JD–77–26
Cincinnati, Ohio

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

CONCENTRIX CVG CUSTOMER
MANAGEMENT GROUP, INC.

and Case 12-CA-345633

DANIEL JAMES HINTON, an Individual

Steven Barclay, Esq., for the General Counsel
Bruce Smallwood and Matthew Schubert, Esqs.
(FBT Gibbons, LLP), Cincinnati, OH, for Respondent

DECISION

STATEMENT OF THE CASE

MICHAEL A. ROSAS, Administrative Law Judge. This case was tried remotely by Zoom.gov virtual technology on August 27, 2026. Based on timely filed charges, the General Counsel issued a complaint on May 19, 2026 (the complaint), and amended it on May 20, 2026,[1] alleging that Concentrix CVG Customer Management Group, Inc. (Respondent) violated Section 8(a)(1) of the National Labor Relations Act (the Act)[2] by: (1) since on or about January 3, 2024,[3] maintaining and enforcing the following unlawful rules: (a) Solicitation Policy; (b) Proprietary Information and Inventions Agreement definitions for "Proprietary Information" and "Company Authorization for Publication"; (c) Home Agent Agreement section on "Privacy and Use of My Personal Information;" (d) Code of Ethical Business Conduct sections on "Using Technology Appropriately," "Social Networking," and "Communicating with External Audiences;" (2) on or about June 18, (a) telling work-at-home employees that they are not permitted to discuss unions or solicit other employees to form a union on Respondent's QuickConnect (QC) communication system, and (b) announcing a rule that employees are only permitted to discuss unions with the Respondent's People Solutions department; and (3) on or about June 22, issuing a written counseling to employee Daniel James Hinton because he engaged in union and concerted activities. Respondent denied the material allegations of the complaint and asserted several affirmative defenses.

Respondent denied the material allegations of the complaint and asserted that Hinton was disciplined for legitimate reasons and the rules at issue were implemented and enforced for legitimate business purposes.

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

[1] The amendment added subparagraph (o) to the Remedies Sought section of the complaint.
[2] 29 U.S.C. § 158(a)(1).
[3] All dates are in 2024 unless otherwise stated.

FINDINGS OF FACT

I. JURISDICTION

Respondent, an Ohio corporation, with a facility and principal office and place of business in Cincinnati, Ohio, is engaged in the business of providing strategy and design services, data and analytics services, technology services, and digital operations services to non-retail clients located throughout the United States and foreign countries, including sales and telephone marketing, technical support, contact center operations, software products, and other business support systems. In conducting its operations at the facility, Respondent provides services valued in excess of $50,000 directly to customers from States of the United States other than the State of Ohio. 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.

II. ALLEGED UNFAIR LABOR PRACTICES

A. The Respondent's Operations

Respondent employs approximately 455,000 employees in 70 countries. They work in call centers or remotely from home. In the United States, Respondent employees 19,000 employees. Approximately 60 to 70 percent of them work remotely. Most are assigned as customer service representatives to perform a variety of functions for vendors and are supervised by team leaders. Customer service representatives are provided a company computer with a webcam and softphone, a software-based phone system in the computer used to take customer calls.[4]

Employees utilize Respondent's communications systems, Zimbra email, Microsoft Teams, Q-Com Chat, and the QuickConnect chat platform, to coordinate daily operations, deliver supervisory guidance, and transmit work-related information to employees during their shifts. Employees are not permitted to use their personal cell phones while working.[5]

Employees typically communicate with coworkers through Teams chat to discuss work-related issues and nonwork matters, and exchange personal contact information. Nonwork chatter is routine and generally tolerated by managers and team leaders.[6] It includes subjects such as pets, lunch, dinner, hobbies, and weekend and vacation plans.[7] However, managers and team leaders

[4] Hinton and Jasmine Purvis, another customer service representative, described the work as stressful and coworker rapport as important. Tr. 44, 99.

[5] Hinton did not know if employees were permitted to use their work email to communicate with coworkers about nonwork-related matters. Tr. 21-23.

[6] Operations Manager Chassandra Jackson testified that nonwork chatter in Teams chat was "utilized really for, you know, building rapport, asking questions, sharing best practices, and just building morale." The discussion was required to "remain professional" while "unprofessionalism, harassment, solicitation in our chats that are monitored by the managers," is prohibited. Tr. 77.

[7] As stipulated, "employees are permitted to use work resources, including QuickConnect chat and Microsoft Teams chat, for nonwork-related conversations during work hours. It is common for employees to use work resources on a daily basis to post about topics such as pets, animals, hobbies, and vacations, and they are not disciplined for using work resources to discuss such nonwork-related topics." Tr. 9.

are also on the chats.[8] QuickConnect and Q-Com chats, on the other hand, have to be initiated by either a team leader or someone who has access to those platforms. Employees are also able to communicate with coworkers on the client's communication system using their company computer. All three modes of communication are monitored by team leaders.[9]

Although employees are provided with their team leader's cellular telephone number, Respondent does not provide employees with a directory of their coworkers' personal telephone numbers or email addresses. However, employees can and do exchange personal phone numbers and emails in team meetings. They can also list their personal contact information on their profile page, which is accessible to all employees on Respondent's WorkDay platform.[10] On occasion, team leaders have disseminated via email their team members' contact information for work-group related purposes.[11]

Employees are also encouraged to form and meet in work-related study groups with coworkers while off the clock. For example, sometime in 2022, Hinton contacted team members by forming a Discord server and sharing the link with coworkers through Teams chat.[12]

When there is downtime of three to five minutes between customer service calls, employees are asked to clock out. That happens several times each day. Once employees clock out, they are not permitted to be on their computers.[13]

At the material times the following individuals were supervisors of Respondent within the meaning of Section 2(11) and agents within the meaning of Section 2(13) of the Act: Alisa Anderson-Blue, Operations Manager II or Partner Resources Manager; Latoya Espy, Team Leader; Kristin Henry, Team Leader; and Robert Pitts, Senior Manager People Solutions.[14]

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[8] Jasmine Purvis, a mentor, testified that employees exchange their personal contact information using Respondent's chat function. Tr. 100-101. Christopher Smith, an escalation specialist, testified that he received his coworker's personal contact information through the Teams chat. Tr. 114, 119. Chassandra Jackson also confirmed that employees use Teams to share contact information. Tr. 85.

