**Stericycle, Inc. *and* Teamsters Local 628.** Cases 04–CA–186804 and 04–CA–196831

March 11, 2019

DECISION AND ORDER

BY CHAIRMAN RING AND MEMBERS MCFERRAN AND EMANUEL

On April 2, 2018, Administrative Law Judge Jeffrey P. Gardner issued the attached decision. The Respondent filed exceptions and a supporting brief, the General Counsel and the Charging Party each filed an answering brief, and the Respondent filed a reply brief.

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

The Board has considered the decision and record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the judge's recommended Order as modified and set forth in full below.[2]

ORDER

The National Labor Relations Board orders that the Respondent, Stericycle, Inc., Southampton and Morgantown, Pennsylvania, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with Teamsters Local 628 by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.

(b) Unilaterally changing the terms and conditions of employment of its unit employees.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish to the Union in a timely manner the information requested by the Union on August 26, 2016, March 20 and 24, 2017.

(b) Before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the Union as the exclusive collective-bargaining representative of employees in following bargaining units:

> All full-time and regular part-time drivers, driver techs, in house techs, helpers, dockworkers and long haul drivers of Respondent at its Southampton, Pennsylvania

[1] The Respondent has implicitly excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

In adopting the judge's finding that the Respondent violated Sec. 8(a)(5) and (1) by refusing to provide the Union with requested information related to two employment policies, we note that some of the requested information pertained to the Respondent's customers. As those aspects of the Union's requests did not directly relate to unit employees' terms and conditions of employment, they are not, as the judge found, presumptively relevant. See *F. A. Bartlett Tree Expert Co.*, 316 NRLB 1312, 1313 (1995). Nevertheless, we find that the Union established the relevance of that information through Vice President of Labor Relations Cal Schmidt's statement that the employment policies were a "contractual requirement of the customers we serve." The Respondent withdrew the policies, but it did not retract its earlier claim that failure to implement the policies might have, in Schmidt's words, "an impact on our ability to continue to service certain customers." Chairman Ring and Member Emanuel observe that where a party clearly and unequivocally rescinds a bargaining proposal affecting the bargaining unit, a request for information regarding the proposal likely would be rendered moot, but that this is not the case here because the Respondent continued to maintain that the absence of the policies could affect its ability to retain certain customers, and a loss of customers obviously could affect unit employees. Member McFerran declines to speculate on whether the hypothetical rescission of a bargaining proposal might moot a related information request. Any such determination would be fact-dependent, and a bargaining proposal, even if withdrawn, might well implicate issues related to employment terms and conditions and the union's role in collective bargaining, continuing to make the requested information relevant. Finally, Member Emanuel notes that the Respondent did not raise any confidentiality objections to the requested information.

In adopting the judge's finding that the Respondent violated Sec. 8(a)(5) and (1) by unilaterally changing working conditions by requiring incumbent unit employees to sign a form authorizing investigative background checks, and by refusing to bargain over that change, we agree with the judge that there is no merit in the Respondent's argument that the allegations are precluded as untimely under Sec. 10(b) of the Act. In making this determination, however, we do not rely on the judge's statement that he was "not persuaded" that any knowledge the Union's shop steward may have had about the existence of the forms should be imputed to the Union. As the judge found, regardless of whether the steward's knowledge can be imputed to the Union, the Union unquestionably requested bargaining within 6 months of having notice that the authorization form was a work requirement. In addition, we reject the Respondent's argument, based on *Raytheon Network Centric Systems*, 365 NLRB No. 161 (2017), that it was permitted to unilaterally require incumbent unit employees to sign a form authorizing investigative background checks because that requirement did not materially vary in kind or degree from what the Respondent had required in the past. The Respondent presented evidence that a few employees had previously signed forms authorizing the Respondent "to apply for a personal abstract of my driving record," but there is no evidence that the Respondent had previously required employees to sign a form authorizing background investigations.

[2] We shall modify the judge's recommended Order and substitute a new notice to conform to the Board's standard remedial language.

location; but excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

All full-time and regular part-time regulated medical waste (RMW) plant workers, sharps plant workers, RMW Shift Supervisors, Sharps Shift Supervisors/quality control representatives, drivers, dispatchers, yard jockey, maintenance mechanics, Maintenance Supervisor and painters employed by Respondent at its Morgantown, Pennsylvania facility; but excluding all office employees, confidential employees, guards and supervisors as defined in the Act.

(c) Rescind the changes in the terms and conditions of employment for its unit employees pertaining to background investigation authorizations that were unilaterally implemented in 2016.

(d) Within 14 days after service by the Region, post at the Respondent's facilities in Southampton and Morgantown, Pennsylvania, copies of the attached notice marked "Appendix."[3] Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed either or both of the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 1, 2016.

(e) Within 21 days after service by the Region, file with the Regional Director for Region 4 a sworn certification of a responsible official on a form provided by the Region attesting to the steps the Respondent has taken to comply.

Dated, Washington, D.C. March 11, 2019

John F. Ring, Chairman

Lauren McFerran Member

William J. Emanuel Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

## APPENDIX

### NOTICE TO EMPLOYEES
### POSTED BY ORDER OF THE
### NATIONAL LABOR RELATIONS BOARD
### An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with Teamsters Local 628 (the Union) by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the unit employees.

WE WILL NOT unilaterally change the terms and conditions of employment of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish to the Union in a timely manner the information requested by the Union on August 26, 2016, March 20, 2017, and March 24, 2017.

WE WILL, before implementing any changes in wages, hours, or other terms and conditions of employment of unit employees, notify and, on request, bargain with the

[3] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Union as the exclusive collective-bargaining representative of employees in following bargaining units:

> All full-time and regular part-time drivers, driver techs, in house techs, helpers, dockworkers and long haul drivers of Respondent at its Southampton, Pennsylvania location; but excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.
>
> All full-time and regular part-time regulated medical waste (RMW) plant workers, sharps plant workers, RMW Shift Supervisors, Sharps Shift Supervisors/quality control representatives, drivers, dispatchers, yard jockey, maintenance mechanics, Maintenance Supervisor and painters employed by Respondent at its Morgantown, Pennsylvania facility; but excluding all office employees, confidential employees, guards and supervisors as defined in the Act.

