so, whether those clauses might be a factor in determining the lawfulness of the Respondent's declaration of impasse. In this regard, if the most favored nations clauses (1) demonstrate that the collective-bargaining agreements are not relevant to the parties' negotiations, or (2) yield relevant information sufficient for the Respondent's defense, there will be no need for production of any of the remaining terms of the subpoenaed agreements. If, on the other hand, an examination of the most favored nations clauses indicates that other provisions of the collective-bargaining agreements will be relevant to its defense, then the Respondent is free to seek the production of those provisions. In so doing, the Respondent should state, with respect to each provision sought, its reasons for believing that that provision is relevant and necessary to the presentation of its case.

2. Subpoena paragraphs 22-24 and the challenged parts of subpoena paragraph 25 seek all documents regarding the Union's collective-bargaining agreements and most favored nations clauses in effect during a three-year period, and minutes of meetings between the Union and employers other than the Respondent regarding collective-bargaining negotiations from January 1, 2009 through the present. We find merit in the Union's argument that the subpoena should be revoked with respect to these documents. The Respondent has presented no basis for a finding that its interest in the disclosure of these documents outweighs the Union's considerable interest, as described in its brief, in maintaining their confidentiality. See *Berbiglia, Inc.*, 233 NLRB

[1] In its Opposition to the Union's Request for Special Permission to Appeal, the Respondent did not address the compromise offered by the Union.

1476, 1495 (1977) (a subpoena seeking documents relating to the Union's bargaining strategy and its communications with employees was properly revoked; the ALJ reasoned that "requiring the Union to open its files to Respondent would be inconsistent with and subversive of the very essence of collective bargaining.... If collective bargaining is to work, the parties must be able to formulate their positions and devise their strategies without fear of exposure. This necessity is so self-evident as apparently never to have been questioned"). See also *Detroit Edison v. NLRB*, 440 U.S. 301, 314-315 (1979) (the Supreme Court held that the Board erred in ordering the employer to provide requested information to the union, despite the employer's contention that it had a legitimate interest in keeping the information confidential. The Court held that the Board failed to properly weigh the union's interest in obtaining the information against the employer's valid confidentiality concerns).

We recognize that the judge ordered these documents produced subject to recording on a privilege log, redaction, and in camera examination. However, in light of the Respondent's failure to establish that its need for these documents outweighs the Union's interest in their confidentiality, we find that the Union's interests outweigh those of the Respondent, and that the documents need not be produced even under the protocol set out by the judge. Therefore, we find that the judge erred in ordering the Union to produce these documents.

Dated, Washington, D.C., September 3, 2010.

WILMA B. LIEBMAN,	CHAIRMAN
CRAIG BECKER,	MEMBER
MARK GASTON PEARCE,	MEMBER