

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

CIVIC INFLUENCERS, INC.

and

Cases 05-CA-345478
05-CA-345575
05-CA-357700
05-CA-359958
05-CA-365670

UNITED PROFESSIONAL ORGANIZERS

Katherine Leung, Esq., for the General Counsel
David P. Hiester, Esq. (Gordon Rees Scully Mansukhani LLP),
Philadelphia, PA, for the Respondent

DECISION

STATEMENT OF THE CASE

MICHAEL A. ROSAS, Administrative Law Judge. By agreement of the parties, this case was tried via Zoom.gov virtual technology on March 3 and 5, 2026. Based on timely filed charges by the United Professional Organizers (Union), the General Counsel issued a complaint on November 25, 2025 alleging that Civic Influencers, Inc. (Respondent) violated: (1) Section 8(a)(1) of the National Labor Relations Act¹ since about May 2022 by maintaining a rule prohibiting behavior that “lowers morale of fellow employees,” (2) Section 8(a)(1) and 8(a)(3) by discharging Katrina Cousins, Kathleen Hutton, Kameryn Point, and Emily Yost, and rescinding the promotion of Elise Orlick, on or about June 21, 2024,² and discharging Audrey Ferguson, Anna Cabbage, and Cornell Duckworth on or about December 31, because they engaged in protected concerted activity and supported the Union; and (3) Section 8(a)(4) by discharging Ferguson, Cabbage, and Duckworth because they testified at a Board hearing in Case 05-RC-345195.³

Respondent denied the material allegations and included affirmative defenses alleging, in part: (1) the charges are time-barred; (2) the complaint is unreasonably vague; (3) the adverse employment actions were based upon legitimate, non-discriminatory and non-retaliatory business related and performance justifications; (4) it ceased operations and was in the process of a corporate dissolution, rendering a bargaining order futile and unenforceable; and (5) it has no employees and only one remaining member of its Board of Directors.

¹ 29 U.S.C. § 151-169.

² All dates refer to 2024 unless otherwise stated.

³ On May 13, 2025, the Regional Director issued a “Decision and Direction of Election” in case 05-RC-345195 concluding that the alleged discriminatees fell within employee classifications that should be included in the petitioned appropriate unit. (GC Exh. 53, p. 26.). Neither party filed a request for review of the Regional Director’s determination, which will be applied here as the law of the case.

On February 27, 2026, I issued an *Order Denying Respondent's Petition to Revoke Subpoena Duces Tecum No. B-1-1QA9MS5*. The subpoena required Respondent to produce, in part, personnel related documents⁴ and documents relating to Respondent's financial condition,⁵ which Respondent was obligated to preserve after the charges were filed. During the hearing, Respondent produced Elizabeth Ricci, Chair of Respondent's Board of Directors, as custodian of records. In response to questioning from the General Counsel regarding Respondent's failure to produce the subpoenaed personnel records, Ricci conceded that Respondent had not taken any steps to obtain them from Respondent's human resources contractor.⁶ Having considered the parties arguments, I grant the General Counsel's motion for an adverse inference that the personnel and financial records, if produced, would not have supported Respondent's defense that the discriminatees were terminated for performance issues or due to Respondent's financial condition.⁷

On the entire record, including my observation of the demeanor of the witnesses,⁸ and after considering the briefs filed by the General Counsel and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, Respondent, a Delaware Section 501(c)(3) non-profit organization, with an office and place of business in Lewes, Delaware, conducted operations encouraging young people to vote and participate in democracy in the United States. In conducting its operations during the 12-month period ending October 31, 2025, Respondent derived gross revenues in excess of \$250,000, and purchases and receives goods valued in excess of \$5,000 directly from points outside the State of Delaware. The Respondent 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.

⁴ GC Exhs. 67 at ¶¶ 8-16, 24-28, 31-41, 43-48, 51-56, 59-64, 67-72, 75-80, 84-89, 93-98.

⁵ Id. at 17-20, 25-26, 28-30, 44-45, 47, 49-50, 52-53, 55, 57-58, 60-61, 63, 65-66, 68-69, 71, 73-74, 76-77, 79, 81-86, 88, 90-92, 94-95, 97, 99-101.

⁶ Elizabeth Ricci, Chairperson of Respondent's Board of Directors, acknowledged that she was notified back in 2024 of her obligation to preserve all potential evidence. However, neither she nor CEO Maxim Thorne took steps to preserve or obtain such records, including employment records in the possession of Insperity, Respondent's human resources contractor. Essentially, Ricci only produced the limited documents that she had in her possession. (Tr. 25-33; GC Exhs. 1-C, 1-D, 1-F, 1-H, 1-J, 1-M, 1-N.)

⁷ Based on Respondent's failure to produce the subpoenaed financial information, I did not credit Ricci's testimony that the seven discharges were due to Respondent's "tenuous" financial situation, "budget constraints," or because "we were out of money." (Tr. 329-330, 333-334, 336-337, 344-346.)

⁸ Five of the discriminatees, Elise Orlick, Katrina Cousins, Kathleen Hutton, Anna Cubbage, and Audrey Ferguson, testified. Although had more specific recollection of the events than others, their testimony was credible, generally consistent, and unrefuted. Ricci was the only witness called by Respondent. Although I found her testimony credible, Ricci had no personal knowledge regarding the discharges and rescinded promotion at issue.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Respondent's Operations

5 Respondent was created in 2021 as a 501(c)(3) non-profit organization. It was born out of
 a prior organization called the Campus Engagement Project (“CEEP”), which was founded around
 2010.⁹ Respondent’s primary purpose is to recruit students, ages 18 to 29, for its Civic Influencers
 Fellowship Program. The program aimed to use students to increase the youth vote by organizing
 and engaging in political advocacy on college campuses and communities. The fellows were paid
 10 a \$500 stipend, plus expenses, pursuant to semester-long contracts called Civic Influencers
 Agreements.¹⁰ The contracts required them to complete a series of program deliverables, which
 included data training, the production of 30-second videos, engaging in civic or voter engagement
 activities, a systemic change project, and a final report. The goal of systemic change projects was
 to create long lasting change on campuses or local communities around civic and voter
 15 engagement.¹¹

The Respondent did not have an office. Its employees worked remotely from various
 locations around the country and communicated with each other and fellows through digital
 methods like Zoom, Google Meet, Slack, email, text message, or telephone. Respondent has
 20 always used professional employment organizations (PEO) for all its human resource and
 administrative functions, including employee relations, benefits, and payroll administration.

Since its inception, Respondent’s revenue has been entirely dependent on donations,
 grants, and fundraising. Respondent began 2024 with \$204,000 in net assets.¹²

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B. Respondent's Leadership

At the material times, Ricci was the Chairperson of the Board of Directors.¹³ The Board of
 Directors hired Maxim Thorne as its Chief Executive Officer (CEO) in July 2021. As of May 14,
 30 2024, Thorne and the following individuals were admitted supervisors within the meaning of
 Section 2(11) and agents within the meaning of Section 2(13) of the Act: Inam Yousafzai – Chief
 Operating Officer (COO); Alberto Vasquez – Chief Financial Officer (CFO); and Erin Barnhart –
 Chief of Organizing, Advocacy, and Learning (Chief of OAL). In addition, Cashmiera Brown, a
 consultant, served from April 2024 to February 2025 as Respondent’s sole human resources
 35 official, handled all human resources issues, was listed on its organizational chart as a member of
 senior leadership, and acted at the material times as a statutory supervisor and agent.¹⁴

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⁹ Jt. Exh. 1, ¶¶ 1-2.

¹⁰ GC Exh. 53, p. 3.

¹¹ The testimony established that much of the work was done digitally. (Tr. 103, 175-176, 239.)

¹² Jt. Exh. 1, ¶ 25.

¹³ Respondent denied the supervisory and agency status of Ricci, the only witness to testify on its behalf. Admittedly, Ricci had no personal knowledge regarding the personnel actions at issue.

¹⁴ Jt. Exh. 1 at ¶ 12; GC Exh. 53.

C. The Organizing, Advocacy, and Learning Department

The Organizing, Advocacy, and Learning (OAL) Department produced the front-facing programmatic work of the organization, including recruiting and supporting the civic influencers.

5 The Chief of OAL oversaw the Co-Chief of Organizing, Co-Chief of Advocacy, Co-Chief of Learning, and three statewide organizers, also referred to as organizers at large.¹⁵ Statewide organizers recruited, supported, and assigned the tasks (deliverables) to fellows, i.e., civic influencers, in their assigned states. Each organizer was assigned 25 to 30 fellows. The fellows' tasks involved organizing events and information sessions, and face-to-face interaction on
10 campuses and in communities, as well as the digital interaction and dissemination of information.¹⁶

The Co-Chief positions were primarily administrative. As of April, Audrey Ferguson was Co-Chief of Organizing. Kameryn Point was hired on March 27 as Co-Chief of Advocacy; the Co-Chief of Learning position was vacant. Ferguson supervised three statewide organizers: Katrina
15 Cousins, Anna Cabbage, and Cornell Duckworth.¹⁷ They were assigned to cover the following areas: Cousins—Virginia, Michigan, and Pennsylvania; Cabbage—North Carolina, South Carolina, New York, Florida, and Pennsylvania; and Duckworth—historically black colleges and universities (HBCUs) in multiple states and Georgia.

20 On April 11, Respondent promoted Elise Orlick, a Stakeholder Advisor, to Co-Chief of Learning, effective April 22. She was given a salary increase in conjunction with her new position and began attending OAL meetings. Orlick also retained some of her fundraising duties because the Director of Stakeholder Engagement resigned around the same time.¹⁸

25 *D. The Stakeholder Engagement Department*

The Stakeholder Department (formerly the Development Department), handled fundraising, hosted events, and kept donors updated on the work of the organization. Stakeholder
30 advisors met virtually with donors and prospective donors, and occasionally traveled to visit funders and prospective funders across the country. On March 27, Emily Yost was hired as a Senior Stakeholder Advisor and Elizabeth Haas was hired as a Senior Institutional Gifts Advisor.¹⁹

35 In April, around the time that Orlick was promoted to Co-Chief of Learning, Paul Lotierzon, the Chief of Stakeholder Engagement, resigned. The department was left with three employees—Senior Stakeholder Advisor Emily Bush, Yost, and Haas.

¹⁵ Ricci testified that In early 2024, “into January, February, March,” the Board of Directors “hired a very experienced . . . communications director specifically because, per her resume, she had more experience in digital marketing and social media technologies.” According to Respondent’s organizational chart, however, that position remained vacant. (Tr. 314-315; GC Exh. 2 at 1-2.)

¹⁶ Ferguson, the Co-Chief of Organizing, testified that the civic influencers’ work was a “mix” of “online engagement” and “in-person work.” Additionally, Ferguson and other staff designed and provided the civic influencers with digital resources to supplement in-person work with “social media content.” (Tr. 261-264.)

¹⁷ Cousins was hired in 2021. Ferguson, Cabbage, and Duckworth were hired in 2022.

