

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

**REMINGTON LODGING & HOSPITALITY, LLC  
D/B/A HYATT REGENCY-WIND WATCH**

**and**

**Cases**

**29-CA-093850**

**29-CA-095876**

**LOCAL 947, UNITED SERVICE WORKERS  
UNION, INTERNATIONAL UNION OF  
JOURNEYMEN AND ALLIED TRADES**

**Order on the Respondent's Petition to Revoke Subpoenas Duces Tecum  
Issued to Respondent and Remington Hotels**

The Respondent filed a petition to revoke identical subpoenas duces tecum served by the General Counsel upon Remington Lodging and Hospitality, LLC d/b/a Hyatt Regency Wind Watch and Remington Hotels. The General Counsel filed an opposition to the petition.

On February 12, 2016, the Board issued a Decision and Order (363 NLRB No. 112) directing the Respondent to comply with the recommended Order of the Administrative Law Judge as modified. The modified order requires the Respondent to reinstate and make the discriminatees whole for any losses they suffered as a result of their discharge (upon the unlawful contracting of housekeeping work to Hospitality Staffing Solutions (HSS)) and subsequent refusal to hire (upon the termination of the HSS housekeeping contract). On January 27, 2017, the United States Court of Appeals for the Fifth Circuit entered a judgment enforcing the Board's Decision and Order. On June 1, 2018, the Regional Director for Region 29 issued a Compliance Specification and Notice of Hearing. On June 29, 2018, the Respondent filed an answer to the compliance specification. On April 30, 2019, the Regional Director issued an amendment which modified and updated the original compliance specification. On May 21, 2019, the Respondent filed an answer to the amended allegations in the amended compliance specification.

**Order to Consult**

Initially, the parties are ordered to consult in good-faith regarding the subpoenas and the production of subpoenaed documents so as to facilitate a fair and efficient process. In this regard, the parties are directed to discuss possible stipulations that may negate the need for subpoenaed records, clarification of any ambiguities with regard to requested documents, and the nonproduction of documents that may be redundant or otherwise unnecessary. The Respondent need not produce subpoenaed documents to the extent the General Counsel confirms that it has such documents within its possession and does not require duplicate production of documents for some legitimate purpose.

### Order to Prepare a Privilege Log

The Respondent is directed to prepare a privilege log of documents responsive to the subpoena but privileged from production.

### Objections to Specific Subpoena Requests

I find request numbers 1 (payroll showing names, titles, hours, and wage rates of employees terminated by the Respondent), 2-4 (Margaret Loicano's health care costs), 5-6 (payroll and other documents showing names, titles, hours, and wage rates of employees working at Respondent's facility while employed by HSS), and 7-8 (offers of reinstatement) to be relevant and otherwise subject to production.

The petition to revoke is granted with regard to subpoena request numbers 9-11. These requests seek documents which, according to the General Counsel's opposition, may confirm "information gleaned from witnesses that Respondent may be selling the Hyatt hotel and/or terminating its contract with the Hyatt hotel." GC Brief p. 16. The General Counsel represents that "[a]ll the requests seek documents that will assist the CGC in analyzing whether Respondent will remain in operation at the Hyatt Regency Wind-Watch hotel" as might require further steps to protect discriminatees' reinstatement remedies. GC Brief p. 17. Particularly, "in order to preserve this remedy for the discriminatees, the CGC would have to take certain steps to notify any successor employer of the ongoing litigation and of that successor employer's obligation pursuant to that litigation." GC Brief p. 17-18. While the General Counsel is correct that such a course of action may be required, the issue of a *Golden State* successor is not alleged in the compliance specification and not being litigated. See contra *Signman, Inc.*, 354 NLRB 846 (2009); *Thomas H. Roberts*, 333 NLRB 987, 987-988 (2001). The Region may investigate the matter and issue an investigatory subpoena if necessary, but request numbers 9-11 of the trial subpoenas are outside the scope of the compliance specification and the current litigation.

It is hereby ORDERED that the parties consult regarding the subpoenas duces tecum at issue and the production of subpoenaed documents in the manner described above, and it is further ORDERED that the Respondent prepare a privilege log, and it is further ORDERED that the Respondent's petition to revoke the General Counsel's subpoenas duces tecum is granted in part and denied in part for the reasons and in the manner described above.

Dated: June 3, 2019  
New York, New York.

*S/ Benjamin W. Green*  
Benjamin W. Green  
Administrative Law Judge