[9] Hinton asserted that the QuickConnect webcam/virtual machine "always records," and was informed by supervisors that QuickConnect is programmed to always record his use, and that they use it to monitor activity. Respondent uses a QuickConnect system and virtual machines to constantly monitor employees' computer screens. Tr. 17-18, 34-36; GC Exhs. 3, 8.

[10] Although Hinton testified that he did not know that WorkDay contained employees' contact information, Operations Manager Chassandra Jackson explained that employees exchange phone numbers in Teams meetings so they can connect after work. Also, employees can make their contact information public on WorkDay. She also identified Hinton's WorkDay profile page, which listed his work and personal telephone numbers and email addresses. R. Exh. 1; Tr. 36, 71, 78-85. However, there is nothing in the record indicating the number of employees posting their contact information on WorkDay.

[11] This finding is based on Senior Advisor Integra Williams' undisputed testimony. Tr. 123.

[12] Hinton testified that employees could only discuss work-related matters during study groups. However, he provided no credible reason to believe that employees were prohibited from exchanging their contact information during those meetings. Tr. 43, 60-61.

[13] Respondent does not dispute Hinton's testimony that he can be asked to clock out about three to five times each workday due to excessive downtime between calls. Tr. 18-19.

[14] The People Solutions Department handles Respondent's human resources functions.

B. The Solicitation Policy

Since about February 1, 2019, Respondent has maintained and enforced the following Solicitation Policy:

Solicitation Policy (effective 2/1/19)[15]

> Unauthorized solicitation on Company premises is not allowed. "Solicitation" includes any verbal or written communication that encourages, advocates, demands or requests a contribution of money, time, effort or personal involvement or membership in any fund, collection, athletic team, social, fraternal, religious, civil, labor or other organization of any kind. Solicitation includes selling or promoting products, goods or services on the premises and the use of employee lists for the purpose of solicitation.
>
> No solicitation of any employee by a non-employee may occur on Company premises.
>
> Solicitation during work time is not allowed. "Work time" includes all time when either the employee making the solicitation or the employee being solicited is engaged in the performance of his/her job duties or is required to be at his/her workstation waiting to perform his/her duties.
>
> Distribution of non-work materials or literature in work areas is disallowed at all times. "Work Area" includes places where employees perform their work duties, such as but not limited to, the production floor, training rooms, conference rooms, huddle rooms, offices, etc. Advisors may not access Company work areas when they are not scheduled to work. Human Resources may make a limited number of exceptions to these rules for charitable solicitations. Such exceptions will be limited to well-known and generally-supported charities or one-time contributions for specific humanitarian purposes.
>
> Human Resources may pre-approve a presentation or program that: (a) is benefits related such as a "Health" or "Education" fair where insurance providers or educational institutions provide benefit or service information to employees related to retirement, or other benefit plans, employee assistance or wellness programs; or (b) provides for an employee discount or benefit such as for a client product or service offered because of the client relationship.
>
> Where Human Resources has determined a discount or coupon program provides a bona-fide discount or benefit for employees, a Concentrix representative may distribute related materials to employees. Examples include products or services discounted to Concentrix

[15] People Solutions Director Heather Camille Rosalez credibly testified that Respondent's purpose for the rule is to prohibit "[a]ny type of solicitation" by "ensuring that our employees are staying productive and to ensure that they are not soliciting employees during work time." She denied that the policy singles out union activity. GC Exh. 5; Tr. 131-132. However, Rosalez acknowledged that the policy carves out exceptions for "broadly communicated" initiatives by the company to facilitate solicitation that is determined by Respondent to be "beneficial," by health insurers and charitable organizations, while employees who wanted to share "beneficial" information with coworkers could take it to Human Resources for consideration. Tr. 143-145.

employees because of a client relationship and benefits that local or national vendors have agreed to provide.

* * *

The Company maintains various communication systems to communicate information to its employees. These systems include, but are not limited to, bulletin boards, electronic mail, voice mail, facsimile machine and personal computers. They are for business use only and may not be used for employee solicitation or distribution of literature. Only employees authorized by the Company may place materials on or remove materials from these systems.

At the relevant times, between June 1, 2023 and June 22, 2024, Respondent's team leaders and supervisors enforced the policy by immediately telling employees to stop any unauthorized solicitation. However, prior to June 22, 2024, employees were not disciplined for soliciting coworkers.[16]

C. Facially Neutral Rules and Policies

Since about January 3, 2024, Respondent has maintained and enforced the following employment rules or parts of rules:

1. Proprietary Information and Inventions Agreement

A. Definitions . . . 2. Proprietary Information

I understand that the Company possesses and will possess Proprietary Information which is important to its business. For purposes of this Agreement, "Proprietary Information" is information that was or will be developed, created, or discovered by or on behalf of the Company, or which became or will become known by, or was or is conveyed to the Company, which has commercial value in the Company's business.

"Proprietary Information" includes, but is not limited to information about software programs and subroutines, source and object code, algorithms, trade secrets, designs, technology, know-how, processes, data, ideas, techniques, inventions (whether patentable or not), works of authorship, formulas, business and product development plans, customer lists, terms of compensation and performance levels of Company employees, Company customers and other information concerning the Company's actual or anticipated business, research or development, or which is received in confidence by or for the Company from any other person and which is not in the public domain (other than as a result of a breach of confidence).[17]

[16] Chassandra Jackson testified that supervisors immediately address unauthorized solicitation by pulling the employee aside and telling them to stop. Tr. 77-78. As confirmed by Respondent, there are no records of discipline issued to employees for using Respondent's technology systems to communicate about nonwork-related topics during the period of June 1, 2023 through June 22, 2024. Tr. 8-9.

[17] Rosalez testified that "proprietary information" is intended to cover "Company-wide aggregated information" and "Company confidential information," and "is not specific to any individual's pay benefits, any type of information that's individual to them." GC Exh. 6 at 3-4; Tr. 134-136.

* * *

B. Assignment of Rights

All Proprietary Information, and all patents, patent rights, copyrights, trade secret rights, trademark rights and other rights (including, without limitation, intellectual property rights) anywhere in the world in connection with Proprietary Information, is and shall be the sole property of the Company. I hereby assign to the Company any and all rights, title and interest I may have or acquire in such Proprietary Information.

At all times, both during my employment by the Company and after its termination, I will keep in confidence and trust and will not use or disclose any Proprietary Information or anything relating to it without the prior written consent of an officer of the Company, except as may be necessary in the ordinary course of performing my duties to the Company.