¹⁸ Respondent identified the Co-Chief of Learning duties to include “managing a portfolio of Organizers At-Large,” and “developing a strategy to recruit CIs, supporting and training CIs, tracking the progress of CIs, drafting reports to stakeholders and donors, and other duties.” (GC Exh. 53, p. 7; Tr. 97.)

¹⁹ Haas resigned on May 16. (GC Exh. 53, pp. 9-10.)

E. The Communications Department

By April, the Communications Department was staffed only by Kathleen Hutton, the Co-Chief of Digital Communications;²⁰ the position of Chief of Communications was unfilled. Hutton, hired in 2022, designed, managed, and updated the organization’s website, created email lists in the Salesforce database, drafted mass emails, text messages, and social media communications, and managed data analytics for the organization’s website and social media communications. Her website responsibilities included posting content by the civic influencers and informational, donation, membership, and other forms. Respondent’s social media presence included digital organizing on Facebook, Instagram, and Twitter, Threads, and Bluesky.²¹

F. The April 12 Letter

On April 12, Ferguson emailed the Board of Directors on behalf of herself “and other staff members” regarding “concern for our organization’s well-being and with severe misgivings about its leadership under our current CEO, Maxim Thorne.”²² She attached a letter criticizing Thorne’s behavior, leadership, and relationship with staff and partner organizations. Ferguson asked that the “letter remain between staff and the board since I also hold concerns about retaliation from Maxim.” Ferguson noted that the letter, signed off by her and state organizers Cubbage, Duckworth, and Sadiya Khan, was also reviewed and approved by others who opted not to sign “out of fear of retaliation.” The letter was extremely critical of Thorne’s behavior, leadership, and relationship with staff and partner organizations:²³

I, Audrey Ferguson, am writing to express my concerns regarding the leadership of our CEO, Maxim Thorne. A few other members of staff have asked to sign on in support of this letter and I imagine Isa and Paul have shared their thoughts with some of y’all as well.

While Maxim possesses impressive knowledge and public speaking skills, I have observed significant shortcomings in his ability to effectively run our organization as well as incredibly poor treatment of staff. I have grown concerned about the impact of his behavior on staff, our work, and the organization’s longevity. I was delaying reaching out due to his performance review occurring but as of the time of this writing, it has been 7 weeks since those reports were submitted on February 23rd. Maxim’s behavior has remained the same over this period and only led to the further departures of key staff members, with possibly more to come.

To be frank I lean towards wanting to give a full account of how Maxim operates but I will try to keep things shorter and avoid venting (as much as possible). Any points I raise in

²⁰ Hutton was issued a performance improvement plan in 2023 but no details were provided. (Tr. 164-166.)

²¹ Confirming Hutton’s social media work, Orlick testified that the communications department “spent a lot - - significant time on email and social media work, which I would fold under digital organizing,” (Tr. 81-82, 131, 146-148; GC Exh. 53, p. 8.)

²² GC Exh. 4.

²³ Ferguson testified that she shared a draft of the letter with the OAL staff, but was initially reluctant to let them sign the letter because she feared retaliation by Thorne. (GC Exh. 5; Tr. 242-243.)

this letter can be elaborated on and additional examples can be provided in further discussion.

5 The biggest issue is his treatment of others, staff members have commonly described him to me as “toxic”, “abusive”, “authoritarian”, etc. His treatment of others has led to a culture where staff dreads interacting with him and, when we have to do so, we avoid adding input, sharing ideas, and communicating in general because Maxim tears at, belittles, and disregards any thoughts staff have as well as retaliates when any idea or point he raises is challenged. A simple point to demonstrate how unpleasant and difficult it is to work with him is how the majority of individuals hired for roles where they have to work closely with him quit within a few weeks, those who stay tend to make it a few months before giving up.

15 Beyond our own staff, there is also the issue of how he engages with those outside of our organization. On calls concerning partnerships on the ground with other organizations, I have watched him repeatedly sabotage efforts through a display of arrogance, incoherence, ignorance of what organizing work looks like, talking down to others, and being actively disrespectful to those we are meeting with. As a particularly egregious (and long) example, as well as one that is demonstrative of how he operates generally in his treatment of staff and others, recently we were supposed to be participating in a state-wide event in North Carolina on HBCU campuses called the Black Joy Jamboree. The event was meant to bring NC HBCU students out to celebrate Black joy, march to the polls during early voting for the NC Primary, and get involved with local organizations. It is an event that has been long in the planning, and we were privileged to be on the steering committee for it. Eventually, the matter of funding came in, and the coalition was working to identify how much campus and organizational partners could contribute so they could budget and plan for what was within capacity. When I went to ask Maxim if/what we can contribute (making clear this is a large statewide event and we want to show our commitment to this work and the coalition of HBCUs), he got very combative and refused to approve any funding. Maxim seemed unable to understand what the event was and repeatedly kept bringing up the LFR program, Ben and Jerry’s, grant-making entities, etc. It was a combative discussion, and to be frank, bordering on nonsensical. Due to his hang-ups, a meeting was organized between Maxim, two of the coalition leaders (one of whom is a former CI), and Anna Cabbage (our NC SO). In the call he repeatedly talked down to the organizers, would not listen to what they had to say about the event, demonstrated a clear lack of understanding of what on-the-ground organizing and its impacts look like, continuously name-dropped unrelated organizations, grant-making entities, and people, and simply behaved incredibly disrespectfully. This was all without any reason to act in that manner as the coalition members are wonderful people, great organizers, and have been nothing but good to us and supportive. Afterward, he had another confusing discussion internally about finding a foundational grantee and then said we would provide [\$]1,000. Subsequently, due to his treatment of the event leaders, their respective organizations’ leaders reached out directly to Maxim to schedule a meeting. He never responded, and due to all that transpired, our logo was no longer included in the event’s marketing materials. Anna still assisted them in the event, at a campus in a target district, and is still welcome to participate in the larger NC HBCU coalition due to her relationships with campus and community partners and despite Maxim’s disrespect and unprofessionalism. With how he treated community

partners, the offer of [\$1],000 for an event spanning 10 campuses was also interpreted as a final disrespect. This coalition is incredibly important, not just for the particular event but for these campus relationships as well. Word travels and Maxim's behavior in this context isn't just creating internal difficulties or a toxic office climate, but also actively harming the work we are trying to do and our mission. This example was especially egregious but I have seen him conduct himself this way several times with organizations we are trying to work or form relationships with. It feels as if he, as a baseline, actively distrusts, disrespects, and is combative with other individuals working in this space as well as with our staff.

To go beyond his treatment of others though, which is inexcusable in my opinion, he is a poor leader for this organization. His communication is incredibly lacking, having overseen OAL for a year I can barely get him to respond to an email, I have presently not met with him in 5 weeks as most of our 1:1 calls get canceled. Since he typically doesn't respond to my emails those calls are my only chance to get approvals, discuss programmatic changes, etc. It has been a hamper where we cannot effectively make changes or respond to situations since we can't get approvals when he won't communicate with the department. Beyond that though calls that do occur tend to start late and run incredibly late, which is frequently an issue for staff and simply just shows the additional casual disrespect to their time and work. On occasion, he also just doesn't show up for calls without any communication that he won't be present.

There is also a lack of direction. Maxim does not offer strong guidance to our organization while also disregarding other ideas leading to us being unable to take smart risks and try to be more impactful. When there is direction from Maxim it is immaterial, for example, with the Let Freedom Ride program Maxim had sent out ad copy to donors and then came to staff saying to have a project that is focused on voter registration. His big idea for the year was "do voter registration". He came with no measurable goals, no specific ideas or direction, told us there would be no funding or resources allocated to it, etc. and before anything was planned or developed it was already being sold to donors, which feels misleading to that base and is a practice I am not comfortable with (as a side note I have seen him frequently mislead donors and, back when I was on more fundraising events, outright lie in fundraising attempts).

And just to include two final notes, items simply fail to materialize from him so consistently that it is at a point where we just don't expect follow-through from him on anything until it materially happens. And lastly, I have real misgivings about his financial management of our organization, but since I don't have a clear window into our finances I will avoid speculation.

At this point, I feel as if I am branching a bit into venting territory. I simply want to try to give a, more or less, complete picture of how he has been operating in the organization. I have serious concerns for this organization's longevity (and reputation) under his leadership, I also simply find it hard to continue to watch his treatment of wonderful people and organizers. I was avoiding having other staff sign on to this outreach, despite their repeat requests to be added, but given these have been shared concerns and grievances I decided it wasn't my place to prohibit it.

Originally, I did not want others signed on as I fully expect retaliation from Maxim if he remains with the organization, is made aware of this letter, and finds out who sent it. I find it a bit baffling that his behavior has been tolerated up until this point and staff is incredibly discontent at the lack of response, even if the board has been unaware it has been 7 weeks since the performance review and the only communication we have received about it was when I reached out roughly two and a half weeks ago to Liz Ricci asking about its status. I was told there would be a conversation with Maxim in several days. If there was a conversation it does not appear anything has come from it that we have been able to witness. Action needs to be taken, for the well-being of staff, for us to be impactful in this space, and before the organization falls into disarray from turnover.

About two hours later, Ricci, copying the nine other members of the Board of Directors, thanked Ferguson and assured her that her concerns would be taken seriously and retaliation would not be tolerated. Another Board member, Leslie Bhutani, emailed Ferguson the next morning:

I think you are brave to inform us, and I appreciate your honesty. I'm sure it is gut wrenching. It comes across that one of your top concerns is the success of the organization, which we all care about. I, for one, promise not to divulge your identity. I have no idea how we can resolve this problem, but I will advocate for change. Hang in there. Are you willing to stay? Do you feel that the program is working despite the situation? I will only share your response with the board if you agree. As I'm sure you can understand, it is a really bad time to have a change of leadership—right before the elections, for funding purposes, but . . .

Ferguson replied shortly thereafter and stated that Bhutani was “free to share with the other board members.” She was “willing to stay” but want to see programmatic changes due to “communication difficulties” with Thorne, “no formal department budget,” and an inability to “respond quickly to specific situations” and “secure[] a voter registration platform, etc.”

Ricci, on behalf of the Board of Directors, sent the April 12 letter to Insperity, Respondent’s human resources consultant, to investigate the allegations.²⁴ An Insperity representative named Denise contacted the employees who signed the letter.²⁵

G. The 2024 Staff Retreat

1. The Purpose of the Retreat

On April 23-25, as the Insperity investigation continued, Respondent held an all-staff in-person retreat at the Pocantico Center on the Rockefeller Foundation’s Kykuit estate in the Hudson Valley of New York. The purpose of the retreat was to discuss the organization’s strategy for the November elections and work on team development and bonding.²⁶

²⁴ Ricci credibly denied sharing the concerns in the letter with Thorne. (Tr. 323.)

²⁵ Ferguson did not specify what she told the Insperity representative. (Tr. 243-244.) However, Cubbage elaborated on the concerns raised in the letter, as well as those mentioned to the Board of Directors by employees earlier in 2024 regarding Thorne’s annual evaluation. (Tr. 180-181.)

