

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

DICHELLO DISTRIBUTORS, INC.

and

Case 01-CA-183436

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 443**

ORDER¹

The Employer's petition to revoke subpoenas duces tecum B-1-UV0QQD 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.² Further, the 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).

Dated, Washington, D.C., January 12, 2018.

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² Contrary to the Employer's argument, we find that the Region's January 12, 2017 letter to the Employer, which advised the Employer of language that the Region had inadvertently omitted from the subpoena's stated purpose, was not an improper attempt to expand the subpoena and does not warrant revoking the subpoena, particularly as it did not affect the content of the subpoena in any way.

To the extent that the Employer asserts, in response to subpoena par. 7, that it does not maintain updated and current written job descriptions for all employees, the Employer is not required to produce subpoenaed evidence that it does not possess. However, the Employer is required to conduct a reasonable and diligent search for all requested evidence, and as to requested evidence that the Employer determines it does not possess, the Employer must affirmatively represent to the Region that no responsive evidence exists.