WE WILL rescind the changes in the terms and conditions of employment for the unit employees pertaining to background investigation authorizations that were unilaterally implemented in 2016.

STERICYCLE, INC.

The Board's decision can be found at https://www.nlrb.gov/case/04-CA-186804 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, or by calling (202) 273–1940.

*Randy M. Girer, Esq.,* for the General Counsel.
*Charles P. Roberts, III, Esq.,* for the Respondent.
*Claiborne S. Newlin, Esq.,* for the Charging Party.

## DECISION

### STATEMENT OF THE CASE

JEFFREY P. GARDNER, Administrative Law Judge. The charge in Case 04–CA–186804 was filed on October 25, 2016. The charge in Case 04–CA–196831 was filed on April 13, 2017. The consolidated complaint was issued on July 12, 2017. The complaint alleges Respondent violated Sections 8(a)(5) and (1) of the Act by: (1) refusing to provide relevant and necessary information requested by the Union; and (2) unilaterally changing working conditions by requiring drivers to sign a new form authorizing certain background checks and refusing to bargain regarding that change when requested by the Charging Party Union.

Respondent's answer, in addition to denying the substantive allegations of the complaint, asserted a series of affirmative defenses, including bad faith, impasse, waiver and timeliness under Section 10(b) of the Act.

On August 7 and 8, 2017, I conducted a trial at the Board's Regional Office in Philadelphia, Pennsylvania, at which all parties were afforded the opportunity to present their evidence. At the outset of the trial, the parties submitted a series of Joint Exhibits (Jt. Exhs. 1–31)[1] following the General Counsel's introduction of the formal papers, which were admitted into evidence.[2] After the trial, on September 20, 2017, the General Counsel and Respondent filed timely briefs, as did the Charging Party.

Upon consideration of the briefs, and the entire record, including the testimony of witnesses and my observation of their demeanor, I make the following

### FINDINGS OF FACT

#### I. JURISDICTION

Respondent admits, and I find, that it is an Illinois corporation with facilities in Southampton, Pennsylvania (the Southampton facility) and Morgantown, Pennsylvania (the Morgantown facility), and has been engaged in providing medical waste collection and treatment services to commercial customers throughout the United States. Respondent further admits, and I find, that in conducting its business operations during the most recent 12-month period, it purchased and received at its Southampton facility and at its Morgantown facility goods valued in excess of $50,000 directly from points outside the Commonwealth of Pennsylvania.

Respondent also admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

The following employees of the Southampton facility constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time drivers, driver techs, in

[1] Abbreviations used in this decision are as follows: "Tr." for the Transcript, "Jt. Exh." for Joint exhibits, "GC Exh." for the General Counsel's exhibits and "R. Exh." for Respondent's Exhibits. Specific citations to the transcript and exhibits are included only where appropriate to aid review and are not necessarily exclusive or exhaustive.

[2] Posttrial, the General Counsel moved without opposition to reopen the record: (1) to admit Respondent's July 25, 2017 answer to the consolidated complaint, which it inadvertently omitted from the formal papers as GC Exh. 1(i); and (2) to substitute a corrected version of GC Exh. 2, which was offered at the hearing, but is not reflected in the formal papers. The motion is granted, and those exhibits are received.

> house techs, helpers, dockworkers and long haul drivers, excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.

The following employees of the Morgantown facility constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All full-time and regular part-time regulated medical waste (RMW) plant workers, sharps plant workers, RMW Shift Supervisors, Sharps Shift Supervisors/quality control representatives, drivers, dispatchers, yard jockey, maintenance mechanics, Maintenance Supervisor and painters, excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.

At all material times, Teamsters Local 628 (herein the Union) has been the exclusive collective-bargaining representative of the Southampton and Morgantown units pursuant to Section 9(a) of the Act.

## II. ALLEGED UNFAIR LABOR PRACTICES

### Background

Respondent is a nationwide medical waste disposal company which operates multiple facilities, including a transfer station at its Southampton facility and a waste treatment operation at its Morgantown facility. Though the majority of its facilities are nonunion, Respondent's employees at its Southampton and Morgantown facilities at issue here are represented for purposes of collective bargaining by the Union.

At the Southampton facility, the Union and Respondent have been parties to a series of collective-bargaining agreements (CBAs), the most recent of which has been in effect since November 1, 2016, and runs through October 31, 2019 (Jt. Exhs. 3 and 4). Similarly, the Union and Respondent have been parties to more than one CBA covering employees at the Morgantown facility, the most recent of which is effective from March 1, 2016 through February 29, 2019 (Jt. Exhs. 1 and 2). It is undisputed that Respondent is bound by these most recent CBAs at both facilities.

### New Policies Proposed and Rescinded by Respondent

The current CBA covering the Morgantown facility, referenced above, was negotiated by the parties over the period January through June 2016. The parties reached that agreement and signed a Memorandum of Agreement on June 13, 2016. On June 26, 2016, the Union advised Respondent that the unit employees had ratified the CBA. Union President Dagle was the sole union representative at negotiations. Respondent was represented by Regional Vice President Lou Jannotte, assisted by in-house counsel and HR personnel.

Three days after the CBA was ratified, on June 29, 2016, Respondent's vice president for labor relations, Cal Schmidt, notified the Union's president, John Dagle, in a letter sent by email of "two Stericycle policies that are being rolled out to employees," and invited Dagle to contact him with any questions. (Jt. Exh. 6.) Schmidt further advised that these new policies were companywide and were being implemented effective June 1, 2016.

The first of the new policies was a "Code of Business Conduct and Ethics," issued in English and Spanish. (Jt. Exh. 6-A and B.) The second was an "Anticorruption Policy," also issued in English and Spanish. (Jt. Exh. 6-C and D.) It is undisputed that these policies had not been discussed during the parties' contract negotiations. Instead, Schmidt and Dagle exchanged a series of correspondence over the course of the next several months on the subject of these new policies.