²⁶ GC Exh. 6.

Prior to the retreat, on April 18, Thorne asked staff “to engage in a little pre-retreat preparation” by reviewing certain materials, including an attached draft of a “2024 CI Strategic Action Plan – Where to Play. How to Win. What to Measure.’ We are anxious to hear your initial thoughts and get your feedback as we flesh this document out together moving forward.” Thorne also noted that the Kykuit estate was a “formal, family-owned space” and that staff were to conduct themselves “as house guests” by “limiting our exploration to spaces to which we have been granted access, monitoring our noise levels (even when we’re playing games, which could otherwise get raucous!) and for those who choose to have a cocktail during receptions, drinking responsibly and in moderation.”²⁷

The Strategic Action Plan essentially restated the organization’s “purpose, vision, and mission,” and “our unique approach” using “data-driven strategies . . . innovative peer-to-peer communications . . . [and] focus . . . on youth in areas specifically targeted by youth voter suppression efforts, and in educational settings over overlooked by others.”²⁸

For discussion at the retreat, the document included charts of “Key Performance Indicators” under “Where to Play” and “How to Win.” The “Where to Play” indicators consisted of the following categories: “On-the-Ground Organizing (Impact); Digital Organizing (Impact); Underrepresented School Connections (Impact); Education-focused Collaborations; and Partnerships and Other Collaborations.” Under the Digital Organizing (Impact) category, staff were asked, “Should we fold volunteers under this section?” The subcategories under that section were “#Posts, #Followers, #Videos, #Emails.”²⁹

All of the managers attended, including Thorne, Yousafzai, Vazquez, and Erin Barnhart.. In addition to Brown, several individuals introduced as observers also attended and served as workshop facilitators or presenters—Elizabeth Steele, Lowell Perry, and “Mo,” a Salesforce consultant.³⁰ Staff in attendance included Orlick, Cousins, Hutton, Elizabeth Haas, Emily Yost, Anna Cabbage, Audrey Ferguson, Erin Barnhart, and Cornell Duckworth.

²⁷ R. Exh. 1.

²⁸ Asked if she considered the Strategic Action Plan a shift in Respondent’s strategy or philosophy, Ferguson testified, “[n]ot generally. Like, I think, like, my general sentiment was it was lacking on a bit of substance. And it seemed, like, it mostly was, like, not, like, indicating, like, metrics, goals. Like anything specific. I didn’t see, like, the blank fields.” She also considered the metrics similar to the ones utilized up to that point. (Tr. 268-269.) That was consistent with Ricci’s testimony that Barnhart, who she described as a “strong chief of OAL” hired in March, was “engaged” in putting together the Strategic Action Plan “because a lot of the strategies involved work that her organization, OAL, would - - would be responsible for.” (Tr. 316.)

²⁹ Ricci testified that the Board wanted a mixture of continued “campus engagement activity” and “more digital communications.” (Tr. 318-319.) She explained that the purpose was to share the SAP, “get some feedback on it, and finalize it so that we could all agree that this is what our focus and priorities would be. . . . And secondarily, team building and a chance for people who hadn’t met each other in person yet to do that.” (Tr. 319-320; R. Exh. 2.)

³⁰ Respondent used Salesforce software to store and access donor information.

2. April 23

The first day of the retreat started with lunch, followed by a cocktail reception, a working dinner, and team bonding activities.³¹ During lunch, Thorne asked the waiter for the wine list. The waiter replied that wine was not served at lunch, but there was a common area that was always open where he could purchase wine. After the lunch, there was a short break and when they reconvened, Thorne shared that he had some wine in the common area.³² Dinner was preceded by a cocktail hour where staff socialized and got to know each other.³³

From 7:00 to 9:30 p.m., staff convened for “Team Bonding” in the Hayloft room on the second floor of the Coach Barn Building. The activity was “Networking: Games, beer & wine, snacks.” The staff present included Thorne, Brown, Barnhart, Point, Duckworth, Cabbage, Ferguson, Orlick, Cousins, and Hutton. Newsome, the facilitator, Elizabeth Steele, and “Mo” a Salesforce representative, were also present. As noted on the agenda, beer and wine was served.

The team bonding event initially started off with discussion about the organization’s strategic plans for the November elections and beyond. At one point, Thorne welcomed newly hired employees Erin Barnhart and Kameryn Point. Cousins then commented that it was Ferguson and the entire OAL team, as well as the other teams, that should be complimented for keeping the organization going while short on staff and managers. Cousins also raised concerns regarding the poor communication from management, the direction of the organization, and the lack of opportunities for staff. She cited the example of Respondent promoting Orlick being to Co-Chief of Learning without posting that position for OAL employees to apply. Thorne attempted to minimize his role in Orlick’s promotion, but Cousins disagreed, stating that he was responsible for hiring and firing employees.

That discussion spurred Cousins and other employees, including Cabbage, Orlick, and Ferguson, to voice additional concerns similar to those raised in the April 12 letter regarding the direction of the organization, poor communication, Thorne’s disregard for staff’s ideas, and the lack of opportunities for staff. Yost also chimed in and expressed her concern about the issues raised because she had just been hired. Thorne, however, responded defensively by rejecting or minimizing their concerns.³⁴

Following the contentious discussion, Mo provided a 15 minute presentation on “Data Visualization Intro[duction]” Thorne and the rest of the managers and consultants left after that segment, while staff remained in the Hayloft, as scheduled, for “Activity/Networking: Games, beer

³¹ GC Exh. 6, at 1.

³² Orlick recounted this incident in response to a question on cross-examination regarding any developments that concerned her. (Tr. 85-86.)

³³ Hutton described the cocktail hour as “very casual drinking. You know, it was just -- we had a cocktail hour, and everyone was, you know, just enjoying each other's company, sort of playing a little, you know, little games, you know, wandering around, talking to each other knew -- you know, staff as well, getting to meet them.” (Tr. 140-141.)

³⁴ Ferguson provided the most detailed account of the discussion during the team bonding event, while Cousins, Hutton, and Cabbage provided more general accounts about the lack of communication and Orlick’s promotion. (Tr. 104-106, 134-136, 180-182, 244-246.)

& wine, snacks” until 9:30 p.m. No employee was reported to have become intoxicated or acted inappropriately during or after this activity.³⁵

3. April 24

The April 24 schedule included breakfast, followed by several workshops. The morning sessions focused on the “Strategic Plan Outline & Rationale” (Strategic Plan), followed by breakout groups. The Strategic Plan listed a purpose, vision and mission, and stated the Respondent’s “Unique Approach” to organizing and advocacy:

1. We use data-driven strategies to maximize our trans-partisan, pro-democracy impact, in the short and long-term.
2. We use innovative peer-to-peer communications to effectively engage and empower young people, helping them claim their own agency in affecting the issues they care about through voting and engaged citizenship.
3. We focus our resources on youth in areas specifically targeted by youth voter suppression efforts, and in educational settings often overlooked by others.

The Strategic Plan stressed “the importance of remaining agile and responsive to evolving circumstances. While our KPIs provide structure, our approach allows for flexibility, ensuring that we stay aligned with our mission while adjusting to shifting realities.” Those key performance indicators (KPIs) included categories for “on-the-ground organizing” and “digital organizing,” but did not identify any goals or targets for either category³⁶

Elizabeth Steele served as a facilitator at one point, asking employees to think of a wish, a fear, and a spark that each for the organization.³⁷

³⁵ Orlick, Cousins, Hutton, Cabbage, and Ferguson credibly denied that any employees appeared intoxicated, acted inappropriately, or caused a commotion during or after the team bonding event. (Tr. 90-93, 104-105, 115-116, 118-119, 126-127, 140-141, 205, 271-272.)

³⁶ Contrary to Respondent’s assertion, management gave no indication that it was moving away from the OAL model. Orlick recalled that there was “discussion among staff about some requested changes and the response and some strategy discussion which did not, in my opinion, reflect a significant change.” (Tr. 77, 81.) Cousins denied that there was any discussion about a transition from a “boots on the ground approach to organizing” to “a digital model.” (Tr. 125.) Cabbage conceded that there was a focus on increasing the organization’s digital presence. However, she denied that, going forward, her performance would be measured by the impact she could create through digital organizing. (Tr. 198-200, 218.) Ferguson testified that “it was a piece of paper Maxim sent us, and then he disappeared on staff and wouldn’t communicate after the retreat. So we weren’t able to set new directions, change programming, because we couldn’t get approvals. So it could have but it -- it didn’t in reality.” (Tr. 270.) “So it didn’t really have any specifics on new directions for the org. It felt like it mostly was some, like, ad copy language, and then it listed out some measurements without goals. . . . it felt like this was a document where we’d be continuing the same way we were operating before.” (Tr. 273-274.)

³⁷ It is unclear as to when Steele spoke during the morning program. (Tr. 204.)

The one-hour lunch session that followed was designated as “Activity: Discuss the Four Agreements.” Cousins sat at a table with Brown, Ferguson, Orlick, Point, Cabbage, and Hutton. They were engaged in casual conversation when Steele sat down and began asking questions about how they felt about the organization. Cousins then asked why she was asking those questions.

5 Steele replied that she wanted to get information about the organization. Cousins responded that she construed the question as investigative in nature because she was concerned for her job security after the previous night’s discussion. Steele appeared annoyed by that remark, leading Cousins to recount their discussion from the previous day when Steele shared that that she had been friends with Thorne for over 20 years and enjoyed skydiving. Cousins also apologized and explained that

10 she wanted to make sure it was a safe space because of the contentious discussion the night before. Steele conceded that she was Thorne’s longtime friend but was appalled at Cousins’ question, insisting that she was a professional who knew the difference between friendship and professionalism. Cousins replied that she did not know what role Steele had at the retreat. As Steele got up to leave, Cousins apologized again and offered to speak separately with Steele about what

15 just happened. Steele disregarded the overture and left. Alcohol was not served during lunch.³⁸

After lunch, Thorne, Yousafzai, Vasquez, and Steele suddenly left, and Barnhart stepped in to try to lead a session on long term strategic planning for the organization.³⁹ Barnhart’s presentation evolved into a discussion about the culture of organizations, which led Cabbage,

20 Duckworth, and others to share their feelings about the culture there, how Thorne made them feel, and the constant fear of being fired.⁴⁰ Towards the end of the first session after lunch, employees were told that alcohol would no longer be served in order to have a “sober conversation.”⁴¹

The afternoon sessions were followed by a tour of the estate, a cocktail hour, and dinner.

