

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
NEW YORK BRANCH OFFICE**

**PCC HVAC, LLC D/B/A
PROFESSIONAL CLIMATE CONTROL
Respondent
and**

Case 22-CA-135826

**PLUMBERS & PIPEFITTERS
LOCAL UNION #9, UA
Charging Party**

**ORDER DENYING RESPONDENT PETITION TO REVOKE THE
GENERAL COUNSEL SUBPOENA DEUCES TECUM**

On February 12, 2014, counsel for the Respondent PCC HVAC, LLC d/b/a Professional Climate Control petition to revoke portions of the General Counsel subpoena deuces tecum No. B-726742 ("subpoena") issued on February 9, 2014. On February 13, 2014, counsel for the General Counsel replied in opposition to the petition to revoke.

The counsel for the Respondent objects to the enumerated items as unreasonable, burdensome and oppressive. The Respondent believes that the voluminous documents and records requested is an undue burden on the operations of the company and interferes with the ability to adequately prepare for the hearing, scheduled for February 18.

The counsel for the General Counsel seeks documents from PCC HVAC to be relevant and material to this proceeding. Upon due consideration and for the reasons set forth in the General Counsel opposition to revoke subpoena, the Respondent PCC HVAC petition to revoke subpoena No. B-1-726742 is denied.

I find that the documents sought in the subpoena are reasonably related to the charges in the complaint regarding the allegations that the Respondent unlawfully discharged two employees and required employees to sign an overly broad confidential and non-disclosure agreement. The subpoena is also limited in scope and describes the documents with sufficient specificity.

I find that the subpoena seeks information relevant to the matter in this trial and are reasonably related to the allegations in the complaint. While some documents sought may not be relevant, they are appropriately sought to provide background information or may lead to other evidence potentially relevant to an allegation in the complaint. Board's Rules, Section 102.31(b).

The counsel for the Respondent argues that it is burdensome on the operations of the company. The party asserting burdensomeness of production must meet a high standard of proof. A subpoena is not unduly burdensome simply because it requires the production of a large volume of documents. *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507, 513-514 (4th Cir. 1996). Aside from the bare assertions of burdensomeness, the Respondent has not demonstrated that compliance with the subpoena would seriously disrupt its normal business operations. *Carolina Foods*, above. The Respondent has also failed to show that producing some documents would interfere with its preparation of the hearing. On this point, I note that Respondent has been well aware of the NLRB charge and complaint over an extended period of time and it is unreasonable to believe that it is only now preparing its case for trial.

Therefore, the Respondent is ordered to produce all outstanding documents pursuant to subpoena duces tecum B-726742 to the counsel for the General Counsel at the time and place as designated in the subpoena.

Dated: February 14, 2015
New York, New York

Kenneth W. Chu

Kenneth W. Chu
Administrative Law Judge

FACSIMILE COVER SHEET

National Labor Relations Board
Division of Administrative Law Judges
120 West 45th Street
New York, New York 10036

To:

Bert dice-Goldberg, Esq. 973.645.3852
General Counsel
Region 22

Howard A. Vex, Esq. 973.402.8912

From:

Kenneth W. Chu, Administrative Law Judge
NLRB – Division of Judges, New York
Fax: 212-944-4904

Date: December 29, 2014

Re: Order denying Respondent Petition to Revoke GC Subpoena
3 pages including cover sheet

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- NLRB DIV JUDGES -

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