G. Company Authorization for Publication

Prior to submitting or disclosing for possible publication or dissemination outside the Company any material prepared by me that incorporates information that concerns the Company's business, I agree to deliver a copy of such material to an officer of the Company for his or her review. Within twenty (20) days following such submission, the Company agrees to notify me in writing whether the Company believes such material contains any Proprietary Information or Inventions, and I agree to make such deletions and revisions as are reasonably requested by the Company to protect its Proprietary Information and Inventions. I further agree to obtain the written consent of the Company prior to any review of such material by persons outside the Company.[18]

2. Confidentiality Agreement

The Home Agent Agreement agreed to by work-at-home employees as a condition of their employment contains the following provision:

C. Privacy and Use of My Personal Information

I acknowledge that on rare occasions when Company communication lines are inoperable, Concentrix will communicate with me through my personal email, phone, and text messaging accounts, including but not limited to those occasions when my work equipment is not functioning properly. I acknowledge and accept all risks and responsibilities and costs resulting from such transmission or communication, including but not limited to risks pertaining to errors in transmission, misunderstandings or errors of identification which might occur, and I fully release Concentrix from any such

[18] Rosalez credibly testified that requiring employees to get Respondent's authorization before they "publish or disseminate any type of information that is Company related," was to ensure that the information "is not proprietary or confidential to the Company." Id. at 5; Tr. 137.

responsibilities. I will treat all emails and text messages that I receive as Confidential Information and keep them in accordance with the Concentrix Corporate Code of Ethical Business Conduct, and the confidentiality provisions as set out in Section A of this HAA. I agree to be solely responsible for any costs associated with the transmission of personal emails or text messages, and I fully understand and acknowledge that Concentrix is not responsible for any monetary reimbursement to me for any associated communication costs to me as a result of communicating with me via my personal email and/or cellular device.[19]

3. Using Technology Appropriately

* * *

Under no circumstances should you use our Company's computer and network systems to communicate, store, or view inappropriate, sexually explicit, or offensive statements or materials. In addition, you may not use these systems to access illegal material, send unauthorized solicitations, or conduct business for yourself or for another organization.

You should not assume that the communications or documents you create, send, or receive via Company computer, data, or telecommunication resources are private. To the extent allowed by applicable law, our Company has the right to examine and monitor use of Company assets and communications systems to ensure compliance with Company policies.[20]

4. Social Networking

* * *

As part of our commitment to protecting confidential information, we must exercise caution when using social media, including chat rooms, message forums, and social networking sites. While our Company does not seek to limit our personal or professional interactions on such sites, we are expected to conduct ourselves appropriately in accordance with Company standards. This means that we must never disclose confidential information of the Company, our clients or any of their customers, or other business partners through our use of these sites. Such information also includes names or logos of our clients or any statement that could identify the client or its product(s) or service(s) including merely stating that we render services to such clients. We must also ensure that we do not attribute our personal opinions to our

[19] Rosalez denied that this rule was intended to target union or other protected activity, or pertained to an "employee's individual information, such as their pay and benefits." She credibly testified that the rule sought to ensure that any communications between the company and an employee via the employee's personal email, phone, and text messaging accounts "are protected" because "they get a lot of information when they're working at home." Respondent considers such communications as "confidential and private" that "should not be shared with anybody externally." Tr. 137-139.

[20] Asked Respondent's purpose for maintaining this policy, Rosalez's explanation, in part, squared with the prohibited activities listed. However, she also provided additional justifications that were not readily apparent from the language of the policy: to protect Respondent's "equipment, our computer, our network," and ensure that employees remained "productive." Tr. 140; GC Exh. 7 at 16.

Company. Never post inappropriate or offensive materials or material that violates our Company policies while representing our Company. The Company may require that an employee take down offensive or inappropriate material or posts, and employees are also requested to bring to our notice any such posts that they may come across on social media.

Our Company respects your right to maintain your own blog(s) or post personal comments on social networking sites. However, our Company is committed to ensuring that the use of such communications serves the needs of our business by maintaining our Company's identity, integrity, and reputation in a manner consistent with our values and policies.

In the case of any posts that could be connected with the Company (such as your picture with the company name or logo taken at a company event or sharing a news item or video clip of the Company), please ensure that you mention that the comments posted by you are your personal opinions and not that of the Company. In the event that the company finds such a post to be inappropriate, you may still be required to take it down.[21]

5. Communicating with External Audiences

It is important that our Company provides fair, accurate, timely, and understandable disclosures to the public and to governmental authorities, both verbally and in writing. For this reason, only designated spokespeople are approved to respond or to communicate with outside parties – namely members of the media. If you receive a request from the media for information, for an interview, or to author a technical article or present a paper, you should forward the request to a member of our Marketing team, who will handle the request or provide support and guidance. Similarly, requests from financial analysts and shareholders should be forwarded to Investor Relations. If you have any doubt about a request, you can also contact the Legal Department before responding to the request.[22]

D. Daniel James Hinton

Daniel James Hinton has worked remotely from home as a customer service representative for Respondent since November 2022.[23] Since then, Hinton has cycled through client projects with State Farm Insurance, Humana, and Aetna. In 2024, Hinton was briefly on the State Farm

[21] Rosalez testified that the purpose of this policy is to ensure that: (1) "employees understand that anything that is being posted on behalf of the Company needs to come from a Company representative or spokesperson;" (2) employees' posts on social media state that it "is their opinion and not of the Company;" (3) "anything that comes from the Company is factual and . . . in line with our brand and to protect our . . . business and our Company and . . . our programs . . . or our clients . . . and their customers." GC Exh. 7 at 23-24; Tr. 140-141.

[22] Rosalez testified that the purpose of this rule is to ensure that: (1) any "information communicated with the media [about the Company] comes from . . . Company spokesperson;" (2) the information maintains the Company "brand," is "accurate," "everything's consistent, does not include inappropriate or incorrect information that goes out about the Company," and is "regulatory compliance compliant;" and (3) "if [employees] feel like they're going to communicate with the media about the Company, they must also come to us and request permission." Tr. 141-142.

[23] Hinton testified pursuant to subpoena by the General Counsel.

account before being assigned to make outbound calls as a medication adherence technician for Humana.