By letter and email dated July 6, 2016 (Jt. Exh. 7), Dagle responded to Schmidt, accusing Respondent of bad faith for failing to raise the policies during those recently completed Morgantown negotiations. Dagle indicated that the Union would agree to bargain over those policies, but only on the condition that Respondent first rescind its implementation of those policies at Southampton and Morgantown.

By letter dated July 11, 2016 (Jt. Exh. 8), Schmidt stated that Respondent's initial letter had not unilaterally implemented these policies, but rather, was merely intended "to provide the union advance notice of the implementation of these policies to allow the parties time to discuss them." The letter went on to state that the policies were "not only a requirement under Federal Law as it relates to publicly traded companies, and when undertaking government work, but is also a contractual requirement of the customers we serve."

Schmidt further indicated that if the Union continued its resistance to these policies:

> [W]e will simply need to advise our customers that we cannot comply with their requirements vis a vis our workforce in Morgantown and Southampton—and this may have an impact on our ability to continue to service certain customers at those locations. When we are notified of these consequences, you may be assured that we will bargain the effects of any impact to your members. We will also make sure to advise our customers accordingly that Local 628 objected in a wholesale manner to the imposition of any Company sponsored policies on its employees, including those mandated by the federal government, as a condition of being able to conduct their business. (Jt. Exh. 8.)

Finally, Schmidt proposed that the matter be resolved by including on the signature sheet a statement that "Nothing in this policy is intended to alter, modify or diminish the rights of the employees under their relevant collective bargaining agreement." The letter closed with Schmidt asking Dagle to advise "if this solution is acceptable to you." (Jt. Exh. 8.)

On July 19, 2016, Dagle and Schmidt spoke by telephone, during which conversation the Union reiterated its request to bargain over the implementation of these new policies, and Respondent maintained that it was unwilling to change its policies for just 50 people. Dagle informed Schmidt that the bargaining units at the two facilities totaled 150 people, and that some of the policies were in violation of employees' Section 7 rights.

Schmidt followed up this conversation later that day with a letter to Dagle dated July 19, 2016 (Jt. Exh. 9) in which he reiterated Respondent's position that it had not implemented the new policies, and that its original June 29, 2016 letter was only intended to give the Union advance notice of their implementation. Schmidt also reiterated Respondent's position that the policies were "a requirement under Federal Law" and "a contractual requirement of the customers we serve."

Schmidt repeated his earlier assertion that a failure to implement the policies "may have an impact on our ability to continue to service certain customers at those locations" and if that were to occur, "[w]hen we are notified of these consequences,. . . you may be assured that we will bargain the effects of any impact to your members," adding that Respondent would "make sure to advise our customers that [the Union] objected in a wholesale manner to the imposition of any Company sponsored policies on its own employees, including those that are mandated by the federal government." (Jt. Exh. 9.)

By letter dated July 21, 2016 (Jt. Exh. 10), Dagle responded to Schmidt, disputing his assertion that Respondent had not yet implemented the policies by quoting from Schmidt's original June 29, 2016 letter, which stated, "Stericycle is implementing two new companywide policies effective June 1, 2016" (emphasis Dagle's). Dagle went on to dispute various other assertions made by Schmidt about the Union's bargaining posture and accuses Schmidt of "a transparent threat to remove work from [the Morgantown and Southampton] facilities [that] is itself unlawful" based on Schmidt's assertions about Respondent's ability to continue to service certain customers.[3]

Schmidt responded to Dagle by letter dated July 29, 2016 (Jt. Exh. 11), wherein he stated unequivocally that the new Code of Conduct and Anti-Corruption policies had not been implemented at the Morgantown and Southampton facilities. Schmidt further clarified that Respondent was seeking an explanation from the Union as to what specific areas of the policies violated the CBA and/or the NLRA in order for Respondent to determine what issues may be subject to bargaining.

The Union's Information Requests

Dagle replied to Schmidt's July 29, 2016 letter on August 1, 2016 (Jt. Exh. 12), thanking Schmidt for verifying in writing that the new policies had not been implemented at the Southampton or Morgantown facilities. However, Dagle rejected the notion that the Union was required to explain the specific areas of the policies it was objecting to in order for Respondent to determine whether it needed to bargain over the policies.

Indeed, by this point the Union determined that information was needed from Respondent on the subject of Respondents' two new policies in order to prepare for bargaining, and to investigate the possibility of filing grievances over Respondent's actions.[4] As such, the Union included an initial request for information in its August 1, 2016 letter. Specifically, the Union sought:

> 1. Copies of all Stericycle communications concerning, or relating to, the implementation of the Code of Business Conduct and Ethics and Anti-Corruption Policies at either the Southampton or Morgantown locations;
>
> 2. Copies of any policies concerning, or relating to, topics covered by the Code of Business Conduct and Ethics and Anti-Corruption Policies in effect at either the Southampton or Morgantown locations;
>
> 3. Copies of any policies, drafts or memorandums concerning, or relating to, topics covered by the Code of Business Conduct and Ethics and Anti-Corruption Policies on which Stericycle relied in developing the proposed policies;
>
> 4. A list of all Stericycle customers, including name, frequency of pick up and total volume in years 2014, 2015 and 2016, served by the Southampton or Morgantown locations that have requirements that would be impacted by the failure to adopt the proposed policies;
>
> 5. A list of all Stericycle customers, including name, frequency of pick up and total volume in years 2014, 2015 and 2016, that are served by the Southampton or Morgantown locations and are subject to a federal government mandate requiring the proposed policies;
>
> 6. A list of all Stericycle customers including name, frequency of pick up and total volume in years 2014, 2015 and 2016, that the company would "need to advise" of the union's response to the proposed policies as stated in the fifth paragraph of you July 19, 2016 letter.
>
> 7. Copies of all communications with the customers indicated in response to paragraphs 4, 5 and 6 above related to, or concerning, Stericycle's development of the proposed policies;
>
> 8. Contact information, including contact name, address and phone number for all the customers listed in response to paragraph 4, 5 and 6 above; and
>
> 9. Copies of any federal, state or local government mandates concerning the proposed policies.

(Jt. Exh. 12.)