25 Barnhart was the only manager left. During the cocktail hour and dinner, alcoholic beverages were not served. Hutton sat next to Barnhart, reiterated the criticism expressed the night before, and stated that Thorne’s absence and failure to respond was further evidence of the lack of transparency and communication that staff complained about. Barnhart agreed, referred to the current situation as “bizarre,” and stated that it was appropriate for staff to share their concerns about the

³⁸ Cabbage left the table early (Tr. 182-183, 205-209.), but Hutton and Ferguson corroborated Cousins’ account of her exchange with Steele. (Tr. 107-110, 117-118.) Hutton described Steele’s inquiry as “intrusive questions that made us feel uncomfortable because we did not know her or know where the information was going,” as she was there as Thorne’s “friend and guest.” There was suddenly silence at the table and Hutton recalled that Steele’s “body was looking very tight.” (Tr. 136-138, 152-156.) Ferguson described Steele’s questions as “prying” and Cousins’ questions as “voic[ing] valid concerns about retaliation by Thorne.” (Tr. 247-249, 275-277.)

³⁹ Orlick testified that Steele told her, “that an urgent matter had come up,” while Hutton recalled being “told it was due to some financial crisis.” (Tr. 45, 138-139.)

⁴⁰ Ferguson testified that it was difficult for Barnhart to step in to lead the sessions because it “was like her first day with folks.” (Tr. 248.) Hutton’s detailed account indicates that the discussion shifted to the more general discussion about the culture of the organization and the grievances expressed the evening before. (Tr. 110-111,)

⁴¹ Orlick testified that some staff complained that Brown’s statement, “that alcohol would be cut off in order to have a sober conversation,” was punishment for their criticism. She did not witness anyone intoxicated the first night and denied speaking to Thorne about the behavior of her coworkers. (Tr. 90-93.) Asked on cross-examination whether she cared about the alcohol being cut off, Cousins testified that she did not think it was necessary.” (Tr. 128.)

organization.⁴² Regarding the elimination of alcohol, Hutton asserted that it was retribution for the criticism. Barnhart agreed there was no reason for that because no one was drunk the night before.⁴³

4. April 25

5

The April 25 schedule included breakfast, followed by three sessions and lunch before the 1:00 p.m. checkout. That morning, however, staff woke up to an email from Brown notifying them that the conference had ended abruptly.⁴⁴

10

In light of the unfortunate developments over the last two days and President Biden's fundraiser, we will end our gathering at breakfast on Thursday morning. There will be no programming after. Please take the shuttle immediately after breakfast to your next destination.

15

After breakfast, staff checked out of the facility and left for their next destinations. Employees had been booked for late afternoon or evening flights because the third day schedule provided for a half day of sessions. After canceling those sessions, Respondent rebooked employees for earlier flights.

20

5. Orlick Complains to Ricci

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A few days later, Orlick contacted Ricci because she felt it necessary to inform her that the retreat did not go well. During their telephone call, Orlick shared that she had worked for Thorne a long time and gave him a lot of chances. She opined, however, that he was no longer able to lead the organization and had abdicated his responsibilities. Ricci acknowledged the disappointing turn of events and seriousness of Orlick's assessment, and said she would look into it.⁴⁵

H. Thorne Cancels Weekly Meeting Scheduled for April 29

30

Thorne usually held weekly staff meetings on Mondays at 11 a.m. (ET). At those meetings, Thorne would typically come up with a topic for discussion. Following the staff retreat, the next

⁴² According to my notes, the correct transcription of Hutton's testimony on this point should read, "Erin said that it was bizarre and that, you know, Katrina and everyone else that night before had the, you know, [the right] to say what they said." (Tr. 139-140.)

⁴³ Hutton testified that Barnhart told her "that there was no reason base - - for that, that that everyone was fine the night before. She didn't find anyone that was, you know. I don't know how to say it, but that - - that was not sober. You know, they were fine. Everyone was not drunk." (Tr. 140-141.)

⁴⁴ Orlick attributed the abrupt cancellation of the third day of sessions to criticism expressed by employees during the first two days of the retreat: "I don't remember specifically, But it was heavily implied that she was referencing that conversation and - - and the follow-up conversations the following day." (GC Exh. 7; Tr. 82-84.) She also testified that some staff felt that Respondent cut off alcohol the previous day as punishment for their criticism. However, Orlick did not witness anyone intoxicated the first night; nor did she speak to Thorne about the behavior of her coworkers. (Tr. 90-93.)

⁴⁵ Ricci did not dispute Orlick's credible account of their telephone conversation. (Tr. 85.)

weekly all-staff meeting was scheduled for Monday, April 29. At 4:30 a.m. that morning, however, Thorne emailed all staff to notify them that the meeting was canceled:⁴⁶

5 The All Staff Meeting scheduled for Monday, April 29th is CANCELED.

5 Hello everyone! There seems to be some confusion about how work is scheduled for today. This note is to clarify and reiterate the previous note that was sent to you stating that the All Staff meeting, scheduled for Monday, April 29th, is canceled, because it is no longer needed and we are now able to have a weekly meeting of the Chiefs who in turn will meet with their teams as appropriate.

10 As you know, meetings are scheduled and conducted to discuss information pertinent to the mission, vision and activities of our organization. It is not appropriate for individual staff members to call for or conduct an all staff meeting, optional or otherwise, without the approval, at the request of and participation of the CEO and/or Executive Committee.

15 Therefore, this note is to restate that, as was previously announced, the All Staff Meeting that was scheduled for today will not be held. Not by anyone.

20 Staff are expected to perform their regular and customary duties today, for the entire day, which is critical because there is much to be done by all of us prior to the November election.

25 Increasing the number of and getting young voters out to the polls is our goal and deserves our full attention. This includes increasing the TPI scores of the identified tipping point campuses to make it easier for students to vote on those campuses.

30 Staff will be notified by the management team of the next scheduled All Staff meeting. Thank you for your compliance with this directive.

Respondent never resumed the weekly staff meetings. Staff attempted to schedule their own meetings, but Brown enforced Thorne's ban on staff meetings.⁴⁷

35 *I. Brown Questions Witnesses About Their Conduct at the Retreat*

In late April, Brown met with employees to discuss their conduct at the retreat, She provided each employee with a copy of the Code of Conduct section in the employee handbook, had each employee read aloud the "General Misconduct" section, and followed up by emailing it to each employee to sign and acknowledge.⁴⁸

⁴⁶ GC Exh. 8.

⁴⁷ The testimony of Orlick, Hutton, and Barnhart confirmed that employees attempted to meet among themselves after Thorne canceled the weekly meetings but were prohibited from doing so after he found out through the organization's shared Google calendar. (Tr. 52, 142-143, 249, 280-281.)

⁴⁸ GC Exh, 47, p. 20.

Examples of misconduct include, but are not restricted to excessive absenteeism, arriving late and/or leaving early failure to comply with established safety practices, absence without good reason, conducting personal business on Civic Influencers time. Behavior that hinders job performance, lowers morale of fellow employees, infringes on the personal rights of others, or violates Civic Influencers policies.

1. Verbal warning: It is presumed on the first offense that the employee did not understand the nature of the wrongdoing. The supervisor warns the employee that future violations will make stronger action necessary. The supervisor will indicate in writing in the employee's personnel record that such a verbal warning was given.

2. Written warning: after a second offense the employee is warned and informed in writing that the conduct is unsatisfactory and is in violation of rules or standards of conduct and that another violation may result in suspension or discharge. A copy of the written warning will be added to the employee's personnel file.

3. Suspension without pay: this is usually (but not always) the next step after the written warning; however, in the case of more serious infractions, this may be the first step. This action is always done in writing and the Supervisor is to confer with the CEO proceeding to this step.

4. Dismissal: This is the final action and is taken after a failure to improve job performance has been indicated. The CEO will oversee this action in coordination with the employees immediate supervisor where applicable.

Depending on the specific circumstances, Civic Influencers may suspend or terminate an employee without prior discipline, or without following a particular order of discipline.

Brown did not attribute these meetings to the conduct during the retreat of any employee in particular. During Brown's meeting with Hutton, she conceded that no one was drunk during the retreat. However, she stated that it was inappropriate for employees to criticize Thorne during, instead of before, the retreat, and that the consumption of alcohol might have contributed to employees saying things that they might not otherwise have said.⁴⁹

⁴⁹ Hutton testified that Brown "asked us questions about whether or not, you know, why do we wait to have this come out now. Why we asking these questions of Maxim and whether "we thought that it was the appropriate time to do it, and it was our time off. . . . And she told us that she felt that alcohol was not involved, that people were not drunk, that they were fine. And she was just surprised that people did not have this come up beforehand. And well, a lot of us answered, well, people were afraid that they will get fired. We are employees at will." Brown "felt that, you know, that alcohol can make people -- even if they're not -- even if they're not drunk or tipsy, that -- that it would make them a little bit looser to say things that they wouldn't normally have said. And I -- and I didn't really have an opinion on that except for the fact that, you know, I mean, I didn't agree with that, so. (Tr. 157-158.)

The focus of the meetings became evident as Brown attempted to construe staff criticism of Thorne during the team bonding as “lowering staff morale.” However, the employees interviewed all disagreed with Brown’s assertion.⁵⁰

5

J. Employees Seek to Organize

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After the retreat, employees discussed the possibility of joining a union. After Ferguson reached out to the Union, employees signed authorization cards. On June 12, the Union emailed the Board of Directors a petition for voluntary recognition of a unit that included the following classifications: Co-Chiefs of Organizing; Co-Chiefs of Advocacy; Co-Chiefs of Learning; Statewide Organizers; Co-Chiefs of Digital Communications; Social Media Managers; Stakeholder Advisors, Institutional Gifts Advisors; Senior Stakeholder Advisors; Stakeholder Engagement Coordinators; and Senior Institutional Gifts Advisors.⁵¹

15

Attached to the request were authorization cards signed by: Cousins, Point, Duckworth, Cabbage, Yost, Hutton, Orlick, and Ferguson.⁵² On June 19, the Union declined Respondent’s request for an extension until after the November elections, but agreed to extend the deadline to June 27.

20

On June 26, the Union filed a representation petition with Region 5.⁵³ Region 5 conducted a pre-election hearing in Case 05-RC-345195 from July 23 through July 26. Respondent was represented at the pre-election hearing by Thorne. Thorne and Brown were present for the entire hearing. Cabbage, Duckworth, and Ferguson testified on behalf of the Union and were cross-examined by Thorne.⁵⁴

25

30

⁵⁰ Cabbage and Cousins provided consistent testimony regarding Brown’s application of the Code of Conduct. (Tr. 111-112, 183-184, 210-212.) Hutton testified that Brown felt that the criticism lowered morale “because of, you know, of the - - the mood there at the after hours, which is actually after hours, so it’s our time not really working time at all. That we were, you know, that was causing low morale, but I didn’t really find that that was - - was true, so. (Tr. 160-161.) Ferguson characterized Brown’s inquiry as “trying to craft a narrative, like, that staff acted inappropriately by voicing, like, genuine concerns with the organization and its long-term planning and communication. Generally, she was very much so not willing to listen to any staff and was, like, very much on the attacking,” (Tr. 249-250.) and ignored “the concerns the staff had raised over the org’s reaction and Maxim’s behavior.” (Tr. 279-280.)