Hinton currently takes inbound calls and makes outbound calls regarding Aetna members' medical claims and benefits, informs members of their benefits, and transfers the calls to other departments whenever appropriate. Hinton has never been to any of Respondent's offices. Nor has he ever met any of his coworkers in person. He has, however, communicated with coworkers during nonwork hours through the Discord chat platform.[24] On all three of his projects, Hinton has used QuickConnect software.

On March 6, 2024, Hinton was issued a "Documented Verbal Counseling" by Team Leader Kristin Henry for "Misconduct/Professionalism."[25] The corrective action stated that, on March 2, Hinton was observed "on a personal electronic device (cell phone) via the Secure CX camera in his workspace while his work computer was on and open which violates our Work From Home Agreement. Daniel understands this is a violation of the work at home agreement." He was warned that "[a]ny future incident of misconduct may result in further corrective action up to and including separation of employment."[26]

E. Hinton's June 18, 2024 Chat Posts

1. Hinton's Post about Unionizing

At 12:33 p.m. on June 18, Hinton posted concerns in the Microsoft Teams chat regarding problems he was having clocking in on his computer. Other customer service representatives working on the Humana account responded with suggestions. However, Hinton's concerns were not resolved as he explained that the system did not reflect the correct time when he tried to clock in five minutes before his shift. At 1:20 p.m., he criticized "a policy [that's] in place to seemingly be there for the customers but also a way to [penalize] people for the poor technology and software we are given." In the midst of those comments, Tahara English commented about a customer who "just called to talk about her love for animals," and Sherri Furgason responded, "Me too – I love animals – how fun."[27]

[24] On direct examination, Hinton presented himself as isolated with no coworker contact outside of company systems. Tr. 15, 20-24. He also denied being on any social media platform. On cross-examination, however, Hinton acknowledged: (1) communicating with coworker Melissa Schubert via Snapchat/WhatsApp; (2) creating an online community space (Discord server) with coworkers on the State Farm account; and (3) that he has "received and declined personal phone numbers of my coworkers." Tr. 39-43, 60. Confronted with the contradictions, Hinton's response was disingenuous: "I think I said to the best of my knowledge." Tr. 42. Moreover, Jackson, Purvis, and Smith credibly described frequent personal nonwork chat among employees, e.g., pets, lunch, dinner, and weekend plans. Tr. 77, 85, 100-101, 104-105, 113-114, 119.

[25] GC Exh. 8.

[26] GC Exh. 8.

[27] Asked if English or Furgason were admonished by Espy for discussing personal matters in the chat, Hinton did not recall. Hinton doubted it because "it would be strange if they were - - we are often championed for being personable in the main chat" He clarified, however, that permissible chat depended on "the manager[']s on duty sensibilities." GC Exh. 2; Tr. 22-23..

At 1:21 p.m., Team Leader Latoya Espy provided feedback about the clocking in process, explaining that, "You have 5 mins you can use to clock in before shift starts . . . you are expected to be clocked [in] 01 and ready for calls at start of shift." However, Hinton did not find Espy's comment helpful, stating that "it looks like everything [I] read is being ignored . . . [I] had no idea we had a low ability to engage with problems . . . [I] don't know what to say besides read it again, please." At 1:22 p.m., Espy replied by asking Hinton to "please keep personal concerns out of main chat. No one is ignoring you." At 1:23 p.m., Hinton responded, "if we don't talk in main chat, 2-5 people who [don't] know how to personabily [sic] express themselves come to convince me my issue is being heard. . . but nothing gets resolved." He then went on a break.

At 1:26 p.m., Amylee McDowell responded to a post by Tahara English: "just management can do sc with us." At 1:27 p.m., English thanked McDowell. At 1:30 p.m., Hinton replied, "[it's unfortunate] it would be nice to get to know some of you." At 1:31 p.m., Espy asked English, "do you need a side chat."[28] English replied that she did not. At 1:32 p.m., Hinton commented that "we would need to unionize to get to know each other and change the policy. [W]e would consider attempting to unionize." At 1:36 p.m., Espy responded, "Daniel, please keep those things out of the chat." At 1:38 p.m., Hinton replied:

> [It's] restricted under law to disrupt the open discussion of unionization efforts in the work place as long as it does not disrupt productivity. I sent the message during break. There is no way to discuss [individually] with others due to the concentrix [sic] framework. Legally, I had the right to say that. Broke no rules. And I would advice [sic] that we do not stop us from discussing unionization between calls.

Espy immediately replied, "You can submit that kind of idea to People Solutions, not chat." At 1:39 p.m., she directed Hinton to take a break ("Break code"), but at 1:40 p.m., Hinton resisted:

> [R]estricting our speech of unionization is against the law. I advice council [sic] for you before moving forward.

Hinton was then removed from the Teams chat for about five minutes.[29] During that time, Espy directly messaged him, "need to speak with you verbally . . . please clock 17-05 once off call." Hinton persisted:

> "[I]nvite someone else in the chat. [P]reventing discussion on unions, is allowed.[30] Removing me from the chat for a moment sends an illegal message."

[28] It is unclear from the record what comment or question by English preceded McDowell's comment. However, based on Espy's question, I infer that McDowell's reference to "SC" meant "side chat."

[29] Hinton's estimate as to how long he was removed from the Teams chat was not disputed. Moreover, Respondent's records did not indicate the time of the subsequent communications between him and Espy. Tr. 28.

[30] Hinton evidently meant that preventing discussions about unions is *not* allowed.

Espy replied that she "was trying to pull you in a side chat. The removal was not intentional as I invited you right back."[31] Hinton disagreed, said he was on a call, and needed to email Alisa Anderson-Blue, a Partner Resources manager, "before continuing." Espy responded that she would "not be speaking Legal with you but we will speak in a meeting that will be recorded." Hinton reiterated that he "cannot continue before informing someone over you." Espy then agreed that she would "ask Alisa to join, . . . no mistake . . . chats are recorded as well."

2. The Disciplinary Meeting

Later that afternoon, Espy, with Operations Manager Chassandra Jackson and Kristin Henry, Hinton's supervisor, as witnesses, met with Hinton.[32] Espy told Hinton that "no one is trying to silence you at all. . . . But there is a forum and a platform where you discuss certain things, and I did indicate to you where you can discuss certain things, but you continue to create chaos in the chat." As for "[t]alk about unionization," Espy explained, "You can put. . . . You can send those ideas to people. . . Solutions, not the main chat, and then you start stating about the law and legal right. But."

