Pursuant to Rule 102.35 of the National Labor Relations Board’s Rules and Regulations, Respondent, United States Postal Service (“Postal Service”), hereby seeks an order directing the Charging Party, American Postal Workers Union, AFL-CIO (APWU), to cooperate fully in providing disclosures related to enforcement of the protective order. Respondent requests that the Charging Party be required to disclose to Respondent the relevant documents set forth at the end of this pleading, in order to determine the source of a disclosure and publication of a confidential document given to Charging Party by Respondent under subpoena, which was ultimately subject to the protective order.

The reasons for the request are as follows:

On October 20, 2015, Respondent provided copies of documents to Charging Party pursuant to subpoena ducès tecum B-1NIKPDH. One of the documents provided has the title “Retail channel strategy (draft)” and is dated March 26, 2012. Exhibit 1. On
its cover, and throughout, the document states: “Confidential and Proprietary.” Despite the confidential designation, the document was mistakenly provided to APWU as “non-confidential.”

On October 26, 2015, counsel for APWU, Anton Hajjar, contacted counsel for Respondent, Rod Eves, and requested further information about the document. Respondent discovered at that time that the document had been inadvertently disclosed as non-confidential and then asked if Charging Party would treat it as having been designated as confidential. Charging Party counsel agreed to treat the document as though it had been provided as confidential under the terms of the (pending) protective order. Hajjar cautioned however that the document had already been shared in a limited fashion within the APWU, but that its confidential treatment would be maintained henceforth.

That communication took place as follows:

[From Hajjar]

From: Anton Hajjar
Sent: Monday, October 26, 2015 11:08 AM
To: Eves, Roderick D - Denver, CO
Subject: RE: NLRB Hearing – Subpoena Responses
Importance: High

Rod – The Postal Service provided the attached document on Tuesday, in response to paragraph 2 of the APWU’s subpoena. The USPS has not deemed it to be confidential. I note that it’s marked “draft.” The APWU may want to offer it into evidence at the hearing as reflecting the USPS’s retail channel strategy. Is that correct? If not, please explain, so as to avoid having to track down a USPS official knowledgeable about the document for examination at the hearing. (The original document is probably in color; if so, please send me a copy in that format.) Thanks! - Anton
[From Eves]

From: Eves, Roderick D  
Sent: Monday, October 26, 2015 1:27 PM  
To: Anton Hajjar  
Subject: RE: NLRB Hearing -- Subpoena Responses  
Importance: High

Anton,  
I will talk to my client tonight and respond to you tomorrow. Looking at the document, I am wondering if it was inadvertently disclosed with the nonconfidential documents. As a courtesy, can you please not disclose the document further until I get back to you tomorrow?

Rod

[From Hajjar]

From: Anton Hajjar  
Sent: Monday, October 26, 2015 12:42 PM  
To: Eves, Roderick D - Denver, CO  
Subject: RE: NLRB Hearing -- Subpoena Responses

Rod - I would honor your request but I’m afraid it’s too late. I already shared it with Dan Heltzer; I’m copying him with this response. As you noted in your last message to me, CGC will be getting it soon anyway. I also gave it to a few APWU officials and told them that it was not confidential. I don’t know whether they sent it around to others. — Anton

Anton Hajjar  
Murphy Anderson PLLC  
1300 L Street NW • Suite 1210 • Washington DC 20005  
(202) 223-2620 • ahajjar@murphypllc.com

[From Hajjar]

From: Anton Hajjar  
Sent: Monday, October 26, 2015 3:17 PM  
To: Eves, Roderick D - Denver, CO  
Subject: RE: NLRB Hearing -- Subpoena Responses

I will forward your request to the officers who I believe have seen it. I know of no plans to disseminate this document widely. I’ve not seen anything posted on the APWU web site.
Anton Hajjar  
Murphy Anderson PLLC  
1300 L Street NW • Suite 1210 • Washington DC 20005  
(202) 223-2620 • ahajjar@murphypllc.com

[From Eves]

From: Eves, Roderick D  
Sent: Monday, October 26, 2015 4:12 PM  
To: Anton Hajjar  
Subject: RE: NLRB Hearing -- Subpoena Responses

Anton,

That will probably be fine, but if you could ask the APWU officials not to distribute it, or its contents, outside your/their core group until I have a chance to double-check with my clients tonight, [I] would appreciate it.

