

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

**INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS, LOCAL 512**

**and**

**Case 12-CB-214255**

**NEIL ALLEN ASHER**

**ORDER<sup>1</sup>**

The petition to revoke subpoena duces tecum B-1-11QSMZD filed by UPS Ground Freight 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. 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).<sup>2</sup>

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

<sup>2</sup> Chairman Ring and Member Emanuel would generally expect that the General Counsel would attempt to obtain evidence from a party through reasonable voluntary means before issuing a subpoena against a non-party, but they agree to deny the Employer's petition to revoke the subpoena in the circumstances presented here, for institutional reasons and in light of the fact that the Employer is a party to the collective-bargaining agreement at issue in this matter and created many of the documents covered by the subpoena.

Member McFerran observes that the Board's broad authority under Sec. 11(1) of the Act to subpoena relevant evidence from non-parties is well established. See *Offshore Mariners United*, 338 NLRB 745, 745 (2002) (rejecting argument that a non-party is outside the scope of the Board's subpoena authority); *NLRB v. The Bakersfield Californian*, 128 F.3d 1339, 1342 (9th Cir. 1997) ("Nothing in [Section 11(1)], which relates to the NLRB's subpoena power, limits that power to persons being investigated or proceeded against."); *Link v. NLRB*, 330 F.2d 437, 439-40 (4th Cir. 1964) (same); *NLRB v. Lewis*, 310 F.2d 364, 366 (7th Cir. 1962) (same). Accordingly, although she shares her colleagues' sentiment encouraging the General Counsel to seek voluntary production by parties (and non-parties for that matter), she finds that the subpoena to

Dated, Washington, D.C., March 27, 2019.

JOHN F. RING,	CHAIRMAN
LAUREN McFERRAN,	MEMBER
WILLIAM J. EMANUEL,	MEMBER

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the Employer in this case is fully justified under longstanding Board and judicial precedent.