UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

March 28, 2019

[redacted]
WEINBERG ROGER & ROSENFELD
1001 MARINA VILLAGE PKY STE 200
ALAMEDA, CA 94501-6430

Re: Safeway (Tracy Distribution Center)
Case 32-CA-222546

Dear [redacted]

Your appeal from the Regional Director's partial refusal to issue complaint has been carefully considered. The appeal is denied substantially for the reasons set forth in the Regional Director's Order Partially Dismissing Charge and Postponing Hearing dated [redacted].

The appeal concerns the Regional Director's decision to withdraw and partially dismiss the allegations of paragraphs 7(a)(3), 7(a)(6), and 7(a)(8) of the outstanding Complaint and Notice of Hearing issued on [redacted]. The partially dismissed allegations involve the Union's request for information of the Employer's alleged internal policies or memoranda concerning negotiations of agreements with [redacted] providing "[redacted]" or other nonunit employees who perform transportation and/or unloading of work at the Employer's distribution center. The appeal maintains that the Union is entitled to the partially dismissed requested information relating to internal policies it claims the Employer has allegedly put in place and of which the Union believes undermines the availability and performance of unloading work for the bargaining unit.

It was determined that the partially dismissed requested information is not presumptively relevant subcontracting information and the Union's explanation of relevance insufficiently meets its burden under either prong of *Disneyland Park*, 350 NLRB 1256 (2007). The Union's relevance explanation must do more than speculate that the Employer maintains some underlying corporate intent or motive to enter into [redacted] services or [redacted] services subcontracts in violation of the subcontracting provision under the contract to the alleged detriment of bargaining unit work. Thus, the Union's explanation as to the relevance of the requested information lacks objective evidence as required under *Disneyland Park*, supra. Under all of the circumstances considered, the Union has not shown a reasonable belief supported by objective evidence that the partially dismissed request for information was relevant. Consequently, the evidence fails to support the Union's allegation that the Employer's failure or refusal to provide the Union with the partially dismissed requested information is violative of Section 8(a)(1) & (5) of the National Labor Relations Act, as alleged.

Accordingly, further proceedings herein were deemed unwarranted.

Sincerely,

Peter Barr Robb
General Counsel

By: _____
Mark E. Arbesfeld, Director
Office of Appeals

cc: VALERIE HARDY-MAHONEY
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