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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of

THE KROGER COMPANY a
corporation,

and

ALBERTSONS COMPANIES, INC.,
a corporation,

Respondents.

Docket No. 9428

**NON-PARTY
UNITED FOOD & COMMERCIAL WORKERS LOCAL 555'S
UNOPPOSED MOTION TO EXTEND THE TIME
TO MOVE TO QUASH OR LIMIT SUBPOENA**

Non-party United Food & Commercial Workers Local 555 (“Local 555”), by and through its undersigned counsel, hereby moves, pursuant to Rules 3.22, 3.34, and 4.3 of the Federal Trade Commission’s (“FTC”) Rules of Practice for Adjudicative Proceedings, to extend its time to move to quash or limit the Subpoena for Production of Documentary Material (“Subpoena”) issued by the FTC in the above-captioned proceeding on April 18, 2024. Specifically, Local 555 respectfully requests that the deadline to file a motion to quash or limit the Subpoena under Rule 3.34(c), and to submit written objections to the subpoena under Subpoena instruction numbers 13 and 14, be extended by eleven (11) days from April 29, 2024, to May 10, 2024.

Subpoena instruction number 13 requires Local 555 to “set forth the basis for [Local 555’s] objection and respond to all parts of the request to which [Local 555] do[es] not object. Any ground not stated in an objection within the time provided by 16 C.F.R. § 3.34, or any extension thereof, shall be waived.” Section 3.34(c) provides that any motion “to

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limit or quash the subpoena shall be filed within the earlier of 10 days after service thereof or the time for compliance therewith.” 16 C.F.R. § 3.34(c). Because April 28, 2024, is a Sunday, Local 555’s current deadline to object and/or move to limit or quash the subpoena is Monday, April 29, 2024.

Counsel for Local 555 and the FTC met and conferred by telephone conference on April 25, 2024 and email on April 26, 2024. During the conference, Counsel for Local 555 and the FTC agreed that an extension of the deadline to seek relief from the Subpoena would allow the meet and confer process to continue and afford Local 555 additional time necessary to continue investigating the Subpoena and preparing its initial responses. Counsel for the FTC informed Local 555’s counsel that the FTC will not oppose this motion for an eleven (11) day extension of Local 555’s deadline to object or otherwise move to limit or quash the subpoena.

Granting this extension will allow Local 555 to preserve its rights to object and/or seek adjudicative relief while Local 555 evaluates the Subpoena and investigates sources of potentially responsive documents. Without an extension, Local 555 will need to file an immediate motion to quash or limit the Subpoena to preserve its rights to assert any objections it may have. Conversely, an extension will also allow counsel for Local 555 and the FTC to further meet and confer regarding the scope of the Subpoena and negotiate the content of Local 555’s response, potentially obviating the need for any such motion practice in the future. FTC Counsel has indicated that it does not oppose this motion.¹

¹ Local 555 recognizes that additional time beyond the requested extension may be required to resolve the meet and confer process and respond to the Subpoena or otherwise move for relief from the Subpoena as necessary. Therefore, Local 555 reserves all rights to request additional extensions of the time to seek relief from or respond to the Subpoena as necessary in the future.

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Accordingly, Local 555 respectfully requests that this unopposed motion to extend the time to file a motion to quash or limit the Subpoena be granted and that Local 555 be given until May 10, 2024, to file any such motion. A proposed order granting the requested relief is attached hereto.

DATED April 29, 2024

MCDERMOTT WEAVER
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CERTIFICATE OF SERVICE AND ELECTRONIC FILING

I hereby certify that on April 29, 2024, a true and correct copy of the foregoing documents were filed electronically with the Federal Trade Commission using the Commission's E-Filing System, and a notification of such filing with a courtesy copy of the foregoing documents was sent by email to:

The Honorable April Tabor
Secretary Federal Trade Commission
600 Pennsylvania Ave., N.W.
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The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
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I also hereby certify that on April 29, 2024, I caused a true and correct PDF copy of the foregoing documents to be served by email to:

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**[PROPOSED] ORDER GRANTING NON-PARTY
UNITED FOOD & COMMERCIAL WORKERS LOCAL 555'S
UNOPPOSED MOTION TO EXTEND THE TIME
TO MOVE TO QUASH OR LIMIT SUBPOENA**

Before the Administrative Law Judge is the Unopposed Motion to Extend the Time to File a Motion to Quash, or in the alternative to Limit the Subpoena for Production of Documents (“Subpoena”) that the Federal Trade Commission (“FTC”) Complaint Counsel served on nonparty United Food & Commercial Workers Local 555 (“Local 555”) on or about April 18, 2024. Local 555 requests an extension to and including May 10, 2024, to file any such motion to quash and/or limit, or to otherwise serve objections to the Subpoena. Having considered the motion, and the fact that it is unopposed by FTC Complaint Counsel, this Court finds that the motion should be, and hereby is, GRANTED.

IT IS THEREFORE ORDERED that the deadline for Local 555 to file any Motion to Quash and/or Limit the Subpoenas is extended to through and including May 10, 2024.

Signed this ____ day of April, 2024

D. Michael Chappell
Chief Administrative Law Judge