Schmidt responded to Dagle's information request by letter dated August 4, 2016, in which he stated that he would no longer engage "in a letter writing campaign over this matter" and that Stericycle had "decided to withdraw our request for consideration of the two policies to be distributed to Local 628 represented employees at Southampton and Morgantown." Schmidt closed by stating, "As a result, we consider the matter closed. There will be no policy roll out, there is no need to bargain and your information requests are, therefore, nullified." (Jt. Exh. 13.)

Dagle in turn responded to Schmidt's letter on August 8, 2016 (Jt. Exh. 14), reminding Schmidt of his prior statements that federal law and Respondent's customers were requiring the policies, and noting the apparent conflict in Respondent's withdrawing them. He went on to state that it "would be unlawful for Stericycle to remove any work from either the Southampton or Morgantown facilities in retaliation for the union's insistence that Stericycle live up to its bargaining obligations" and threatened legal action if Stericycle did so. Dagle did not specifically address Schmidt's assertion that Respondent's withdrawal of the proposed policies had mooted Dagle's August 1 request for information.

Thereafter, on August 26, 2016, Dagle wrote Schmidt again, this time addressing the effect of Respondent's withdrawal of the proposed policies. Dagle wrote:

[3] The complaint does not allege that Schmidt's comments about Respondent's continued ability to service customers were themselves unlawful.

[4] I found Dagle's testimony regarding the Union's articulated reasons for seeking information to be credible and consistent with the documentary evidence in the parties' joint exhibits, and found his demeanor throughout his testimony to be forthright and honest.

> [U]pon reflection, the union disagrees with your contention that its information requests are 'nullified.' Although it has withdrawn its policy proposals, Stericycle has not withdrawn its contention that the policies are 'a requirement under Federal Law' or its claim that failure to have such policies will adversely affect employment opportunities at the Southampton and Morgantown facilities. Assuming that your statements about the law and potential employment consequences were factual, Local 628 believes that the parties should still consider developing mutually agreeable Code of Conduct and Anti-Corruption policies. The union needs more information to evaluate this issue. Depending on what the requested information shows, the union may formulate its own proposals for discussion.

(Jt. Exh. 15.)

In that same August 26, 2016 correspondence, the Union modified its request for the information it was seeking:

> 1. Copies of any policies concerning, or relating to, topics covered by the Code of Business Conduct and Ethics and Anti-Corruption Policies in effect at either the Southampton or Morgantown locations;
>
> 2. Copies of any policies, drafts or memorandums concerning, or relating to, topics covered by the Code of Business Conduct and Ethics and Anti-Corruption Policies on which Stericycle relied in developing the its [sic] policy proposals;
>
> 3. A list of all Stericycle customers, including name, frequency of pickup and total volume in years 2014, 2015 and 2016, served by the Southampton or Morgantown locations that have requirements impacted by the failure to adopt the Code of Conduct and Anti-Corruption policies;
>
> 4. A list of all Stericycle customers, including name, frequency of pickup and total volume in years 2014, 2015 and 2016, served by the Southampton or Morgantown locations and are subject to a federal government mandate requiring the Code of Conduct and Anti-Corruption policies;
>
> 5. Copies of all communications with the customers listed in response to paragraphs 3 and 4 above related to, or concerning, Stericycle's development of Code of Conduct and Anti-Corruption policies;
>
> 6. Contact information, including contact name, address and phone number for all the customers listed in response to paragraphs 3 and 4 above; and
>
> 7. Copies of any federal, state or local government mandates concerning the proposed policies.

(Jt. Exh. 15.)

Schmidt called Dagle on August 31, 2016, to further discuss the issue and Schmidt tried to assure Dagle that Respondent could handle any pushback from its customers or the government, if there was any. Dagle responded by telling Schmidt that the Union did not want to wait for potential pushback and did not want to rely on Respondent to "fight the fight" if there were problems. Dagle was particularly concerned with Schmidt's prior statement that Respondent would bargain the effects of any bad outcome, which Dagle believed would be too little too late.

That same day, Schmidt emailed Dagle, explaining that Respondent was making a business decision to withdraw the proposed policies at the Morgantown and Southampton facilities because they represented only a small percentage of Respondent's work force, and that managing the risks of potential bad outcomes from not having the policies would be easier than "address[ing] all of the union's unspecific objections" to them. Schmidt further stated that Respondent believed it could also defend any outcome from a Federal Audit for compliance relative to the policies. (Jt. Exh. 16.)

On September 1, 2016, Dagle wrote to Schmidt again, repeating its request for information, and reiterating the Union's basis for needing the information. Specifically, the Union expressed that, in light of Respondent's repeated assertion that the policies were required by Federal Law and its customer contracts, the requested information was needed by the Union to investigate whether the absence of policies could adversely affect employment. (Jt. Exh. 17.)

Later that same day, September 1, 2016, Schmidt responded to Dagle by letter in which he reiterated Respondent's position that it would be willing to bargain the effects of any adverse impact on employees, if and when that were to occur. (Jt. Exh. 18.)

The Union reiterated its August 26, 2016 information request in writing on October 4, 2016, and October 5, 2016. (Jt. Exhs. 19 and 20.) It is undisputed that Respondent provided no documents in response to the Union's information requests relating to the proposed policies. Instead, it maintains that the Union's requests were mooted when Respondent rescinded its intention to implement the policies.

### Authorization Forms for Drivers

All parties agree that Respondent is required by U.S. Department of Transportation (DOT) regulations to maintain driver qualification files (DQFs) for all of its drivers and has consistently endeavored to do so. It is also not disputed that the DQFs are supposed to contain various categories of information, including the driver's application for employment, a copy of the driver's Motor Vehicle Record (MVR), a road test certificate and a medical certification of fitness to drive. With respect to new applicants for driver positions, Respondent is required to conduct more detailed inquiries, including background and criminal record checks which are not required of incumbent drivers.