Rod

[From Eves]

From: Eves, Roderick D - Denver, CO  
Sent: Tuesday, October 27, 2015 9:00 AM  
To: Anton Hajjar  
Subject: RE: NLRB Hearing -- Subpoena Responses  
Importance: High

Anton,

I did speak with my clients and they have indicated that it was inadvertently disclosed as non-confidential. It should be identified “USPS/McKinsey Confidential” as business strategy and proprietary. We will ask the ALJ to include it among the documents ultimately covered by the protective order and ask that, unless and until the ALJ denies that request, it not be disclosed further.

Relative to the question in your original email below, this document constitutes pre-decisional business strategy prepared by a third party and does not necessarily reflect the USPS’s ultimate retail strategy.

Rod
The APWU agreed to maintain the confidential status of the Retail channel strategy document pursuant to the protective order. At the hearing, on November 2, 2015, APWU counsel referred to the initial disclosure of the document as non-confidential, but reiterated the pledge to treat it as confidential, though Mr. Hajjar also suggested that a future challenge to the confidential status might be raised. On November 3, 2015, APWU counsel also objected to the section of the protective order requiring those within the APWU who would gain access to confidential materials to sign an agreement barring further disclosure, etc. Counsel claimed the signature requirement was excessive and burdensome.

Despite these assurances, on Thursday, November 12, 2015, the “Retail channel strategy” document was published on a website supportive of the postal workers, known as “savethepostoffice.com.” Exhibit 2. Steve Hutkins, Associate Professor, Gallatin School, New York University, who operates the website, has advised the Postal Service that he received the Retail channel strategy document from a contact within the APWU, who he referred to as John Dennie.

Respondent asked Counsel for Charging Party to provide, *inter alia*, a narrative explanation of the release of the document; emails and correspondence related to the disclosure; and any advice, warnings, or instructions related to release of the document or treatment of it as confidential; as well as any efforts to retrieve the document after it was released. Respondent also asked for copies of the agreements that have been generated and were required to be signed by those who have been given access to the confidential documents submitted by Respondent. APWU counsel explained that he
asked his client about disclosure of the document and did not receive any information. He has since refused repeated requests to provide any other information or documents.

It is understood that if APWU officials released the document to the public at a time when it had not yet been designated as confidential, it did so legally. There is no record of such release however. On the other hand, if the document was released on or after October 26, 2015, once the Respondent asked that it be treated as confidential, then such release violates the terms of the protective order. Publication took place on November 12, 2015, however, which raises the question of when it was released.

The release is a serious matter, not merely because it violates the explicit terms of the Judge’s protective order, but because it releases sensitive business strategy information to the public (even if in draft form, and even if the document was merely the recommendation of a third party).

Significantly, the document does not relate or refer to Staples at all and does not relate to any changes or activities related to the approved shipper program. It refers to approved shipper generically only as a minor revenue comparison. The document has nothing to do with the instant litigation. It is for this reason that Respondent has been concerned about releasing such documents to Charging Party at all. Nonetheless, it contains sensitive business strategy (pre-decisional and deliberative recommendations) and should not be and should not have been released to the public. This is precisely the kind of document that the Respondent asserted should not be released to the public and it is one whose confidential status the APWU stated it was planning to challenge. However, despite not challenging the confidential status to date, the APWU appears to
have released the document. Respondent now seeks to find out how and when it did so, and by whom. Charging Party resists the inquiry.

Given the sensitivity of thousands of other documents that Respondent has shared with APWU, which are also confidential, Respondent is concerned about the security of these documents and the APWU's efforts to maintain their security. Respondent seeks to assure that the protective order is strictly followed in the future, and the only way to do that with some confidence is to determine how the Retail channel strategy document was released and to make sure it does not happen again.

When the facts become available to show how the document was disclosed, by whom and when, Respondent will determine whether to seek sanctions and/or any other appropriate relief.