After the call was briefly disconnected, Espy mentioned that Henry met with Hinton "last week in regarding how we speak and being mindful of others in chat when speaking. And in this case, you're the only one that's speaking in chat about unionizing and other things. And we cannot have that in chat." Hinton disagreed, insisting that he could not be disciplined "for discussing the fact that I'm pro union in chat." After an incomprehensible explanation by Espy as to why Hinton was being held to account for his chat messages, he asked if he was "being disciplined for talking about unions?" Espy replied that he was "being disciplined because you're not following direction when asked not to [discuss] certain things and chat, regardless if it was union or anything that's not team friendly." At that point, Hinton asked for Alisa Anderson-Blue to join the meeting, denied that his posts were disruptive, and reiterated that he could not be disciplined because he "mentioned union activities." Espy disagreed:

> You were being disruptive in chat because we're asking you not to speak about you because we're not a Union. You're not part of the Union of Concentrix, and I'm not going to go into legalities with you, but I can tell you if you were speaking in a Union setting, member of management couldn't be there. I wouldn't be allowed to be participating, and you're speaking in an open forum where supervisors are looking at your chat and you cannot do that.

[31] Espy's message to HR manager Alberta Howard-Huggins at 2:41 p.m. indicates that Espy's removal of Hinton from the Teams chat was not inadvertent: "Alberta Howard-Huggins can I put Daniel on READ ONLY to prevent this from continueing? [sic]."

[32] Jackson was the only one of the three supervisors to testify. Jackson testified that Hinton was called into the meeting because Espy asked him twice to stop soliciting in the chat by suggesting that employees "unionize," but it continued. She characterized Espy pulling Hinton from the Teams chat as "a misunderstanding of what she was saying," so "they could have a verbal conversation." It's clear from the call log, however, that there was no misunderstanding. Hinton was holding firm in his view that he had a right to discuss unionization and was refusing to leave the chat. GC Exh. 3; Tr. 87-89.

Hinton replied, “We don’t, we don’t have any way to speak. I’ve brought it up because we didn’t know we didn’t know anybody.” Espy responded,: “And again, I and I directed you to people solutions, but I directed you to people solutions about any ideas you may have and we should have left the conversation at that. But we didn't. You continued and that's where the accountability is coming from.” At that point, Hinton was disconnected from the call. While they waited for Hinton to rejoin, Anderson-Blue joined the call. Espy provided her with a recap:

> So just to kind of sum it up, he's not wanting to take ownership and he feels that he's pro union and he's been basically picked on. And I explained to him Mam Pro Union is not the issue, it's the fact that you're putting this in a form in chat. And I ask you to speak to people, solutions about any ideas you may have. But and he continued to continued. I told him even in Union, I'm not gonna go legal. But in Union, supervisors are not are allowed to be in those conversations, and you're speaking in an open forum where supervisors are, but we are not a Union. . . . And I told that’s the professionalism that’s worth getting you in trouble is because you’re not stopping when asked to be stopped. You’re continuing on. But he said that’s where you need to be in on the conversation. He wants to speak with . . you.

Espy also informed Anderson-Blue that Hinton was issued “a verbal on March 4th for misconduct” and asked, “if we’re issue another verbal or should we go straight to written at this point.” Anderson-Blue said, “[t]his can be written. We already had conversations and it's already on a verbal this is a written. So go ahead and ping him. Let him know that since he's having issue, we're gonna reschedule the meeting. That it can include people's solution. Go ahead and prepare this documentation when you got time to play these games with him.”

Hinton eventually rejoined the meeting, at which point Espy informed him that he was “being given a corrective action for professionalism and chat because we asked you to stop and you continued . . . Or will we issuing a written corrective action under misconduct?” Hinton maintained that “there are laws and . . . regulations covering this kind of . . . talk don’t have a way to discuss it with our coworkers.” He also protested the discipline as a “shutdown intimidation tactic, which is also kind of iffy and to corrective action for discussing unionization being misconduct is also the legal instead of Florida.” Anderson-Blue responded:

> [F]reedom of speech is legal, but is also not legal to yell fire in a crowded theatre. So there's platforms and proper uh platform that you can . . . make these statements being at our business chat is not one of them. So you can have your . . . belief on what you wanna do and . . . what you believe, but you're going to form that outside of our business chat. . . And once we advise you, OK, we cannot have these type of conversations and chat. Once you're notified of that, then you must cease that conversation. Everyone is not. In favor of unions. And again, that's not a platform for that discussion. . . But again, we have to have them in our platforms and follow up because that's rules for everything.

As the meeting wound down, Anderson-Blue equated Hinton’s reference to unionizing on the Teams chat to another illegal act: “I can’t go on the airplane and say [hijack]. I cannot.”

3. Hinton Is Issued a Written Counseling

On June 22, Kristin Henry, Hinton's supervisor, issued him a "Documented Written Counseling" for "Misconduct/Professionalism" for the following reasons:[33]

> Failure to comply with company policy, is deemed as misconduct. The specific policy, behavior, and date(s) of non-compliance, are noted below. Today, Daniel was given direction to stop a specific conversation in the main chat. Instead following direction, he continued to question and state legal statements in chat. He has been warned on previous occasions about professionalism and being mindful of others when posting in chat. Daniel was pulled in a TEAMs meeting with Operations and Team lead to discuss expectations, verbally, conversation also recorded.

The corrective action warned: (1) "Any future incident of misconduct may result in further corrective action up to and including separation of employment;" and (2) "Any further conversations of unprofessionalism behaviors will result in further corrective action including separation of employment."

LEGAL ANALYSIS

I. RESPONDENT'S MAINTENANCE AND ENFORCEMENT OF THE SOLICITATION RULE

A. The Solicitation Policy

Paragraph 4(a) of the complaint alleges that Respondent violated Section 8(a)(1) of the Act since on or about January 3, 2024 by maintaining and enforcing the Solicitation Policy. The Solicitation Policy expressly prohibits employees from engaging in any "[u]nauthorized solicitation on Company premises." It defines "solicitation" as "any verbal or written communication that encourages, advocates, demands or requests a contribution of money, time, effort or personal involvement or membership in any fund, collection, athletic team, social, fraternal, religious, civil, labor or other organization of any kind." The policy also provides that Respondent's "communication systems" which "include, but are not limited to, bulletin boards, electronic mail, voice mail, facsimile machine and personal computers . . . are for business use only and may not be used for employee solicitation or distribution of literature."