Historically, Respondent has used a third-party vendor to obtain an annual copy of each driver's MVR and annually requested drivers to provide a list of any motor vehicle violations they may have received. In or about summer 2016, Respondent began using a new vendor, J. J. Keller (Keller), to perform this role for its facilities nationwide. Respondent provided Keller with the existing DQFs for the drivers at Southampton and Morgantown, but upon review, Keller advised that many of the DQFs were missing the required information.

Keller provided Respondent with an authorization form for drivers to sign, which was entitled "Acknowledgement And Authorization For Background Investigation." (Jt. Exh. 27-A.) The authorization form, by its own terms, authorized Keller to obtain:

> [C]onsumer reports' (i.e., driving records, criminal history, social security verification, and/or education history) and/or 'investigative consumer reports' (i.e., employment and/or education verification) by the Employer (as listed below) at any time

after receipt of this authorization and throughout my employment, if applicable.

(Jt. Exh. 27-A.)

During summer 2016, these authorization forms were distributed to the drivers by Respondent's supervisors, who told employees they were required to sign them in order for Respondent to obtain their MVRs. The majority of drivers signed the authorization forms without objection. However, a small number of drivers, including shop steward, Harry Banks, who was also a trustee of the Union, refused to sign the authorization forms, objecting to the extensive nature of the forms and the fact that Respondent had never before required incumbent drivers to sign any forms authorizing background checks.

Banks testified that he first became aware of the form in August or September 2016, when he was given a packet of forms to sign by Southampton Supervisor Marylou Burns, and told he needed to complete the forms to be provided to Keller. Banks specifically noticed the new authorization form among the documents in the packet and objected to signing it. At about that same time, he was aware that other employees were being asked to complete these forms and had been approached by a few other employees who objected to signing the authorization form as well.

Either that very day or the following day, he went to Transportation Manager Jamie Moyer to raise his concerns about the new form and told Moyer that he was uncomfortable signing this new document that drivers had not previously been required to sign, and which on its face waived various employee rights. Soon after, Banks spoke with Facility Manager Willie Reiss about his concerns with the form as well.

Respondent maintains that it had no desire or need for background investigations to be conducted on incumbent drivers, and that the form drivers were being asked to sign had been provided to it by Keller. Indeed, both Facility Manager Willie Reiss and District Operations Manager Paul Schonfeld testified that they made multiple attempts to modify the form to satisfy Keller's requirements, and to address the concerns raised by drivers, but were unable to persuade Keller to accept a form that was limited solely to the driver's MVRs.

As a trustee of the Union, Banks attends monthly meetings of the Union's executive committee, and communicates with Dagle on a regular basis. However, notwithstanding his almost immediate and strong objection to the new form, and the fact that he raised his objections to Supervisor Burns, Transportation Manager Moyer and Facility Manager Reiss in multiple conversations about the subject, Banks claims to have not brought it to Dagle's attention at that time. Instead, Banks testified that he did not bring it to Dagle's attention until in or about January 2017, after some employees had reported to him that they were being told they would not be permitted to drive unless they signed the form.

Thereafter, on February 16, 2017, Dagle emailed Reiss objecting to Respondent's new requirement that drivers complete these authorizations and requesting a copy of the authorization forms employees were being asked to sign (Jt. Exh. 21), which Respondent provided.[5] Schonfeld subsequently emailed Dagle on February 21, 2017, advising him of Respondent's attempts to modify the form, and disputing the characterization that Respondent had coerced any employees to sign. Schonfeld also informed Dagle that there were 6 drivers who had declined to sign the forms, and none had experienced any retaliation. (Jt. Exh. 22.)

On February 28, 2017, Schonfeld emailed Dagle again, this time attaching a slightly modified authorization form that Keller had offered to accept and encouraged Dagle to accept either the original or alternate form. (Jt. Exh. 24.) Schonfeld followed up by email on March 9, 2017, inquiring as to the Union's position regarding these proposed forms. (Jt. Exh. 25.)

Dagle responded to Schonfeld by email on March 10, 2017, objecting to the requirement that drivers sign any authorization at all, as Dagle was unaware of any FMCSA[6] or DOT regulations requiring drivers to do so and requesting certain information. (Jt. Exh. 26.) Respondent replied by email on March 15, 2017, attaching the requested information and advising of its position that the consent to obtain consumer reports and investigative consumer reports is a requirement of the Fair Credit Reporting Act ("FCRA"). (Jt. Exh. 27.)

Significantly, in that March 15, 2017 email, Schonfeld stated formally, for the first time, that without a compliant DQF, "a driver may not operate a [Commercial Motor Vehicle] and could be considered no longer qualified for the position that they now hold with Stericycle."

On March 20, 2017, Dagle wrote to Schonfeld, demanding to bargain over what the Union called Respondent's "background investigations" and demanding that Respondent "immediately restore the status quo with regard to background checks as a precondition for bargaining." The Union further demanded that Respondent "cease soliciting authorizations from incumbent employees, immediately discontinue any investigations that the company or its agents have initiated and take no further steps towards implementation of the program." It also called for Respondent to inform all unit employees that "its background investigation program has been rescinded pending bargaining with the Union." (Jt. Exh. 28.)

In anticipation of the bargaining it was demanding, the Union included in its March 20, 2017 email the following information request:

> 1. A statement of Stericycle's purpose and reasons for implementing background checks of incumbent employees.
>
> 2. Copies of all documents distributed to Morgantown and Southampton employees connected to the new "background investigation" program.
>
> 3. Copies of any "Acknowledgement and Authorization for Background Investigation" "MVR/Abstract/Safety Performance" forms signed by incumbent employees.
>
> 4. Copies of any "Disclosure Regarding Investigative Background Investigation" and "Disclosure Regarding Background Investigation" notices issued to employees.
>
> 5. A list of all bargaining unit employees that are, or have been, a subject of background investigations of any

[5] Respondent initially provided an incorrect version of the form but corrected the error later that same day. (Jt. Exh. 23.)

[6] "FMCSA" is an acronym for the Federal Motor Carrier Safety Administration.

type, the type of background investigation performed, and the dates the check was initiated.

6. A copy of any documents concerning, or relating to, J.J. Keller & Associates involvement and administration of the background investigation program.

7. Copies of any documents concerning, and relating to, the development, content and parameters of Stericycle's new program.