For the reasons described above, Respondent requests that Charging Party be required to provide complete disclosure of all documents, emails, correspondence, papers, or communications of any kind in its possession, or within the possession of any of its officers, that address or relate to the following:

1. All documents showing or regarding to whom, by whom, and when any disclosure was made of the "Retail channel strategy" document within or outside of the APWU at any time (electronically or otherwise), including disclosure to or from counsel;

2. All documents indicating or related to the disclosure by or within APWU of any confidential documents provided by Respondent pursuant to the subpoena in this case or pursuant to the Non-Disclosure Agreement related to the request for information regarding the Staples Pilot case;

3. All documents showing or regarding what instructions were given, and when, to anyone within or outside the APWU about non-disclosure and/or the confidential nature of the "Retail channel strategy" document (or any other confidential documents provided by Respondent) since October 20, 2015;
4. All documents indicating or relating to what efforts were made to retrieve the “Retail channel strategy” document or have it deleted or forbid its use, dissemination or publication since October 26, 2015;

5. All documents indicating or related to the identity of the person within the APWU who provided a copy of the document, including the date of disclosure, to John Dennie, Prof. Steve Hutkins, or the “savethepostoffice.com” website;

6. All documents indicating or relating to the efforts made to prevent the disclosure or publication of the document by John Dennie, Prof. Steve Hutkins, and “savethepostoffice.com,” or anyone else;

7. All documents describing the relationship between the APWU and John Dennie, Prof. Steve Hutkins, and “savethepostoffice.com” (and/or any person within that organization);

8. All documents indicating what effort the APWU has been made to request that “savethepostoffice.com” not publish and/or remove the document from its website;

9. All documents, emails, etc., related to the "Retail channel strategy" document and the treatment of any documents received from the USPS in the Staples Approved Shipper NLRB case (and Staples Pilot RFI case), including copies of any signed certifications where recipients of confidential documents agree to safeguard them from disclosure or misuse.

Respectfully submitted,

[Signature]

Roderick Eves, Deputy Managing Counsel
Law Department – NLRB
United States Postal Service
1720 Market Street, Room 2400
St. Louis, MO 63155-9948
(314) 345-5864
(314) 345-5893 FAX

Mark F. Wilson, Attorney
United States Postal Service
Headquarters Law Department
475 L’Enfant Plaza, S.W., Room 6502
Washington, D.C. 20260
(202) 268-3060
(202) 268-5402
CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of November, 2015, I served the foregoing Respondent’s Request for Discovery to Enforce the Protective Order via regular mail, unless otherwise indicated, to the following individuals:

Hon. Paul Bogas
Administrative Law Judge
1015 Half Street SE
Washington, DC 20570-0001
paul.bogas@nlrb.gov

Daniel Heltzer, Esq.
National Labor Relations Board
Region 5
Bank of America Center, Tower II
100 South Charles Street, Suite 600
Baltimore, MD 21201
daniel.heltzer@nlrb.gov

Anton Hajjar, Esq.
Jeremiah Fugit, Esq.
Murphy Anderson, PLLC
1300 L Street, NW, Suite 1201
Washington, DC 20005-4107
ahajjar@murphypllc.com
jfugit@murphypllc.com

Patricia A. Dunn, Esq.
Nikki McArthur
Jones Day
Counsel for Staples, Inc.
51 Louisiana Avenue, NW
Washington, DC 20001
pdunn@jonesday.com
nmcarthur@jonesday.com

VIA E-FILING + EMAIL

VIA EMAIL

VIA EMAIL

VIA EMAIL

Roderick Eves
Retail channel strategy

Discussion document
March 26, 2012
activity and geography

The retail channel strategy will need to take a balanced approach across

Deep Rural
Rural
Suburban
Low
Suburban
High
Urban

Top 5K outlets generate > 70% of revenue; Bottom 10K generate < 3% of revenue
Bottom 5K outlets generate > 1% of revenue; Bottom 10K generate < 0.5% of revenue
Top 10K outlets generate 69% of revenue; Top 10K generate 33% of revenue

1. Urban
2. Suburban
3. Rural

~2,500 High Traffic Outlets
~3,100-1 MM Retail Rev
>510K Retail Rev
Low Activity
Medium Activity
Large Activity

Sources: UPS Cost Database, McKinsey Geospatial Analytics

OVERVIEW OF USPS OWNED OUTLETS

Draft
The USP retail network faces four fundamental challenges:

- Filling the USO
- Simplification and product online & multichannel, service & experience, growing importance
- Evolving customer needs
- Revenue decline, worsening visibility of economics, worsening trend, declining USP-owned outlets
- High competitive pressure
- Growing pressure in urban areas specifically in SMB, parcels and S&M

McKinsey & Company
<table>
<thead>
<tr>
<th>Year</th>
<th>Actual</th>
<th>Projected 2015</th>
<th>Projected 2014</th>
<th>Actual 2010</th>
<th>Actual 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>$18.7B</td>
<td>$19.7B</td>
<td>$19.7B</td>
<td>$17.7B</td>
<td>$17.2B</td>
</tr>
<tr>
<td>2009</td>
<td>$17.5B</td>
<td>$17.7B</td>
<td>$17.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2010</td>
<td>$16.7B</td>
<td>$17.7B</td>
<td>$17.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2011</td>
<td>$15.7B</td>
<td>$16.7B</td>
<td>$16.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2012</td>
<td>$14.7B</td>
<td>$15.7B</td>
<td>$15.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2013</td>
<td>$13.8B</td>
<td>$14.7B</td>
<td>$14.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2014</td>
<td>$12.8B</td>
<td>$13.7B</td>
<td>$13.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2015</td>
<td>$11.8B</td>
<td>$12.7B</td>
<td>$12.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2016</td>
<td>$10.8B</td>
<td>$11.7B</td>
<td>$11.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2017</td>
<td>$9.8B</td>
<td>$10.7B</td>
<td>$10.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2018</td>
<td>$8.8B</td>
<td>$9.7B</td>
<td>$9.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2019</td>
<td>$7.8B</td>
<td>$8.7B</td>
<td>$8.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
<tr>
<td>2020</td>
<td>$6.8B</td>
<td>$7.7B</td>
<td>$7.7B</td>
<td>$16.1B</td>
<td>$13.8B</td>
</tr>
</tbody>
</table>

USPS faces further challenges as revenue expected to decline faster than cost reduction, driving up cost to serve.

Draft
<table>
<thead>
<tr>
<th>Institution</th>
<th>Remain a trusted American institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Work with trusted partners to support our retail proposition</td>
<td></td>
</tr>
<tr>
<td>- Preserve the trust and integrity of our brand</td>
<td></td>
</tr>
<tr>
<td>- Fulfill our USO</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SMB Segment</th>
<th>Protect our revenues from competition</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Defend market share from intensifying competition - particularly</td>
<td></td>
</tr>
<tr>
<td>- Maximize our retail revenues where feasible</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Viability of USPs</th>
<th>Financial sustainability</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Reduce retail cost base by at least $1.5bn to contribute to</td>
<td></td>
</tr>
<tr>
<td>- Mitigate customers to the lowest-cost channels</td>
<td></td>
</tr>
<tr>
<td>- Demonstrate financial stewardship by optimizing the network to</td>
<td></td>
</tr>
<tr>
<td>- Ensure a seamless multichannel offering integrating online/digital/mobile and self-service with physical channels</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Meet customer needs</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Improve the customer retailing environment</td>
</tr>
<tr>
<td>- and where they want them in all areas (e.g., urban, rural)</td>
</tr>
<tr>
<td>- Provide the products and services the customer wants, when</td>
</tr>
<tr>
<td>- Service, convenience, speed and information they require</td>
</tr>
<tr>
<td>- Ensure consumers and small businesses have the customer</td>
</tr>
</tbody>
</table>

