

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

**SERVICE EMPLOYEES INTERNATIONAL UNION,
UNITED SERVICE WORKERS WEST (ABM)**

and

Case 31-CB-218750

RODOLFO GARRA

ORDER¹

The Union's Petition to Revoke/Quash subpoena duces tecum B-1-122S3DR is denied as untimely. Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations require that a petition to revoke an investigative subpoena must be filed within 5 business days after the date of service of the subpoena. The subpoena here was received on July 27, 2018, but the petition was not filed until August 6, 2018. Thus, the petition is untimely.

In addition, even assuming that the petition was timely filed, it is lacking in merit. 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 Union 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

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

² Although the subpoena's instructions at par. "o" state that the subpoena only applies to documents within the Union's possession, custody, or control, the instructions at pars. "p" and "q" further state that if the Union identifies any documents that were, but no longer are, in the Union's possession, custody, or control, or that have been

Dated, Washington, D.C., September 20, 2018

LAUREN McFERRAN, MEMBER

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

destroyed, discarded or otherwise disposed of, the Union is required to follow the subpoena's instructions regarding such documents.