(Jt. Exh. 28.)

On March 23, 2017, Schonfeld replied to Dagle's email, suggesting that a modified authorization form purporting to limit the information sought solely to a driver's MVR would resolve the Union's concerns. (Jt. Exh. 29.) Schonfeld attached the modified authorization form to the email (Jt. Exh. 29-A), and indicated that he needed confirmation from the Union that it agreed to accept that form by close of business March 27, 2017.

Rather than agreeing, the Union responded on March 24, 2017, rejecting Respondent's proposed solution, and reiterated its demand for bargaining and request for information. (Jt. Exh. 30.) The Union also requested additional information, specifically:

1. A list of all drivers whose files contain incomplete information and specific identification of what is missing for each driver.

2. The complete driver qualification files of the six individual drivers who you indicated in your e-mail have files that need to be updated.

3. An explanation as to why those files must be updated on Monday, March 27, 2017.

(Jt. Exh. 30.)

Respondent did request an extension of time to respond to the Union's March 20 and 24, 2017 information requests, and Dagle agreed to extend the deadline from March 31, 2017, to April 7, 2017.[7] However, it is undisputed that Respondent did not provide information in response to either of these requests. Having received no response by that April 7, 2017 date, the Union filed its related ULP charge on April 13, 2017.

## Analysis

### The Information Charge Regarding the Proposed New Policies

The Supreme Court has long held that an employer must provide a union, on request, with relevant information that is necessary for the proper performance of its duties as the exclusive bargaining representative. *NLRB v. Truitt Mfg. Co.,* 351 U.S. 149, 153 (1956). Indeed, the Supreme Court has held that an employer's duty to bargain collectively extends beyond periodic contract negotiations and includes its obligation to furnish information that allows a union to decide whether to process a grievance under an existing contract. *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 436 (1967).[8]

> A labor organization's right to information exists not only for the purpose of negotiating a collective-bargaining agreement, but also for the proper administration of an existing contract, including the bargaining required to resolve employee grievances. *Southern California Gas Co.*, 344 NLRB 231, 235 (2005) (*citing Hobelmann Port Services*, *Inc.,*317 NLRB 279 (1995); *Westinghouse Electric Corp.*, 239 NLRB 106, 107 (1978).

Accordingly, the Board has long held that Section 8(a)(5) of the Act obligates an employer to furnish requested information which is potentially relevant to the processing of grievances. "An actual grievance need not be pending nor must the requested information clearly dispose of the grievance." *United Technologies Corp.*, 274 NLRB 504 (1985).

Information requests regarding bargaining unit employees' terms and conditions of employment are "presumptively relevant" and must be provided. *Whitesell Corp*., 352 NLRB 1196, 1197 (2008), adopted by a three-member Board, 355 NLRB 649 (2010), enfd. 638 F.3d 883 (8th Cir. 2011). There is no burden on the part of the Union to prove the relevance of or explain the need for this type of presumptively relevant information.

By contrast, where the requested information is not directly related to the bargaining unit, the information is not presumptively relevant, and the requesting party does have the burden of establishing the relevance of the requested material. *Disneyland Park*, 350 NLRB 1256, 1257 (2007); *Earthgrains Co.*, 349 NLRB 389 (2007). Even in those situations where a showing of relevance is required, whether because the presumption has been rebutted or because the information requested concerns non-unit matters, the standard for establishing relevancy is the liberal, "discovery-type standard." *Caldwell Mfg. Co.*, 346 NLRB 1159, 1160 (2006).

#### 1. The information sought by the Union is relevant

Based on my review of the Union's requests for information regarding Respondent's proposed new policies, I find that they all relate directly to terms and conditions of employment of unit employees. Specifically, the information the Union is seeking is in response to Respondent's repeated assertions that unit work could be put in jeopardy as a result of the absence of certain policies at the Morgantown and Southampton facilities. Respondent made these assertions both while initially proposing to implement those policies and again after Respondent had rescinded its proposed implementation of the policies. As such, I find this information is presumptively relevant, and the Act requires that it be furnished without the need for the Union to establish relevance.

Even if I did not find the information presumptively relevant, I find that the Union nevertheless has clearly established its relevance. Dagle credibly testified that the information requests, though initially prompted by Respondent's announcement that it had implemented the two new policies, were not limited to responding to those policies, but rather, were intended to obtain important information relating to Respondent's assertions that the absence of those policies could lead to loss of work at the

[7] Dagle testified that he agreed to this limited extension over the phone with Schonfeld. Schonfeld testified that Dagle had agreed to an indefinite extension of time to provide the information. I found Dagle's version to be the more credible, and do not believe that under the circumstances the Union would have agreed to an indefinite extension of time to comply.

[8] This is often referred to as "policing the contract." See, e.g., *United Graphics, Inc.*, 281 NLRB 463, 465 (1986).

covered facilities.

Indeed, the Union's August 26, 2016 modified information request, which followed Respondent's formal rescission of those two policies supports the Union's assertion that the requested information was needed more generally for the Union to effectively perform its duties as the exclusive representative of the bargaining unit, i.e. to "police the contract." See *United Graphics, Inc*., 281 NLRB 463, 465 (1986) (the Board held that information presumptively relevant to the union's role as bargaining agent must be provided to the union as it "relates directly to the policing of contract terms").

Moreover, the fact that the parties' CBA contains provisions which largely precluded Respondent from transferring bargaining unit work is no justification for withholding the requested information from the Union. The Union is well within its rights in policing the contract to anticipate and/or investigate potential threats to unit work. That is especially true here, where Respondent itself has indicated in no uncertain terms that there was a real possibility of negative consequences due to the absence of these policies, and that it "may adversely impact a term or condition of employment for" members. (Jt. Exh. 18.)

Accordingly, I find that Respondent has not rebutted the presumption of relevance that attached to all of the information the Union requested, and I further find that the Union has in any event demonstrated the relevance of the information requested.