Section 7 guarantees employees the right to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Section 8(a)(1) makes it unlawful for an employer to interfere with, restrain, or coerce employees in the exercise of those rights.

As the Board explained in *Caesars Entertainment d/b/a Rio All-Suites Hotel and Casino*, 368 NLRB No. 143, slip op. at 1 (2019), the Act limits an employer's property right to control the use of its premises "with regard to oral solicitation during nonworking time and the distribution of literature in nonworking areas." Recognizing that "decades of Board precedent establish that the Act generally does not restrict an employer's right to control the use of its equipment," the Board overruled its decision in *Purple Communications,* 361 NLRB 1050 (2014), and returned to the

[33] GC Exh. 4.

previous standard in *Register Guard,* 351 NLRB 1110, 1114-1115 (2007), enforced in part and remanded in part *Guard Publ'g Co. v. NLRB,* 571 F.3d 53, 57–62 (D.C. Cir. 2009). *Caesars Entertainment,* supra at 1. *Register Guard* held that "employees have no statutory right to use employer equipment, including IT resources, for Section 7 purposes." Id. However, the Board left open an exception to the *Register Guard* rule in cases where an employer's email system provided the only reasonable means for employees to communicate with one another during nonworking time:

> Consistent with the principles stated above, an employer's property rights may be required to yield in such circumstances to ensure that employees have adequate avenues of communication. Because, in the typical workplace, employees do have adequate avenues of communication that do not infringe on employer property rights in employer-provided equipment, we expect such cases to be rare. We shall not here attempt to define the scope of this exception but shall leave it to be fleshed out on a case-by-case basis.

Id. at 8.

Whether the "only reasonable means" exception would also apply to IT resources other than email," the Board left that question "for a future appropriate case." Id. at 8, fn. 67. In subsequent cases, the Board applied *Caesars Entertainment* and held that facially neutral restrictions on employees' personal use of the company's IT resources were lawful, finding that there were no indications that employees did not have access to other reasonable means of communicating effectively with one another. See, e.g., *Tesla Inc.,* 375 NLRB No. 63 (2026); *Pro Residential Services, Inc.,* 373 NLRB No. 100 (2024) (equipment and electronic resource rules are analyzed under *Caesars*); *Verizon Wireless*, 370 NLRB No. 5 (2020); *Cellco Partnership*, 369 NLRB No. 130 (2020). The Board gave no indication in those cases that the "only reasonable means" to communicate exception was limited to email systems.

Citing *Stoddard-Quirk Mfg. Co.*, 138 NLRB 615, 620-621 (1962), the Board noted that "rules that restrict solicitation during nonworking time or the distribution of literature on nonworking time and in nonworking areas are presumptively unlawful, and even then the rules may be justified if 'special circumstances' are shown." *Caesars Entertainment,* supra at 7. Here, the evidence established that employees may be off the clock for several minutes at a time. However, employees were expected to remain at their workstations and ready to resume at the direction of their team leader until the conclusion of their shifts. Even if employee workstations were considered nonworking areas during those brief periods, Respondent had a legitimate concern to ensure employee readiness and the orderliness and security of their workstation.

Here, the Solicitation Rule expressly mentions "labor" organizations among the organizations or causes on whose behalf employees are prohibited from soliciting on behalf of. However, the rule does not discriminate against labor organizations since it prohibits solicitation by employees on behalf any outside organization, "or other organization of any kind." The General Counsel argues that Respondent engaged in solicitation by providing employees with information about company-sponsored health plans or charitable organizations. However, there is a distinction between the dissemination of information by the employer about company-sponsored programs and employee solicitation about nonwork matters.

The rule specifies that Respondent's IT systems "are for business use only." The legitimate purpose in limiting their use for that purpose is evident from the fact that Respondent's supervisors and/or artificial intelligence software constantly monitor and record all of IT communications, including employees' computer screens, and are embedded in all QuickConnect group chats.

The General Counsel correctly argues that: (1) Respondent does not provide employees with a directory of their coworkers' contact information; (2) the WorkDay platform is not a complete resource for employees' contact information because employees are only able, but not required, to list such information on their profile page; and (3) work-at-home employees are not permitted to have phones in their workspace while on the clock.

Contrary to the General Counsel's assertion, Respondent's work-at-home employees have reasonable means to communicate with coworkers outside of Respondent's group chat systems. Work-at-home employees Hinton, Purvis, and Smith testified that they exchanged contact information while using Respondent's IT communications systems, including Teams and QuickConnect chats, which enabled them to communicate with coworkers while off the clock. Clearly, the sharing of personal contact information was not prohibited, and employees who wanted to speak with coworkers about nonwork matters without using Respondent's group chat systems were able to do so. These alternative channels of communication were lawfully adequate since "[t]he Act does not require employers to afford employees 'the most convenient or most effective means' of conveying their message." *Northstar Memorial Group, LLC*, 369 NLRB No. 145, slip op. at 5 (2020).

The allegations at Paragraph 4(a) of the complaint are dismissed.

B. Respondent's Directive Not to Discuss Unions on the Group Chat

The complaint alleges at Paragraphs 5(a) and 5(c) that Respondent violated Section 8(a)(1) by: (1) on or about June 18, by telling Hinton that he was not permitted to discuss unions or solicit other employees to form a union on Respondent's QuickConnect communication system, and (2) telling Hinton that he was only permitted to discuss unions with the People Solutions department.

After discussion with other employees about problems with clocking in, Hinton commented that "we would need to unionize to get to know each other and change the policy. [W]e would consider attempting to unionize." Shortly thereafter, Espy admonished Hinton to "please keep those things out of the chat." Hinton disagreed, asserting that it was unlawful "to disrupt the open discussion of unionization efforts in the [workplace] as long as it does not disrupt productivity. I sent the message during break" and advised that Espy "not stop us from discussing unionization between calls." Espy responded that Hinton "can submit that kind of idea to People Solutions, not chat." After a break, Hinton reiterated that "restricting our speech of unionization is against the law." He was then pulled into a direct chat with Espy and, once again, Hinton maintained his right to talk about unions and asserted that removing him from the chat sent an illegal message."

During the disciplinary meeting later that afternoon, Espy told Hinton that, with respect to "[t]alk about unionization," Hinton "can put. . . . You can send those ideas to [P]eople. . .