⁵¹ The following classifications in the proposed bargaining unit were vacant at the time of the hearing: Co-Chief of Advocacy, Co-Chief of Digital Communications, Co-Chief of Learning, Senior Stakeholder Advisor, Senior Institutional Gifts Advisor, Stakeholder Engagement Coordinator, and Social Media Manager.

⁵² GC Exhs. 9, 59-66.

⁵³ GC Exh. 10.

⁵⁴ Jt. Exh. 1, ¶¶ 19-23.

K. Respondent Takes Personnel Actions on June 21

1. Yousafzai Briefs Thorne on Potential Staff Reductions

5 On June 20, Yousafzai emailed Thorne and Vasquez with information and options for staff reductions:

Given our current financial situation, if we are considering downsizing staff, I wanted to provide some input for your consideration.⁵⁵

10 Staff currently on probation:

- Erin Barnhart: Hiring date 3/27/24, probation ends on June 25, 2024. Erin's annual salary is \$85k, which is higher than Audrey's. Moving Audrey to supervise the team makes sense as she has experience managing the program before Erin joined the team. Plus, Audrey has Salesforce expertise.
- Emily Yost: Hiring date 3/27/24, probation ends on June 25, 2024.
- Kameryn Point: Hiring date 3/27/24, probation ends on June 25, 2024.

20 Staff who have had performance issues and were on a Performance Improvement Plan (PIP) in the past:

- Kathleen Hutton
- Cornell Duckworth
- Elise Orlick: She has not been officially on PIP, but Rachael was preparing her PIP on Paul's request. I am not sure how that went as I went on leave of absence. Now that she is transitioning to OAL, I wonder if Audrey could manage the OAL team herself given the 60 CIs this summer with Anna and Katrina as SOs. We can start recruitment once our financial situation improves. We will need to onboard a fundraising consultant immediately until we hire new staff for the stakeholder team.

Please let me know if you need any further details or if there are other factors we should consider in this process.

35 2. Respondent Terminates Hutton, Cousins, Point, and Yost

The following day, June 21, Respondent terminated Cousins, Hutton, Yost, and Post.⁵⁶ Brown, Yousafzai, and Barnhart conducted the meetings with each employee. At Cousins'

⁵⁵ Yousafzai's reference to Respondent's "current financial situation" was unclear and is belied by Respondent's hiring blitz in the months that followed. (GC Exh. 37.) Moreover, Respondent's failure to produce the subpoenaed financial records warranted an inference that the records, if produced, would not have supported its defense that the discriminatees were terminated due to Respondent's financial condition.

⁵⁶ In its February 3, 2025 and June 16, 2025 position statements, Respondent attributed the discharges of Yost, Point, Hutton, and Cousins to an employee workforce that lacked the skillset for the "rapidly-changing political activism landscape," and a "decline in funding." It stated that Yost and Point were terminated because they were still in the midst of their 90-day probationary periods, and Hutton and Cousins

meeting, Brown informed her that she was being laid off for financial reasons.⁵⁷ In Hutton's meeting, Brown then notified Hutton that her position, as well as her employment, were terminated. There was no mention of Hutton's performance as a contributing factor.⁵⁸

5 While Point and Yost were also terminated, effective June 21, they were not notified until June 24. Brown's email notifying them of their termination made no mention of the reasons for the terminations. Their 90-performance reviews had not been done up to that point.⁵⁹ Respondent did, however, generate the performance reviews after they were terminated—on June 25. Point's performance review, signed by Barnhart, indicated, "Meets Expectations," for every performance category. Yost did not fare as well, as her review by Yousafzai indicated "Below Expectations" ratings in every performance category.⁶⁰

3. Respondent Rescinds Orlick's Promotion

15 Also on June 21, Brown and Inman met with Orlick and informed her that the Co-Chief of Learning position was eliminated, effective that date. Given the option of being laid off or remaining in her position, Orlick chose the latter. In an email sent that afternoon, Brown confirmed the personnel action and Orlick's decision to continue "as a Stakeholder Advisor with your current salary intact."⁶¹ As a result, Orlick no longer attended OAL meetings.

4. Respondent Notifies Staff About The Staff Reductions

20 Later that afternoon, Brown emailed all staff with a message from Thorne regarding the reasons for the staff reductions:⁶²

25 Civic Influencers continues to be focused on amplifying the power of young voters to be civically engaged and participate in our democracy.

30 We are facing swiftly emerging challenges that have impacted our fundraising. Sustainable funding and young people's voting ecosystem are moving targets. Generational

"both had documented performance issues and were not showing signs of improvement." (GC Exhs. 50-51, pp. 3-4.) However, there was no evidence in the record to support the allegations regarding Respondent's financial condition or that performance issues were a factor in any of the discharges—including the performance evaluations generated for Yost and Post *after* they were discharged. Moreover, I granted the General Counsel's motion for an adverse inference that the personnel files subpoenaed pursuant to Subpoena Duces Tecum B-1-QA9MS5, if preserved, would not have supported Respondent's defense that Yost, Point, Hutton, and Cousins were terminated for performance issues.

⁵⁷ Cousins testified that she was surprised because Barnhart had just met with Cousins and informed her about promotional opportunities. (Tr. 113-114.) In her latest performance review, Cousins was rated as exceeding expectations. (GC Exh. 54.)

⁵⁸ Hutton testified that she never had any indication that Respondent planned a transition entirely from face-to-face campus interaction to a digitally interacting type of organizing. (Tr. 145-146, 163-164.)

⁵⁹ GC Exhs. 41, 45.

⁶⁰ Neither review indicated that Respondent was planning to terminate either employee prior to June 21. (GC Exhs. 42, 44.)

⁶¹ Orlick continued to maintain the salary level of the Co-Chief of Learning even though she had not yet fully transitioned to that position. (GC Exh. 11; Tr. 55, 94-99.)

⁶² GC Exh. 12.

gerrymandering is real, and we must keep fighting. We find that we now need to do so on a leaner organizational budget, while still prioritizing program impact.

5 This has led us to make hard but fair choices for our organization, decisions that center our urgent mission of getting young people to engage civically and to vote. They also position us for increased financial efficiency, and long-term sustainability.

10 As you will see, we have had to re-consider how we staff our communications and programs (OAL) including prioritizing the most essential roles and functions. We also simply had to reduce the number of FTEs and expenses for our staff overall.

15 Our general methodology throughout these organizational changes includes trying to retain employed staff who have been in their current positions for the longest periods of time.⁶³ We recognize that more recent hires may have been the most affected.

20 We thank the leadership team for the empathy and seriousness that each person brought to making these difficult decisions, and the unanimity of this course of action. And we thank each of you for your understanding and compassion during this challenging time as we continue our fight to protect young people's voting rights as a smaller but still committed team.

L. Respondent Continues to Hire

25 Prior to taking personnel actions on June 21, Respondent was actively posting job opportunities and scheduling interviews. Orlick's screenshots of Yousafzai's and/or Thorne's shared Google calendar indicated that Respondent conducted or scheduled interviews from early June through August for several major positions: Chief of Stakeholder Engagement (June 6, 18); Chief of Communications (June 7, 17-18, 20); Social Media Manager (June 24-25, August 27);⁶⁴ and Senior Stakeholder Advisor (August 7).⁶⁵

30 As of June 21, Respondent was also advertising job openings for the following positions on its website: civic influencers, Executive Assistant/Board Liaison, Chief of Stakeholder Engagement, Senior Institutional Gifts Officer, multiple Organizers at-Large, Chief of Communications, and Social Media Manager.⁶⁶

35 Over the course of July, Respondent continued to advertise job openings. Orlick took screenshots of the following job postings: July 12—Executive Assistant/Board Liaison, Chief of

⁶³ Cabbage testified that Cousins was the most senior organizer as of June 21. (Tr. 186.)

⁶⁴ Orlick testified that, although the social media manager position was newly created, the Respondent "previously prioritized both on-the-ground and digital organizing. And the document that was shared with us did not reflect a shift, and it wasn't billed to us as a shift - - a significant shift." (Tr. 76, 80-82.) Hutton testified that the Social Media manager took over her duties with the website. (Tr. 170-171.)

⁶⁵ GC Exhs. 20-28, 31-32; Tr. 64-70.

⁶⁶ Orlick did not specify the time she met with Brown and Inman on June 21. However, she testified that it occurred prior to the time she perused organization's website and saw the jobs posted. (Tr. 54-61; GC Exh. 13-19.) She also conceded that she did not know if any of the posted positions were actually filled. (Tr. 75.)

Stakeholder Engagement, Senior Institutional Gifts Officer, Senior Stakeholder Advisor, and Stakeholder Engagement Coordinator; July 15—multiple Organizers at-Large.⁶⁷

5 During the summer, Respondent hired two contractors to assume the work previously performed by Hutton in the Communications Department. In October, Respondent hired two contractors to perform stakeholder engagement previously handled by Yost for the Development Department.⁶⁸

10 On September 11, Respondent posted job openings for Executive Assistant/Board Liaison and a part-time organizer fellowship. On September 16, Respondent posted a job opening for Senior Stakeholder Advisor. On September 20 and 23, Respondent held a virtual hiring event for civic influencers.⁶⁹

15 *L. The December 4 Board Meeting*

The Board of Directors December 4 meeting began with a discussion of the organization’s direction and the challenges that it faced, “including about [Respondent’s] ability to retain staff, and difficulty of establishing a data-based feedback loop that guide not only initial decision-making but future.”⁷⁰ Thorne joined the meeting after the executive session concluded. He provided an assessment of the November election and the need to adjust the organization’s approach because the way that young people engaged with each other had changed from in-person to online interaction and dissemination of information:

25 CEO Thorne noted that the world and how we do our work has changed and has been changing. We need to embrace how much communications, AI and other innovations are affecting young people’s engagement and their world. New data and research are showing that young people are more engaged virtually, and identified with their online personas than they are with in person engagement.

30 Thorne spoke about the need to decide how to “employ our resources” and “pivot with a new vision and get the talent that’s needed to execute that vision.” He also noted the “need to address organizational structure and how to approach this with young people, who have never been part of cultural building and accountability space.” After “highlighting opportunities in 2025 and 2026,” the minutes reflected Thorne’s presentation of the financial projections for 2024:

35 The 2024 projected revenue side is approximately -\$372,000. Our projected 2024 expense is also approximately -\$300,000. We expect to close with a deficit of \$72,000. However, we carried over \$204,000, so we expect a cash carryover this year of \$131,000 + an ERC Credit Carryover of \$83,000. We stayed out of the red through extensive cost cutting.

40

⁶⁷ GC Exhs. 30; Tr. 61-63.

⁶⁸ Ferguson testified that both departments were staffed entirely by employees prior to the representation hearing. (Tr. 254, 289-290.) Orlich testified that, during the summer or fall, Nia Knights and “Sarah” were hired as contractors for the Communications Department and, in October, Maggie Liu and Joyce Williams were hired as contractors for the Development Department. (Tr. 71-73; GC Exh. 36.)

⁶⁹ GC Exhs. 33-34; Tr. 63.