2. Respondent failed and refused to furnish the Union with presumptively relevant information

The General Counsel alleges, and I find, that Respondent violated Section 8(a)(5) and (1) of the Act when, since about August 1, 2016, Respondent failed or refused to provide the Union with the relevant information, which it requested and is entitled to as the exclusive collective-bargaining representative of the unit.

It is undisputed that Respondent has not furnished the Union with any documents in response to either the Union's initial August 1, 2016 request for information, or its subsequent modified request for information on August 26, 2016, which it reiterated on September 1, 2016, October 4 and 5, 2016. The burden is on an employer, once relevance is established, to provide an adequate explanation or valid defense to its failure to provide the information in a timely manner. *Woodland Clinic*, supra, *Coca-Cola Bottling Co.*, 311 NLRB 424, 425 (1993). Respondent has not met that burden.

Therefore, because the information requested was presumptively relevant, and that presumption has not been rebutted, I find Respondent violated Section 8(a)(5) and (1) of the Act by failing and refusing to provide the Union with the information it requested on August 1 and 26, 2016, September 1, 2016, October 4 and 5, 2016.

The Unilateral Change Allegation and Respondent's Refusal to Bargain

With regard to the allegation that Respondent also violated the Act by unilaterally implementing a policy requiring bargaining unit employees to sign authorization forms for background checks, I agree with the General Counsel that this was a significant change in the terms and conditions of Respondent's incumbent employees, which Respondent made without input from the Union.

Although Respondent does not deny that it began requesting drivers to sign authorizations which had not previously required, Respondent argues that this was not really a unilateral change, as it had always requested drivers to provide it with certain background information in the past. Respondent also argues the affirmative defense that this allegation is time barred by Section 10(b) of the Act.

1. Timeliness under Section 10(b) of the Act

Section 10(b) of the Act states that "no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made." The 10(b) period begins to run when the aggrieved party receives actual or constructive notice of the conduct that constitutes the alleged unfair labor practice. *United Kiser Services*, 355 NLRB 319 (2010). The Respondent bears the burden of proving this defense.

The General Counsel's complaint allegation regarding the unilateral change is based on the underlying charge filed by the Union on April 13, 2017. Thus, the 10(b) period runs back 6 months to October 13, 2016, and Respondent must prove that the Union had actual or constructive notice of the unilateral change prior to then.[9]

Respondent maintains that because employees, including shop steward Harry Banks,[10] were aware of the existence of the authorization forms as early as August 2016, that Section 10(b) applies. However, I am not persuaded that any knowledge Banks may have had should be imputed to the Union. In light of the parties' past practice wherein Union president Dagle has been the sole Union representative for collective bargaining, there was no reasonable basis for Respondent to believe that Banks was authorized to act as the Union's agent for purposes of receiving notice of a unilateral change. *Brimar Corp.*, 334 NLRB 1035 (2001), citing *Catalina Pacific Concrete Co.,* 330 NLRB 144 (1999).

More importantly, the unilateral change being alleged is that Respondent began "requiring" employees to sign the disputed authorization form. Here, the Union, even including Banks, could not have had notice that signing the document was a requirement. Indeed, although Banks and other employees had been provided with the document as early as August or September of 2016, and were requested to sign it, Banks was specifically told by his supervisors that there would be no negative consequence to his not signing it.

[9] In recognition of this requirement, par. 6(a) of the complaint alleges the unilateral change to have taken place "[a]round October 2016, a more exact date being unknown to the General Counsel," though as discussed herein, I find the unilateral change to have taken place later.

[10] Banks is not only an employee and union steward, he is also a Union Trustee, who has attended union meetings. However, I found him to be credible when testifying to his otherwise limited role within Union leadership.

As such, I find that during the period when the forms were first introduced to employees, signing them was not a requirement at all. And in the absence of any communication directly to the Union, there is no evidence that the Union either knew or could have known that the Respondent was conditioning employees' continuing ability to work on their signing of an authorization form for a background investigation until drivers began reporting being told as much in or about December 2016 or January 2017.

Prior to this point, Respondent had assured those employees who had inquired about it, including Banks, that no negative ramifications would result from their choosing not to sign, and none had. Indeed, it's not clear the Union was formally notified of Respondent's intention to bar employees who did not sign from working until Schonfeld notified Dagle as much in his March 15, 2017 email. Therefore, that is when the unilateral change took place, well within the 10(b) period.

Accordingly, as the Union's charge relating to this subject was filed within six months of this unilateral change by Respondent, I conclude that the unilateral change allegation is not time barred.

### 2. The refusal to bargain regarding background authorization forms

With regard to the allegation that Respondent has refused to bargain regarding the background forms, the record is clear that the Union demanded bargaining almost immediately upon learning of the requirement, beginning with its March 20, 2017 written demand. The record is similarly clear that Respondent has not agreed to bargain despite the Union's demands to do so.

I reject Respondent's affirmative defenses of bad faith, impasse or waiver. First, there is no basis for finding the Union engaged in any bad faith. It learned of Respondent's telling drivers they may not be able to work without signed authorization forms, almost immediately demanded bargaining and information in furtherance of bargaining, and when neither was forthcoming, filed the within charge. I can find no conduct on the part of the Union that approaches bad faith in this regard.

Second, there certainly was no impasse. Impasse requires a finding that "the parties have exhausted the prospects of concluding an agreement and further discussions would be fruitless." *Laborers Health & Welfare Trust Fund v. Advance Lightweight Concrete Co*., 484 U.S. 539, 543 (1988). Here, the parties had not yet even engaged in any bargaining. Respondent's unilateral efforts to modify the authorization forms are not a substitute for bargaining with the Union. And its own conclusion that Keller—its own chosen vendor—was unable to make further modifications does not constitute a bargaining impasse.

Third, at no point did the Union give any indication that it was waiving its right to bargain over the authorization forms. A "clear and unmistakable waiver" is required to find the Union has waived its rights against an employer's unilateral action. There is no evidence of anything resembling such a waiver either on the part of the Union, or by agreement of the parties, or in the parties' past practice.

Accordingly, I find that Respondent has refused to bargain over its unilateral change requiring employees to sign background authorization forms, and that its affirmative defenses of bad faith, impasse and waiver are rejected.

