

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

INTERSTATE DISTRIBUTOR CO.

and

Case 12-CA-172986

TEAMSTERS, LOCAL UNION NO. 769

ORDER

The Employer's petition to revoke subpoena duces tecum B-1-RXRUWR 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.¹ Further, the

¹ The Region clarified in its opposition brief that whenever the term "employee(s)" is used in the subpoena, it only refers to employees within the meaning of the Act, unless otherwise specified. In considering the petition to revoke, we have reviewed the subpoena as being modified as stated by the Region.

To the extent that the subpoena encompasses some documents that the Employer has already produced, those documents need not be produced again, provided that the Employer accurately describes which documents under subpoena they have already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed. Further, to the extent that some documents are requested in more than one subpoena paragraph, the information need only be produced once, provided the Employer specifies each subpoena paragraph to which the information is responsive.

In addition, to the extent that the subpoena encompasses some documents that the Employer believes in good faith to be subject to the attorney-client privilege or the attorney work product doctrine, this Order is without prejudice to the Petitioner's prompt submission of a privilege log to the Region identifying and describing each such document, and providing sufficient detail to permit an assessment of the Petitioner's claim of privilege or protection. The Petitioner is directed to produce all responsive documents in its possession not subject to any good-faith claim of privilege or protection.

With regard to requests pertaining to "all employees," unlike his colleagues, Member Miscimarra would grant the petition to revoke to the extent that the requests encompass non-statutory employees. In his view, this disposition is more appropriate than the Region's clarification that was communicated only after the Petitioner filed its petition to revoke. Member Miscimarra would also grant the petition to revoke as to

Employer has failed to establish any other legal basis for revoking the subpoena. See generally *NLRB v. North Bay Plumbing, Inc.*, 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., September 16, 2016

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
LAUREN McFERRAN,	MEMBER

paragraphs 9-13 to the extent they relate to periods earlier than August 1, 2015. Finally, Member Miscimarra would grant the petition to revoke as to paragraph 9 (requesting all “employee handbooks which were issued and/or in effect during the period from January 1, 2015 to the present, and documents as will show the dates when each handbook was issued and/or in effect) except for those handbook provisions that reasonably relate to the subparts “a” through “m” in paragraph 10, or to the particular employee actions or reasons identified by the Employer as resulting in the employment termination at issue in the instant case. See *Allied Waste Services of Massachusetts, LLC*, Cases 01-CA-123082, -126843 (Dec. 31, 2014).

² The Petitioner’s request that its petition to revoke be made part of the official record in this case is denied without prejudice to renewal at the appropriate time in a formal proceeding.