

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

HOLLINGSWORTH LOGISTICS GROUP, LLC

and

Case 07-CA-183283

AMERICAN POSTAL WORKERS UNION,
AFL-CIO

ORDER

The Employer's Petition to Revoke subpoenas duces tecum B-1-UFPXDF is denied. The subpoena seeks information relevant to the matters 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.¹ See generally *NLRB v.*

¹ To the extent that the Employer has provided some of the requested material, it is not required to produce that information again, provided that the Employer accurately describes which documents under subpoena it has already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

In considering the petition to revoke, we have evaluated the subpoena as clarified by the Region in its opposition brief. Specifically, the Region states that it does not seek personal or private information, such as social security numbers or dates of birth, that may be included on the requested job applications, and that it informed the Employer that it is willing to reach an accommodation to redact this information from the documents. Contrary to our dissenting colleague's assumption, the Region's clarification of the subpoena does not establish that it was initially overbroad, and we find that it was not. Rather, the Region's modifications appear simply to promote efficiency and provide further clarity to the parties. Additionally, the subpoena as written describes with sufficient particularity the personnel and employees to whom the requests apply and the information requested is relevant to the issues under investigation.

Acting Chairman Miscimarra respectfully dissents from the Board majority's denial of the petition to revoke as to subpoena requests that encompassed personal identification information. In this case, pars. 3, 5, and 6 of the subpoena seek job applications, the names and telephone numbers of individuals who were offered positions or hired, and the names and telephone numbers of Teamsters-represented employees who were hired, respectively. The petition to revoke argued that the employees' privacy rights precluded production of these records, and, in response, the Region clarified that it did not seek

North Bay Plumbing, Inc., 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., April 6, 2017

PHILIP A. MISCIMARRA, ACTING CHAIRMAN

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

personal information, such as social security numbers or dates of birth. In such circumstances, when subpoena requests are overly broad or otherwise seek information that does not reasonably relate to matters under investigation, and when a subpoenaed party's petition to revoke raises appropriate objections to the requests on that basis, Acting Chairman Miscimarra believes it is more appropriate for the Board to *grant* the petition to revoke as to such requests, rather than denying the petition to revoke (as the Board majority does here) based on changes that are communicated only in briefs submitted after the petition to revoke is under consideration by the Board. See Sec. 11(1) (stating the Board "shall revoke" any subpoena where "the evidence whose production is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if in its opinion such subpoena does not describe with sufficient particularity the evidence whose production is required"). Acting Chairman Miscimarra believes that the appropriate scope of subpoena requests should be addressed by the Region in the first instance when crafting the subpoena, rather than through post-petition to revoke clarifications. With regard to requests pertaining to "all personnel" and "all employees," Acting Chairman Miscimarra would also grant the petition to revoke to the extent that the requests encompass non-statutory employees. Granting a petition to revoke in these circumstances would be without prejudice to a party's potential right to apply for the issuance of a new subpoena that is appropriate in scope (subject to applicable time limits and other requirements set forth in the Act and the Board's Rules and Regulations).

The Employer'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.