Solutions, not the main chat." Later in the call, Espy told Hinton that he was "the only one that's speaking in chat about unionizing and other things. And we cannot have that in chat." Hinton replied that he could not be disciplined "for discussing the fact that I'm pro union in chat." Espy followed with a claim that Hinton was "being disruptive in chat" because there was no union at the company and the group chat was not an appropriate forum because it is an "open forum where supervisors are looking at your chat and you cannot do that."

After Espy informed Hinton that he was "being given a corrective action for professionalism and chat because we asked you to stop and you continued," Hinton protested the discipline as a "shutdown intimidation tactic, which is also kind of iffy and to corrective action for discussing unionization being misconduct is also the legal instead of Florida." Anderson-Blue responded by equating Hinton's post about unionizing with the illegal acts of "yell[ing] fire in a crowded theatre" and going on an airplane and saying, "hijack." She concluded by telling Hinton that "our business chat" was not a proper forum for discussing unionization. "Everyone is not [i]n favor of unions. And again, that's not a platform for that discussion."

Contrary to Espy's claim, Hinton's comment that employees should consider unionizing was no more disruptive or chaotic than an earlier chat comment about pets. However, Hinton was not merely talking about unions. He was soliciting employees in the group chat to unionize: "we would need to unionize to get to know each other and change the policy. [W]e would consider attempting to unionize." Hinton reinforced that idea when he responded to Espy that it was unlawful "to disrupt the open discussion of unionization efforts in the [workplace] as long as it does not disrupt productivity." As the Solicitation Policy has been found to be lawful, Respondent's restraint on Hinton's comments urging employees to unionize did not violate Section 8(a)(1). Accordingly, the allegations at Paragraph 5(a) of the complaint are dismissed.

On the other hand, Espy announced during her chat exchange with Hinton and again during the disciplinary meeting that he could submit his idea of unionization "to People Solutions, not chat." Espy's comment were not, as Respondent contends, mere statements telling Hinton to speak with the People Solutions department if he wanted to discuss company policy. They were broad statements, untethered to Respondent's communications systems, that reasonably conveyed the message that Hinton needed to consult with People Solutions before discussing unions and unionization with coworkers. *Midwest Terminals of Toledo International Inc.*, 365 NLRB No. 158, slip op. at 21 (2017), enfd. 783 Fed. Appx. 1 (D.C. Cir. 2019) (the Board applies the objective standard of whether an employer's statement would reasonably tend to interfere with the free exercise of an employee's statutory rights and does not consider the motivation or actual effect).

As alleged at Paragraph 5(c) of the complaint, Espy's statements telling Hinton to speak with People Resources about the idea of unions or unionization were coercive in violation of Section 8(a)(1) of the Act.

C. The Written Counseling Issued to Hinton

The complaint alleges at Paragraph 6 that Respondent violated Section 8(a)(1) by issuing a written counseling to Hinton on June 22, 2024 because he engaged in union and concerted activities and violated the Solicitation Rule and Espy's announced rule that employees are only permitted to discuss union with the People Solutions department.

Section 8(a)(1) of the Act prohibits an employer from discriminating against employees to hinder or promote protected concerted activity, including union membership. In determining whether an employer unlawfully discriminated against an employee because they engaged in protected activity, the Board applies the test outlined in *Wright Line*, 251 NLRB 1083 (1980), enfd. on other grounds 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Corp.,* 462 U.S. 393, 399-403 (1983). The General Counsel has the burden of establishing that the adverse employment action was motivated by the employee's protected activity. The elements required to establish a prima facie case include union or other protected activity, employer knowledge of that activity, and union animus on the part of the employer. *Intertape Polymer Corp.,* 372 NLRB No. 133, slip op. at 6 (2023), enfd. 2024 WL 2764160 (6th Cir. 2024). Discriminatory motivation "may be inferred from both direct and circumstantial evidence on the entire record as a whole." Id., slip op. at 6–7. Circumstantial evidence "may include, among other factors, the timing of the action in relation to the union or other protected conduct; contemporaneous unfair labor practices; shifting, false, or exaggerated reasons offered for the action; failure to conduct a meaningful investigation; departures from past practices; and disparate treatment of the employee." Id.

If the General Counsel makes a prima facie case, "the burden of persuasion shifts to the employer to demonstrate that the same action would have been taken even in the absence of the protected conduct." *Donaldson Bros. Ready Mix, Inc*., 341 NLRB 958, 961 (2004), citing *Wright Line*, supra at 1089. See also *Cintas Corporation*, 372 NLRB No. 34, slip op. at 5 (2022), citing *Metropolitan Transport LLC d/b/a Metropolitan Transportation Services*, 351 NLRB 657, 659 (2007) (employer's burden not met by merely showing a legitimate reason); *Willamette Industries*, 341 NLRB 560, 563 (2004) (same). When the stated motives for an employer's adverse actions "are found to be false, the circumstances may warrant an inference that the true motive is an unlawful one that the respondent desires to conceal." *Electrolux Home Products*, 368 NLRB No. 34, slip op. at 3 (2019) (noting that the Board may infer from the pretextual nature of an employer's proffered justification that the employer acted out of union animus where the surrounding facts tend to reinforce that inference).

On June 22, Hinton was issued a written counseling for "Misconduct/Professionalism" based on the following actions:

> Failure to comply with company policy, is deemed as misconduct. The specific policy, behavior, and date(s) of non-compliance, are noted below. Today, Daniel was given direction to stop a specific conversation in the main chat. Instead following direction, he continued to question and state legal statements in chat.

The evidence failed to establish a prima facie case of discrimination. It is undisputed that Hinton urged coworkers to consider unionizing. However, there is no evidence that he engaged in concerted *union* activity. Concerted activity includes that which is engaged in with or on behalf of other employees, as well as where an employee brings truly group complaints to the attention of management. See *Meyers Industries,* 268 NLRB 493, 497 (1984) (*Meyers I*), remanded sub nom. *Prill v. NLRB*, 755 F.2d 941 (D.C. Cir. 1985), cert. denied 474 U.S. 948 (1985), on remand *Meyers Industries*, 281 NLRB 882, 887 (1986) (*Meyers II*), affd. sub nom. *Prill v. NLRB*, 835 F.2d 1481 (D.C. Cir. 1987), cert. denied 487 U.S. 1205 (1988). The only concerted activity evident from the

group chat on June 18 was discussion about issues with clocking in. Hinton was the only employee to follow up that discussion with the suggestion that employees consider unionizing, an idea that no other employee picked up on.