⁷⁰ R. Exh. 5.

Thorne also reported on fundraising opportunities, noting a “significant increase in anonymous donors” and was “hoping for end of year fundraising from the board and board-adjacent donors.” The meeting concluded after Thorne “gave a brief HR update.”

5 *M. Cabbage, Duckworth, and Ferguson are Terminated*

10 At the end of each year, the OAL Department produced a report summarizing the work done over the course of the year, the highlights and successes, and areas in need of improvement. OAL’s end-of-year report, which in the past had a deadline as late as April of the following year, was incorporated into Respondent’s annual report, shared with the Board of Directors, and used for fundraising purposes.⁷¹ After the November elections, Yousafzai informed Ferguson that the deadline for submitting the OAL’s end-of year report was December 30. She requested an extension of time to obtain outstanding reports from two fellows but the request was denied.⁷²

15 Ferguson, Cabbage, and Duckworth provided the required data about their states and campuses for the year-end report and it was submitted to Yousafzai on December 30.⁷³ On December 31, almost immediately after the OAL year-end report was submitted, Respondent locked Cabbage, Ferguson, and Duckworth out of their organizational internet accounts. Cabbage and Ferguson emailed Yousafzai and Brown from their personal accounts seeking an explanation but received no reply. Ferguson reached out to Ricci, who informed Ferguson and Cabbage that they should hear something within a few days.⁷⁴ Brown confirmed the terminations in emails to Cabbage and Ferguson on January 3.⁷⁵ No reasons were given for the terminations.⁷⁶

25 In its position statement, however, Respondent noted that Ferguson, Duckworth, and Cabbage were very critical of Thorne’s leadership and the decision to terminate them had been made several months earlier:

30 Perhaps more notably, these same three employees were perhaps the most vocal about Civic Influencers’ proposed organizational restructuring and were arguably the most opposed to such changes. Indeed, Ferguson, Duckworth, and Cabbage collectively

⁷¹ Ricci corroborated the testimony of Cabbage and Ferguson about the importance of the annual report in soliciting grants and donors. (Tr. 186-187, 254-257, 312.) She also conceded that Respondent consistently represented to donors between 2020 and 2024 that its programming would continue to involve working with students or young people in their communities. (Tr. 368-369.)

⁷² I credit Cabbage’s testimony that Yousafzai imposed a December 30 deadline, as Ferguson mistakenly recalled it as January 31, 2025, which would have been after the report was submitted. (Tr. 187-188, 254-256.)

⁷³ Cabbage testified that she noticed that Yousafzai and Brown accessed the “Google doc” after it was submitted. (Tr. 188, 194, 256-257.)

⁷⁴ Ricci did not dispute Ferguson’s testimony regarding their conversation. (Tr. 188, 256-257.)

⁷⁵ GC Exhs. 56, 58.

⁷⁶ Respondent’s position statements claimed, without evidentiary support, that Cabbage, Duckworth, and Ferguson lacked the “skillset” and “dedication to carry out [Respondent’s] vision any longer.” (GC Exhs. 50-51, pp. 4-5.) Nor did it provide any proof that they were terminated due to “restructuring” and “performance issues” (GC Exh. 51.) Ricci testified that Thorne “shared his thinking on who he thought - - what options would be, what type of positions could be cut and let us still function. And the focus was very much on cutting the least critical roles, the least impact roles, if you will. So that we could spend the money we did have on roles that would matter.” (Tr. 366-367.)

voiced their displeasure with the Company’s new vision by way of a scathing letter to the Civic Influencers’ Board in which they personally called out Maxim Thorne and denounced the digital first vision as well as the newly created category of “CCCIIs” (Content Creator Civic Influencers). Notwithstanding the foregoing, Civic Influencers recognized their immediate collective value and determined that it still had the funding to continue to employ them in the short term through the 2024 Presidential election.⁷⁷

Respondent also conceded that, following the Democratic National Convention on August 19-22—less than one month following their testimony at the representation hearing—“it was just a matter of when would be the best time” to terminate Cubbage, Duckworth, and Ferguson, and claimed, without any factual basis, that Ferguson was resistant to Respondent’s “proposed change in strategic vision.”⁷⁸

N. Respondent Continues Hiring in January 2025

As of January 1, 2025, Respondent had \$294,217 in net assets.⁷⁹ In January 2025, Respondent received \$116,994 in total revenue from fundraising and donations; expenses totaled \$104,544, including \$53,229 for salaries.⁸⁰ After the four discharges on December 30, Respondent was staffed by three employees—CEO Thorne, COO Yousafzai, and CFO Vasquez and three contractors: HR Consultant Brown, IT Support Specialist Allan Bilsky, and Stakeholder Coordinator Maggie Liu.⁸¹

As of January 13, 2025, Respondent’s employed eight contractors: Brown; Bilsky; Kevin Hurtado—Executive Assistant; Deidre Lonergan and Yavonda Billingsly—Insperity; Nia Knight—Digital Communications Specialist; Rick D.—Website Developer; and Maggie Lie—Stakeholder Coordinator.⁸² By January 20, 2025, Respondent employed three more contractors: Bailee Stewart—Director of Influencer Engineering; Pheonix Trent—VP of Development; and Shaniqua Rudd—Development Manager.⁸³ By February 11, Respondent added another contractor, Jerome Hardaway, as Director of Strategic Targeting for Youth Engagement & Counter-Dis/Misinformation.⁸⁴

⁷⁷ Since there is no other letter in the record that was signed by Ferguson, Cubbage, and Duckworth, I find that Respondent was referring to the April 12 letter as the “scathing letter.” (GC Exh. 51 at 16-17.)

⁷⁸ Respondent’s position statement contradicts Ricci’s unsupported testimony that Ferguson, Cubbage, Duckworth were terminated for financial reasons. (Tr. 336.) Moreover, Respondent’s assertion that Ferguson actively opposed its proposed strategic vision is not evidenced in the April 12 letter or anywhere else in the record. That letter criticized Thorne’s leadership, his lack of communication with staff, treatment of staff, organizers, and potential donors, and misgivings about his financial management. (Id. at 18-19.)

⁷⁹ Joint Exh. 1, ¶ 26.

⁸⁰ January 2025 revenues included a \$1,000,000 donation from Ricci. (R. Exh. 3-4, 6; Tr. 344-346, 351.)

⁸¹ Ricci testified that Respondent carried only two employees into January 2025—Thorne and Yousafzai. (Tr. 347.) However, Respondent’s organizational chart reveals that Vasquez was still employed as of January 13, 2025. (GC Exh. 2 at 4-5.)

⁸² Id. at 5.

⁸³ Id. at 6.

⁸⁴ Id. at 8.

O. The Decision and Direction of Election

On May 13, 2025, Regional Director for Region 5 issued a Decision and Direction of Election for the following unit:⁸⁵

Included: All full-time and regular part-time employees employed by the Employer.
Excluded: All confidential employees, temporary employees, office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act.

Neither party filed a request for review of the Regional Director’s Decision and Direction of Election. By then, however, Respondent had no remaining employees.

P. Respondent Files for Corporate Dissolution

By early May 2025, the only remaining employees, Thorne and Yousafzai, as well as the remaining contractors, were terminated. On January 6, 2026, Respondent filed a Certificate of Dissolution of Non-Stock Corporation with the State of Delaware.⁸⁶

LEGAL ANALYSIS

I. RESPONDENT’S MISCONDUCT RULE

The complaint alleges that Respondent maintained the following rule in its employee handbook, which coerced employees in the exercise of their Section 7 rights:

Examples of misconduct include, but are not restricted to excessive absenteeism, arriving late and/or leaving early failure to comply with established safety practices, absence without good reason, conducting personal business on Civic Influencers time. Behavior that hinders job performance, *lowers morale of fellow employees*, infringes on the personal rights of others, or violates Civic Influencers policies. (emphasis supplied)

The Board evaluates allegedly coercive handbook rules pursuant to the framework set forth in *Stericycle, Inc.*, 372 NLRB No. 113, slip op. at 2 (2023). Under *Stericycle*, work rules are to be interpreted “from the perspective of an employee who is subject to the rule and economically dependent on the employer, and who also contemplates engaging in protected concerted activity.” *Id.* Any ambiguity is to be construed against the employer “as the drafter of the rule” and the “employer’s intent in maintaining the rule is immaterial.” That principle applies “even if a

⁸⁵ GC Exh. 53.

⁸⁶ These findings are relevant to the General Counsel’s request for an adverse inference. (Tr. 353-354, 359-362; R. Exhs. 15-17.) Since Respondent is no longer operating, has no employees, and did not call any witnesses with personal knowledge regarding the seven discharges and one rescinded promotion, I find it unnecessary to grant the General Counsel’s motion for an adverse inference based on Respondent’s failure to call any former supervisors as witnesses. See *Food & Commercial Workers Local 1439 (Rosauer’s Supermarket)*, 275 NLRB 30, 35 fn. 10 (1985) (denying request for adverse inference based on the principle that former employees are not generally considered to be under a party’s control).

contrary, noncoercive interpretation of the rule is also reasonable.” Id. Finally, if the General Counsel proves the rule is presumptively unlawful, “the employer may rebut that presumption by proving that the rule advances a legitimate and substantial business interest and that the employer is unable to advance that interest with a more narrowly tailored rule.”

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Respondent’s characterization of any behavior that lowers morale as misconduct can reasonably be interpreted by employees to apply to their discussions regarding wages, hours, and working conditions. The General Counsel cites several examples of speech that would be protected under Section 7 of the Act—discussions about a disparity in wages, working in an unsafe environment, unlawful discrimination, or other instances of dissatisfaction with working conditions. Interpreted from the perspective of an employee, any of those discussions could be construed as lowering morale, thereby exposing the employee to discipline. Accordingly, the misconduct rule is presumptively unlawful.

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Respondent did not offer any explanation as to how the relevant portion of the rule advances a legitimate and substantial business interest, and that it is unable to advance that interest with a more narrowly tailored rule. The only indication in the record of its purpose for applying the rule was to stifle employee criticism regarding Thorne’s leadership.

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Based upon the foregoing, the Respondent violated Section 8(a)(1) by maintaining an overly broad rule prohibiting any “[b]ehavior that . . . lowers morale of fellow employees.”

II. THE DISCHARGES AND RESCINDED PROMOTION

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A. *The Wright-Line Framework*

In determining whether an employer unlawfully discriminated against an employee to hinder protected concerted activity or union membership in violation of Section 8(a)(1), (3), or (4), the Board applies the test outlined in *Wright-Line*, 251 NLRB 1083 (1980). The General Counsel must make a prima facie case that the employee’s protected or union activity was a motivating factor in the adverse employment action. The General Counsel must prove that the employee engaged in union or other protected activity, the employer knew about that activity, and the adverse employment action was motivated by animus on the part of the employer. Once the General Counsel makes that showing, the burden shifts to Respondent to show that the same adverse action would have been taken in the absence of the protected conduct. *Donaldson Bros. Ready Mix, Inc.*, 341 NLRB 958, 961 (2004), citing *Wright-Line*, supra at 1089.