**The Retail Channel Strategy will focus on enhancing the customer experience, protecting revenue and reducing cost to serve while ensuring USPs remains a trusted American institution.**
<table>
<thead>
<tr>
<th>Alternative access</th>
<th>% of Revenue</th>
<th>% of Revenue</th>
<th>% of Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>0% - 67%</td>
<td>35% - 60%</td>
<td>35% - 60%</td>
</tr>
<tr>
<td>USPS cost to serve</td>
<td>$0.27</td>
<td>$0.38</td>
<td>$0.36</td>
</tr>
<tr>
<td>Overall cost to serve</td>
<td>$0.23</td>
<td>$0.31</td>
<td>$0.35</td>
</tr>
<tr>
<td>Retail cost</td>
<td>$5.9 bn</td>
<td>$5.0 bn</td>
<td>$4.3 bn</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>2020</th>
<th>2015</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.16’00</td>
<td>1.2’000</td>
<td>1.3’000</td>
<td>1.4’000</td>
</tr>
<tr>
<td>22’000</td>
<td>6.0’000</td>
<td>3.9’000</td>
<td>2.9’000</td>
</tr>
<tr>
<td>4.0’000</td>
<td>3.0’000</td>
<td>1.4’000</td>
<td>2.5’000</td>
</tr>
<tr>
<td>4.0’000</td>
<td>3.0’000</td>
<td>1.4’000</td>
<td>2.5’000</td>
</tr>
<tr>
<td>Cost savings:</td>
<td>$0.86</td>
<td>$0.98</td>
<td>$0.89</td>
</tr>
</tbody>
</table>

**Resulting Impact**

1. **Pillars of Retail Channel Strategy**
   - Tailored by market, which could deliver $2.5bn savings by 2020
   - To achieve this vision, USPS will adopt a retail channel strategy that is

2. **Significantly expand retail partnerships**
   - UPS-owned locations
   - Outlets to ~12-20k retail partners (maintain 4k)
   - Majority of volume from owned standard

3. **Match costs to volume in low traffic**
   - USPS-owned locations
   - Retail outlets to ~12-20k retail partners (maintain 4k)

4. **Grow digital access**
   - Enhancing online support functionality
   - SMBs & consumers while improving content and
   - Drive volume in com and mobile platforms from

**Outlets**

<table>
<thead>
<tr>
<th>4.8k</th>
<th>6.0k</th>
<th>1.2k</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.8k</td>
<td>6.0k</td>
<td>1.2k</td>
</tr>
<tr>
<td>4.8k</td>
<td>6.0k</td>
<td>1.2k</td>
</tr>
</tbody>
</table>

---

Source: USPs Financial (FP/EWD) + USPs Growth & Trends Analysis

2 Includes digital access

1 Excludes $7k from savings on consolidation and $K approved shipping partners today.
All formats fully integrated with digital access (omni & mobile channels)

Serve: 50.07
USPS cost to

Merchandising
maching and places it in their outlets with nearby
Retailer owns / rents / leases certified USPS self-service
Self-service

Serve: 70.08
USPS cost to

Simplified mail & package offerings sold on the shelf
CPG (Consumer packaged goods)

Serve: 50.07
USPS cost to

Existing retailer staff (not dedicated to USPS activities)
Leasing space (retail ill or customer service desk)
Leveraging
USPS products and services sold through existing retailer
Over the counter

Serve: 70.20
USPS cost to

Postal office located in a dedicated space at a partner
Store-in-Store

USPS is developing multiple options for retail partnerships
We are in the process of developing a detailed implementation plan centered around the retail channel strategy (1/2).
We are in the process of developing a detailed implementation plan centered around the retail channel strategy (2/2).
$1.5B costs savings with investment case being developed
67% of retail revenue flowing through alternative channels
USPS small rural outlets and retail partnerships
Balanced and segmented outlet strategy (mix of USPS high traffic outlets, standard host outlets)

Retail channel transformation will result in the following by 2020:

4
American Institution

3
Remain a trusted, competitive

2
Ensure financial sustainability

1
Meet customer needs

1. Match costs to volume in low traffic outlets, fulfilling USO where appropriate
2. No national retail partners available and continue to conduct RO studies
3. Grow digital access across com and mobile platforms while
4. Significantly expand retail partnerships increasing convenience

Retail channel strategy

Strategic overview of USPS retail channel strategy
The Postal Service's "Retail Channel Strategy": A blueprint for privatizing the post office

November 12, 2015

It's been clear for a long time that the Postal Service is in the process of privatizing itself by shifting processing operations to companies like Pitney Bowes through the workshare system and contracting out billions of dollars of work to private corporations (over $12 billion in 2014). The Postal Service has also been working to privatize its retail operations by creating a vast network of alternative retail channels.

This transformation of the retail system is the subject of a revealing and recently unearthed PowerPoint presentation entitled "Retail Channel..."