

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

**PLATINUM SERVICES COMMERCIAL
BUILDING MAINTENANCE, INC. and
PLATINUM SERVICES JANITORIAL, INC. and
PLATINUM SERVICES MAINTENANCE, INC.
AS A SINGLE EMPLOYER AND/OR ALTER
EGOS**

and

Case 20-CA-224943

**SERVICE EMPLOYEES INTERNATIONAL
UNION, UNITED SERVICE WORKERS WEST**

ORDER¹

Platinum Services Maintenance, Inc.'s Petition to Revoke Subpoena Duces Tecum No. B-1-12UZ1HP and Subpoena Ad Testificandum No. A-1-12U87MB, and Platinum Services Commercial Building Maintenance, Inc. and Platinum Services Janitorial, Inc.'s Petition to Revoke Subpoena Duces Tecum No. B-1-12XEN0N, are denied.² The subpoenas seek information relevant to the matter under investigation and describe 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 *Postal Workers Local 64 (USPS)*, 340 NLRB 912 (2003); *Offshore Mariners United*, 338 NLRB 745 (2002). Further, the Petitioners have failed to establish any other legal basis for revoking the subpoenas.³ See generally, *NLRB v. North Bay Plumbing, Inc.*, 102

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

² In denying the petitions, we have considered Subpoena Duces Tecum No. B-1-12XEN0N in light of the Region's statement in its opposition that it is amending par. 12 of that subpoena to reflect the correct time period of February 9, 2017 to the present.

³ To the extent that Platinum Services Janitorial, Inc. (PSJ) has provided some of the requested material, it is not required to produce that information again, provided that PSJ accurately describes which documents under subpoena it has already provided,

F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., June 25, 2019.

JOHN F. RING,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
WILLIAM J. EMANUEL,	MEMBER

states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

The Petitioners assert that Platinum Services Commercial Building Maintenance, Inc. (PBM) no longer exists and thus cannot produce responsive documents for Subpoena Duces Tecum No. B-1-12XEN0N pars. 1, 3, 5, 7, 9, and 11. The Petitioners are not required to produce subpoenaed evidence that the Petitioners do not possess, but the Petitioners are required to conduct reasonable and diligent searches for all requested evidence. Further, with respect to requested information not in the Petitioners' possession or control, the subpoenas compel the Petitioners to request such information from other persons or companies, if necessary. If the information does not exist, or if the other persons or companies decline to provide the information, the Petitioners must affirmatively represent this fact to the Region. See *Clear Channel Outdoor, Inc.*, 346 NLRB 696, 702 fn. 10 (2006) ("In responding to a subpoena, an individual is required to produce documents not only in his or her possession, but any documents that he or she had a legal right to obtain," citing *Searock v. Stripling*, 736 F.2d 650, 653 (11th Cir. 1984)). Moreover, if the other persons or companies do not comply with a request for the information from the Petitioners, nothing would prevent the Region from seeking that information directly from the other persons or companies.