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Unlawful motivation may be established by direct evidence of the employer’s discriminatory motivation or “inferred from circumstantial evidence based on the record as a whole.” *Tschiggfrie Properties, Ltd*, 368 NLRB No. 120, slip op. at 1 (2019). Circumstantial evidence of discriminatory intent includes the timing of the adverse action in relation to the employee’s protected activity, the presence of other unfair labor practices, disparate treatment of the discriminatees, the employer’s perfunctory investigation, shifting defenses by the employer, and evidence of pretext. See e.g., *Embassy Vacation Resorts*, 340 NLRB 846, 848 (2003) (employer’s union animus demonstrated by suspension of union supporters less than two weeks after a second election was ordered and discharged a few weeks after union was certified).

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If the evidence as a whole “establishes that the reasons given for the [employer’s] action are pretextual—that is, either false or not relied upon—the [employer] fails by definition to show that it would have taken the same action for those reasons, absent protected conduct, and thus there is no need to perform the second part of the *Wright-Line* analysis.” *Donaldson Bros. Ready Mix, Inc.*, supra at 961, citing *Wright-Line*, supra at 1089. See also *Cintas Corporation*, 372 NLRB No. 34, slip op at 5 (2022), citing *Metropolitan Transportation Services*, 351 NLRB 657, 659 (2007) (employer’s burden not met by merely showing a legitimate reason).

B. Knowledge of Protected and Union Activities

Respondent concedes that, on April 12, Ferguson, Cabbage, and Duckworth engaged in protected concerted activity by raising shared concerns about working conditions to Respondent’s Board of Directors. Additionally, Respondent admits that Cousins, Cabbage, Duckworth, Ferguson, Hutton, Orlick, Point, and Yost engaged in protected concerted activity on April 23 by raising shared concerns about wages, hours, and working conditions to CEO Thorne. Respondent also admits that Cousins, Cabbage, Duckworth, Ferguson, Hutton, Orlick, Point, and Yost engaged in union activity by signing authorization cards in support of the Union’s June 12 request for voluntary recognition. Finally, Respondent admits that Cabbage, Duckworth, and Ferguson testified in Board hearing in Case 05-RC-345195. Although no supervisors testified, Respondent also admits that it had knowledge that Ferguson Cabbage, Duckworth, Cousins, Hutton, Orlick, Point, and Yost were engaged in union and protected concerted activity.

C. Proof of Animus Towards the Union and Protected Activity

1. Respondent’s Contentions

Although Respondent admits knowledge of the discriminatees’ union and protected concerted activities, it denies that the seven discharges and one rescinded promotion were motivated by animus towards that activity. Rather, it asserts that the adverse actions were based on legitimate, non-discriminatory and non-retaliatory business reasons: a decrease in funding, dire financial constraints, and reconsideration of its strategy due to the civic engagement landscape.

2. Respondent’s Actions During the Retreat

Contrary to Respondent’s contention, there is no credited evidence to support Respondent’s assertion that the adverse personnel actions were due to Respondent’s financial condition. Beginning with Thorne’s actions during the retreat, there is an abundance of evidence establishing animus on Thorne’s part towards the discriminatees’ protected and union activities.

During the retreat on April 23, Cousins, Cabbage, Orlick, and Ferguson echoed the concerns mentioned in the April 12 letter regarding Thorne’s leadership, poor communication, and disregard for staff’s ideas. Thorne, however, responded defensively by rejecting or minimizing their concerns. The next day, April 24, Thorne sent his longtime friend, Elizabeth Steele, to ask employees how they felt about the organization. When Cousins asked what her role was and why she was asking the questions, Steele became defensive and left. Shortly thereafter, Thorne and the rest of management, except for Barnhart, left the retreat. He also retaliated by cutting off alcohol

for the rest of the retreat even though there was no credited evidence that any of the staff were intoxicated or acted unruly during the team bonding session.

On April 25, Thorne continued to retaliate against the criticism by canceling the sessions on the last day of the retreat due to “the unfortunate developments over the last two days.” Based on the credited and unrefuted evidence, the developments he referred to can be reasonably construed as the sharp criticism about his leadership and employees’ working conditions on April 23 and Steele’s contentious exchange with Cousins on April 24.

3. Thorne Prohibits Employees From Conducting Their Own Staff Meetings

Thorne’s restrained concerted activity again on April 29 when he canceled the customary weekly staff meeting and prohibited employees from calling for or conducting their own staff meetings “without the approval, at the request of and participation of the CEO and/or Executive Committee.” Thorne explained that staff meetings were “no longer needed and we are now able to have a weekly meeting of the Chiefs who in turn will meet with their teams as appropriate.”

4. Brown’s Questioning of Witnesses

During the week following the retreat, Brown conducted mandatory meetings where she questioned employees about their conduct at the retreat. She had each employee read, acknowledge, and sign Respondent’s “General Misconduct” policy. While conceding that no one was drunk during the retreat, Brown asserted that employees lowered morale when they criticized Thorne during, instead of before, the retreat, and that the consumption of alcohol might have contributed to employees saying things that they might not otherwise have said.

5. Discharges of Cousins, Hutton, Yost, and Point, and Rescission of Orlick’s Promotion

Respondent terminated Cousins, Hutton, Yost, and Point, and rescinded Orlick’s promotion on June 21, only nine days after the Union requested voluntary recognition and two days after the Union rejected Respondent’s for an extension until after the November elections. Such close temporal proximity, when there is no credited evidence that Respondent was experiencing financial difficulties or taking steps to reduce costs prior to June 20, strongly suggests that Respondent’s actions were motivated by animus. See *Mid-W. Tel. Serv., Inc. & Wilfredo Placeres, Dustin Porter, Ben Fannin, & Michael Williams*, 358 NLRB 1326, 1343 (2012) (employer’s failure to assign additional work to employee shortly after learning that he gave an affidavit to the Board was “suspicious” and the “timing” clearly supported an inference of retaliation in violation of Section 8(a)(4).)

6. Respondent Continues to Hire After Reorganizing the OAL Department

Following the June 21 personnel actions, Thorne emailed staff that, due to “swiftly emerging challenges that have impacted our fundraising,” Respondent was reconsidering “how we staff our communications and programs (OAL),” requiring it “to reduce the number of FTEs and expenses for our staff overall.” Thorne also asserted that Respondent’s approach “includes trying to retain employed staff who have been in their current positions for the longest periods of time. We recognize that more recent hires may have been the most affected.”

Thorne’s representations were false on several accounts. First, Cousins and Hutton were not “recent hires” but were among those “in their current positions for the longest periods of time.” In fact, Cousins was not even included on Yousafzai’s June 20 list of possible discharges. Second, there is no credited evidence that Respondent planned to reorganize the OAL Department prior to June 21. That was certainly not evident from the April retreat or the Strategic Action Plan and is contradicted by Respondent’s hiring in March of Barnhart, a “strong chief of OAL,” to help put together the Strategic Action Plan, “because a lot of the strategies involved work that her organization, OAL, would - - would be responsible for.” The only reasonable explanation for such a sudden shift in direction, coming within days after learning that employees planned to unionize, was Respondent animus towards employees’ protected and union activities.

Respondent’s discriminatory motivation for discharging Cousins, Hutton, Yost, and Post, and rescinding Orlick’s promotion is further apparent by Respondent’s continued recruitment, interviewing, and hiring of contractors between June and October for numerous positions. They included replacements for Cousin’s Organizer-at-Large position, Yost’s position as Senior Stakeholder Advisor, and positions entailing functions previously performed by Hutton—Chief of Communications and Social Media Manager, and Haas’s position as Senior Institutional Gifts Officer. The other positions included Chief of Stakeholder Engagement, Stakeholder Engagement Coordinator, and Executive Assistant/Board Liaison.

7. Discharges of Ferguson, Cabbage, and Duckworth

Ferguson, Cabbage, and Duckworth had been spared on June 21 because they were needed for OAL’s organizing activities through the November elections. However, Respondent’s animus is evident from the sequence of events that followed. Around mid-August—three weeks after they testified at the representation hearing—Respondent decided that “it was just a matter of when would be the best time” to terminate Cabbage, Duckworth, and Ferguson. Respondent ultimately decided to keep them until after they produced the end-of-year OAL report that would be incorporated into Respondent’s annual report, shared with the Board of Directors, and used for fundraising purposes.

The pretext in Respondent’s decision to discharge Ferguson, Cabbage and Duckworth is further evident by the fact that it was still operating on January 1 with \$294,217 in net assets and then proceeded to hire 12 contractors through February 11, 2025.

8. Respondent’s Shifting Defenses

(“[T]he Board has long held that shifting reasons constitute evidence of discriminatory motivation.” *Healthy Minds, Inc.*, 371 NLRB No. 6, slip op. at 6 (2021), citing *Naomi Knitting Plant*, 328 NLRB 1279, 1283 (1999). On June 21, Respondent attributed the discharges of Cousins, Hutton, Yost, and Point to financial reasons—“swiftly emerging challenges that have impacted our fundraising.” In its February 3, 2025 and June 16, 2025 position statements, however, Respondent added new reasons for the discharges: Yost, Point, Hutton, and Cousins lacked the skillset for the “rapidly-changing political activism landscape;” Yost and Post were in the midst of the probationary periods; and Hutton and Cousins “both had documented performance issues and were not showing signs of improvement.”

As previously noted, there is no credited evidence in the record to support the allegations that Respondent’s financial condition, performance issues, or a previously planned reorganization of the OAL Department, were factors in any of the June 21 discharges, including performance evaluations generated for Yost and Post after they were discharged. Nor is there any proof that Cousins, Hutton, Yost, and Point lacked the skills to fill the roles contemplated to tackle the “rapidly-changing political activism landscape.”

With respect to Cubbage, Duckworth, and Ferguson, Respondent claimed in its position statements that they lacked the “skillset” and “dedication to carry out [Respondent’s] vision any longer.” In Ferguson’s case, Respondent also alleged that she had been resisting its “proposed change in strategic vision.” However, in her testimony, Board Chair Ricci provided a contradictory explanation—that they were terminated for financial reasons.

D. Respondent Failed to Prove That It Would Have Taken the Same Actions In the Absence of the Protected or Union Activity

The General Counsel established a *prima facie* case through evidence of Respondent’s numerous pretextual and unsupported explanations for the seven suspiciously timed discharges and one rescinded promotion. Since the General Counsel sustained her initial burden under *Wright-Line*, the burden shifted to Respondent to show that it would have taken the same action even in the absence of the protected and union activity. 251 NLRB at 1089. However, Respondent’s burden cannot be met by pretextual reasons, i.e., false reasons or reasons not in fact relied upon. See *Intertape Polymer Corp.*, 372 NLRB No. 133, slip op. at 7 (2023), enf. 2024 WL 2764160 (6th Cir. 2024).