### The Information Charge Regarding the Background Authorization Forms

In conjunction with its March 20, 2017 demand to bargain, the Union also requested information related to Respondent's requirement that employees sign background authorization forms on March 20, 2017. The Union amended its information request on March 24, 2017, following Respondent's March 23, 2017 correspondence.

The same analysis applies to these requests as applied to its earlier requests for information inasmuch as the information requested relates directly to bargaining unit members and is presumptively relevant. In addition, these March 2017 information requests relate specifically to its demand for bargaining over Respondent's unilateral change. So, more than just for "policing the contract," I find the Union is entitled to the information in furtherance of its role as collective-bargaining representative.

## CONCLUSIONS OF LAW

1. Respondent, Stericycle, Inc., is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union, Teamsters Local 628, is a labor organization within the meaning of Section 2(5) of the Act and represents a bargaining unit comprised of workers employed by the Respondent.

3. Since on or about August 1, 2016, Respondent has committed unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act by refusing to bargain collectively with the Union by failing and refusing to furnish it with information it requested on August 1 and 26, September 1, October 4 and 5, 2016, that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of Respondent's unit employees.

4. Since in or about December 2016, Respondent has committed unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act by unilaterally requiring incumbent drivers to sign background authorizations in order to work.

5. Since on or about March 20, 2017, Respondent has committed unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act by refusing to bargain collectively with the Union regarding the subject of background authorizations and investigative background authorizations for incumbent drivers.

6. Since on or about March 20, 2017, Respondent has committed unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act by refusing to bargain collectively with the Union by failing and refusing to furnish it with information it requested on March 20 and 24, 2017, that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of Respondent's unit employees.

7. The Respondent's above-described unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has engaged in conduct in violation of Section 8(a)(5) and (1) of the Act, I shall recommend

that it cease and desist from engaging in such conduct and take certain affirmative action designed to effectuate the policies of the Act.

In particular, I shall recommend that, to the extent it has not already done so, Respondent shall timely furnish the following information to the Union: all of the information in the Union's August 26, 2016 information request and all of the information in the Union's March 20 and 24, 2017 information requests.

In addition, I shall recommend that Respondent be required to notify its employees that the Union is entitled to request and receive information related to its role as collective-bargaining representative, and Respondent will not withhold from the Union the information which it is lawfully entitled to request and receive.

I shall further recommend that Respondent be required to cease and desist from soliciting additional background authorizations and/or investigative background authorizations from incumbent unit employees, and that it cease and desist from using signed authorizations previously obtained from incumbent unit employees for any purpose, pending bargaining with the Union.

Finally, I shall recommend that Respondent be required, upon request, to bargain in good faith regarding the subject of background authorizations and investigative background authorizations for its incumbent unit employees.

Therefore, Respondent will be ordered to post and communicate by electronic post to employees the attached Appendix and Notice. On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[11]

ORDER

Respondent, Stericycle, Inc., its officers, agents, and representatives, shall

1. Cease and desist from

(a) Refusing to bargain collectively with the Union, Teamsters Local 628, by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees at its Southampton and Morgantown, Pennsylvania facilities.

(b) Soliciting additional background authorizations and/or investigative background authorizations from incumbent unit employees, pending bargaining with the Union.

(c) Further using signed authorizations previously obtained from incumbent unit employees for any purpose, pending bargaining with the Union.

(d) Refusing to bargain collectively with the Union over its proposed requirement of background authorizations and/or investigative background authorizations for incumbent unit employees.

(e) In any like or related manner, interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purposes and policies of the Act.

(a) Furnish to the Union in a timely manner the information requested by the Union on August 26, 2016.

(b) Furnish to the Union in a timely manner the information requested by the Union on March 20 and 24, 2017.

(c) Upon request, bargain in good faith with the Union as the exclusive bargaining representative of our Southampton and Morgantown unit employees the subject of background authorizations and investigative background authorizations for incumbent unit employees.

(d) Notify unit employees that its use of any previously signed authorizations has been suspended pending bargaining with the Union.

(e) Within 14 days after service by the Region, post at its Southampton and Morgantown, Pennsylvania locations copies of the attached notice marked "Appendix."[12] Copies of the notice, on forms provided by the Regional Director for Region 4 after being signed by Respondent's authorized representative, shall be posted by Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to the physical posting of paper notices, the notices shall be distributed electronically, such as by email, posting on an intranet or internet site, and/or other electronic means, if Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, Respondent has gone out of business or closed the facility involved in these proceedings, Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by Respondent at any time since August 1, 2016.

(f) Within 21 days after service by the Region, file with the Regional Director for Region 4 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

Dated, Washington, D.C. April 2, 2018

APPENDIX

NOTICE TO EMPLOYEES
Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.
To organize
To form, join, or assist any union
To bargain collectively through representatives of their own choice

[11] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[12] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

To act together for other mutual aid or protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT refuse to bargain collectively and in good faith with the Union, Teamsters Local 628, by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of our unit employees.

WE WILL NOT make unilateral changes to terms and conditions of employment without first bargaining with the Union.

WE WILL NOT refuse to bargain collectively and in good faith with the Union regarding the subject of background authorizations and investigative background authorizations for incumbent drivers.

WE WILL NOT in any like or related manner fail and refuse to bargain collectively and in good faith with the Union as the exclusive collective-bargaining representative of our employees in the Unit or otherwise interfere with your rights under Section 7 of the Act.

WE WILL furnish to the Union in a timely manner the information it requested on August 1 and 262016, September 1, 2016, October 4 and 5 2016.

WE WILL furnish to the Union in a timely manner the information it requested on March 20 and 24, 2017.

WE WILL cease soliciting background authorizations and/or investigative background authorizations from incumbent unit employees, pending bargaining with the Union.

WE WILL cease using previously obtained background authorizations and/or investigative background authorizations for any purpose, pending bargaining with the Union.

WE WILL upon request, bargain in good faith with the Union as the exclusive bargaining representative of our Southampton and Morgantown unit employees regarding the subject of background authorizations and investigative background authorizations for incumbent drivers.

STERICYCLE, INC.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/04-CA-186804 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.