Respondent failed to meet its burden, as all of its explanations for the discharges and rescinded promotion were pretextual. It asserted that the adverse actions were based on a smorgasbord of legitimate, non-discriminatory and non-retaliatory business reasons, none of which were proven. Instead, the evidence revealed that Respondent engaged in coercive conduct during and after the retreat, prohibited employees from conducting their own staff meetings, questioned and criticized employees for expressing concerns about their working conditions, discharged seven employees and rescinded the promotion of another within a short period of time after they engaged in protected concerted or union activity, followed by the hiring of replacement contractors through February 2025, and provided shifting explanations for the discharges.

Based on the foregoing discriminatory discharges and rescinded promotion because employees engaged in protected concerted activity, supported the Union, filed charges, and testified at a proceeding before the Board, Respondent violated Section 8(a)(1), Section 8(a)(3) and (1), and Section 8(a)(4) and (1) of the Act.

CONCLUSIONS

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

2. United Professional Organizers (Union), is a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent violated Section 8(a)(1) of the Act by promulgating, maintaining, and enforcing a rule that prohibits employees from engaging in protected concerted conduct that might lower employee morale.

4. The Respondent violated Section 8(a)(3), (4) and (1) on June 21, 2024 by discharging Katrina Cousins, Emily Yost, Kathleen Hutton, and Kameryn Point, and rescinding Elise Orlick's promotion to Co-Chief of Learning and altering her job duties, because they engaged in protected concerted activity and supported the Union.

5. Respondent violated Section 8(a)(3), (4) and (1) of the Act by discharging Audrey Ferguson, Anna Cabbage and Cornell Duckworth on December 31, 2024 because they engaged in protected concerted activity, supported the Union, filed charges, and testified in a Board proceeding.

6. The above unfair labor practices affected commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative actions designed to effectuate the policies of the Act.

The Respondent, having discriminatorily discharged Katrina Cousins, Emily Yost, Kathleen Hutton, Kameryn Point, Audrey Ferguson, Anna Cabbage, and Cornell Duckworth, and rescinded Elise Orlick's promotion to Co-Chief of Learning, because they engaged in protected concerted activity and supported the Union, must offer them reinstatement to their former jobs or equivalent positions. In addition, Respondent shall make Cousins, Yost, Hutton, Point, Ferguson, Cabbage, and Duckworth whole for any loss of earnings and other benefits. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010).

The Respondent shall reimburse Cousins, Yost, Hutton, Point, Ferguson, Cabbage, and Duckworth in amounts equal to the difference in taxes owed upon receipt of a lump-sum backpay award and taxes that would have been owed had there been no discrimination. The Respondent shall also take whatever steps are necessary to ensure that the Social Security Administration credits her backpay to the proper quarters on her Social Security earnings record. To this end, the Respondent shall file with the Regional Director for Region 5, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.

The Respondent shall remove from its files any references to discharges of Cousins, Yost, Hutton, Point, Ferguson, Cabbage, and Duckworth, and the rescission of Orlick's promotion. The

employees shall be and notified in writing that this has been done, and that the discharges or rescinded promotion will not be used against them in any way. The Respondent shall also be ordered to mail and distribute electronically copies of the attached notice marked Appendix I, and hold a meeting or meetings via Zoom videoconference to read the notice to employees. Since the Respondent does not have any facilities and all of its employees operate entirely remotely, I deny the General Counsel's request for a notice posting.

Finally, due to Respondent's eight hallmark violations, seven discriminatory discharges and one rescinded promotion, I find that Respondent's misconduct would tend to undermine majority union support expressed through authorization cards, and render the possibility of a fair election slight. Accordingly, I grant the General Counsel's application for a bargaining order pursuant to *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 614 (1969).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁸⁷

ORDER

The Respondent, Civic Influencers, Inc., its officers, agents, successors, and assigns, shall

1. Cease and desist from:

(a) Rescinding employees' promotions because of their protected concerted activities.

(b) Rescinding employees' promotions because they support the Union or any other labor organization.

(c) Discharging employees because of their protected concerted activities.

(d) Discharging employees because they support the Union or any other labor organization.

(e) Discharging employees because they file a charge or testify in a Board proceeding.

(f) Promulgating, maintaining, and enforcing any rule that prohibits employees from engaging in protected concerted conduct that might lower employee morale.

(g) 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 policies of the Act:

(a) On request, bargain with the Union as the exclusive collective-bargaining

⁸⁷ If no exceptions are filed as provided by Section 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Section 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

representative of the employees in the following appropriate unit concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

5 Included: All full-time and regular part-time employees employed by the Employer.

Excluded: All confidential employees, temporary employees, office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act.

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(b) Within 14 days from the date of the Board's Order, offer Katrina Cousins, Anna Cabbage, Cornell Duckworth, Audrey Ferguson, Kathleen Hutton, Kameryn Point, and Emily Yost reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges to which they would have been entitled.

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(c) Within 14 days from the date of this Order make Katrina Cousins, Anna Cabbage, Cornell Duckworth, Audrey Ferguson, Kameryn Point, and Emily Yost, whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, including direct and foreseeable consequential harm they incurred as a result of Respondent's unlawful conduct.

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(d) Within 14 days from the date of this Order, compensate Katrina Cousins, Anna Cabbage, Cornell Duckworth, Audrey Ferguson, Kameryn Point, and Emily Yost for the adverse tax consequences, if any, of receiving a lump-sum backpay award, and file with the Regional Director for Region 5 within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.

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(e) Within 14 days from the date of this Order, remove from its files any reference to the discharges of Katrina Cousins, Anna Cabbage, Cornell Duckworth, Audrey Ferguson, Kameryn Point, and Emily Yost, and notify them in writing that this has been done, and that the discharge will not be used against them in any way.

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(f) Within 14 days from the date of this Order, remove from its files any reference to the rescission of Elise Orlick's promotion to Co-Chief of Learning and notify her in writing that this has been done, and that the rescission of her promotion will not be used against her in any way.

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(g) Rescind the unlawful general conduct rule maintained in Respondent's employee handbook since May 2022, that prohibits employees from engaging in protected concerted activity that might lower employee morale.

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(h) Furnish employees with an insert for the current employee handbook that (1) advises that the unlawful provision has been rescinded, or (2) provides a lawfully worded provision on adhesive backing that will cover the unlawful provision; or publish and distribute to employees a revised employee handbook that (1) does not contain the unlawful provision, or (2) provides a lawfully worded provision.

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5 (i) Preserve and within 14 days of a request or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records, and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

10 (j) Within 14 days after service by the Region, copies of the attached notice marked Appendix I shall be mailed, at Respondent's expense, and distributed electronically, such as by email, posting on an intranet or internet site, by text message and/or other electronic means, if the Respondent customarily communicates with its employees by such means to all current employees and former employees who were employed at any time since June 21, 2024.

15 (k) Hold a meeting or meetings during worktime via Zoom videoconference, scheduled to ensure the widest possible attendance of employees, at which the attached notice marked Appendix I will be read to employees by Maxim Thorne or Inam Yousafzai in the presence of a Board Agent and an agent of the Union if the Region or the Union so desires, or, at Respondent's option, by a Board Agent in the presence of either Thorne or Yousafzai, and if the Union so desires, the presence of an agent of the Union.

20 (l) Within 14 days after service by the Region, e-mail copies of the attached notice marked Appendix I to all current and former employees who were employed by Respondent at any time since June 21, 2024.

25 (m) Within 21 days after service by the Region, file with the Regional Director for Region 5 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated: Washington D.C. May 29, 2026

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Michael A. Rosas
Administrative Law Judge

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 stop you from discussing wages, hours or working conditions because such discussions might lower employee morale and **WE WILL** rescind the policy in our handbook on that subject.

WE WILL NOT rescind your promotion or alter your job duties because you exercise your right to discuss wages, hours and working conditions with other employees.

WE WILL NOT rescind your promotion or alter your job duties, or title, because of your membership in, activities on behalf of, or sympathies with the **United Professional Organizers**, or any other labor organization.

WE WILL pay employee **Elise Orlick** for the lost wages, benefits, and other expenses she incurred because we rescinded her promotion and changed her job duties and title.

WE WILL NOT discharge you, or otherwise discipline you, because you exercise your right to discuss wages, hours and working conditions with other employees.

WE WILL NOT discharge, or otherwise discipline you, because of your membership in, activities on behalf of, or sympathies with the **United Professional Organizers**, or any other labor organization.

WE WILL NOT discharge you, or otherwise discipline you, because you have given an affidavit or participated in a Board proceeding.

WE WILL offer **Kathleen Hutton, Katrina Cousins, Emily Yost, Kameryn Point, Audrey Ferguson, Anna Cabbage, and Cornell Duckworth** their jobs back along with their seniority and all other rights or privileges.

WE WILL pay **Kathleen Hutton, Katrina Cousins, Emily Yost, Kameryn Point, Audrey Ferguson, Anna Cabbage, and Cornell Duckworth** for the lost wages, and benefits and other expenses they incurred because we discharged them.

WE WILL remove from our files all references to the discharge of **Kathleen Hutton, Katrina Cousins, Emily Yost, Kameryn Point, Audrey Ferguson, Anna Cabbage, and Cornell Duckworth** and **WE WILL** notify them in writing that this has been done and that the discharge will not be used as a basis for any future personnel action or made reference to in response to any inquiry by any employer, prospective employer, employment agency, unemployment insurance office, or reference-seeker.

WE WILL offer **Kathleen Hutton, Katrina Cousins, Emily Yost, Kameryn Point, Audrey Ferguson, Anna Cabbage, and Cornell Duckworth** immediate and full reinstatement to their former jobs, or if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights and/or privileges previously enjoyed. **WE WILL** compensate **Kathleen Hutton, Katrina Cousins, Emily Yost, Kameryn Point, Audrey Ferguson, Anna Cabbage, and Cornell Duckworth** for the adverse tax consequences, if any, of receiving a lump-sum backpay award and **WE WILL** file with the Regional Director for Region 5, a report allocating their backpay awards to the appropriate calendar year(s).

WE WILL NOT refuse to recognize and bargain with **United Professional Organizers** as the exclusive collective-bargaining representative of our employees in the following appropriate unit (the Unit):

All full-time and regular part-time employees employed by the Employer, excluding all confidential employees, temporary employees, office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act.

WE WILL recognize and, on request, bargain with **United Professional Organizers** as the exclusive collective-bargaining representative of the Unit concerning terms and conditions of employment and, if an understanding is reached, embody that understanding in a signed agreement.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

Civic Influencers, Inc.

(Employer)

Dated: _____ By: _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation, and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Callers who are deaf or hard of hearing who wish to speak to an NLRB representative should send an email to relay.service@nlrb.gov. An NLRB representative will email the requestor with instructions on how to schedule a relay service call.

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Edward A. Garmatz U.S. Courthouse
101 W. Lombard Street, Suite 700
Baltimore, MD 21201
(410) 962-2822, Hours: 8:15 a.m. to 4:45 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/05-CA-345478 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.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING
AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY
QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE
DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER (410) 962-2880.