With respect to the element of motivation, Espy was aware of Hinton's statements in the group chat and expressed her animus by telling him several times that he could not solicit employees to unionize, he needed to keep those things out of the chat and could only discuss the idea of unionizing with the People Solutions department. Anderson-Blue also demonstrated animus by equating Hinton's solicitation with "yelling fire in a crowded theatre" or saying "hijack" on an airplane. However, Hinton repeatedly ignored admonitions by Espy to stop and leave the group chat in order to meet with her, leading to the discipline for insubordination ("misconduct and lack of professionalism"), not because he solicited other employees to unionize. The record is clear that (1) supervisors routinely stepped into the group chats whenever employees attempted to solicit, and (2) employees who engaged in solicitation stopped at the direction of supervisors and were not disciplined.[34] Thus, Hinton's discipline was neither motivated by nor causally related to his union solicitation.

The allegations at Paragraph 6 of the complaint are dismissed.

II. THE FACIALLY NEUTRAL RULES AT ISSUE

A. The Applicable Standards for Evaluating Work Rules

A facially neutral work rule violates Section 8(a)(1) of the Act if: (1) employees would reasonably construe the language to prohibit Section 7 activity; (2) the rule was promulgated in response to union activity; or (3) the rule has been applied to restrict the exercise of Section 7 rights. *Lutheran Heritage Village-Livonia*, 343 NLRB 646, 647 (2004); *Stericycle, Inc*., 372 NLRB No. 113 (2023).[35] If a rule is not unlawful on its face, it will still be found unlawful if employees could reasonably construe portions of the policy to limit their Section 7 rights. See *Lafayette Park Hotel*, 326 NLRB 824, 825 (1998), enfd. mem. 203 F.3d 52 (D.C. Cir. 1999). With respect to facially neutral work rules that may be reasonably interpreted to restrict Section 7 activity, the Board interprets these rules "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." *Stericycle*, supra at 9. The Board in *Stericycle* restored the standard of interpreting the rule from the perspective of a reasonable employee. Id. at 7-8. If an employee could reasonably interpret the rule to have a coercive meaning, the General Counsel's burden will be met and the law will be found presumptively unlawful, even if a contrary, noncoercive interpretation of the rule is also reasonable. *Lafayette Park Hotel*, supra at 825; *Stericycle*, supra

[34] It is noted that, had the General Counsel established a prima facie case of discrimination, Respondent would not have met its burden of showing that it would have disciplined Hinton in the absence of his solicitation for employees to unionize. Respondent introduced no evidence responsive to the General Counsel's subpoena for discipline issued to employees for using Respondent's IT systems to communicate about nonwork-related topics.

[35] Respondent requested that I recommend that the Board overturn *Stericycle "*in favor of a balanced and common-sense approach." However, in issuing a written decision, the administrative law judge's role is limited to providing "findings of fact, conclusions of law, and the reasons or grounds for the findings and conclusions, and recommendations for the proper disposition of the case." See 29 CFR § 102.45.

at 9. That is so regardless of the employer's intent. Id. at 9-10. However, 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. Id. at 10. If the employer proves its affirmative defense, then the work rule will be found lawful to maintain. Ibid.

B. Proprietary Information and Inventions Agreement

1. Proprietary Information

The Proprietary Information and Inventions Agreement prohibits employees from disclosing "proprietary information." "Proprietary Information," as defined, "includes, but is not limited to information about … terms of compensation and performance levels of Company employees." Rosalez testified that this agreement, which employees are required to agree to as a condition of their employment, is intended to cover "Company-wide aggregated information" and "Company confidential information," and "is not specific to any individual's pay benefits, any type of information that's individual to them." The General Counsel disputes that interpretation and asserts that the disputed language can only be construed as prohibiting employees from disclosing the individual "terms of compensation and performance levels of Company employees."

Both parties provide reasonable interpretations of the agreement's restriction on the "terms of compensation and performance levels of Company employees." However, Rosalez's interpretation that it applies only to "Company-wide aggregated information" and "Company confidential information," is not evident from the language. While the disputed language could be interpreted to apply to company-wide information, it could also be interpreted to apply to individual employees' terms of compensation and performance levels, which would be unlawful.

Because an employee could reasonably interpret the Proprietary Information language to restrict protected Section 7 speech regarding employee compensation, the rule is presumptively unlawful. See *Alternative Entertainment, Inc.*, 363 NLRB 1139, fn. 1, 1146 (2016) (upholding finding that handbook rule prohibiting unauthorized disclosure of "compensation or employee salary information" was unlawful); *Lily Transportation Corp*., 362 NLRB 406, 406 fn. 3 (2015) (upholding finding that handbook rule prohibiting the disclosure of "confidential information" and "employee information maintained in confidential personnel files," which "employees would reasonably conclude" to prohibit "them from disclosing information about wages and other terms and conditions of employment," was unlawful). Cf. *Interstate Management Co.*, 369 NLRB No. 84, slip op. at 6 (2020) (dismissing challenge to a work rule broadly defining "personal information" as confidential, finding that a reasonable employee would understand that the policy covered employer-stored data, not information learned through working relationships).

With respect to Respondent's burden, it is undisputed that Respondent has a legitimate and substantial business interest in protecting its proprietary information from disclosure. However, Respondent failed to demonstrate that it is unable to advance that interest with a more narrowly tailored version of the language that clarifies that the agreement does not prohibit employees from disclosing their individual terms of compensation and performance levels.

Based on the foregoing, I find the portion of the Proprietary Information and Inventions Agreement, which defines Respondent's proprietary information as including information about employees' terms of compensation and performance levels, as alleged at Paragraph 4(b) of the complaint, to be unlawfully overbroad in violation of Section 8(a)(1) of the Act.

2. "Company Authorization for Publication"

The "Company Authorization for Publication" rule requires an employee to obtain Respondent's written consent before "submitting or disclosing for possible publication or dissemination outside the Company any material prepared by [the employee] that incorporates information that concerns the Company's business." In such a case, the rule also authorizes Respondent to require "such deletions and revisions as are reasonably requested by the Company to protect its Proprietary Information and Inventions."

As argued by the General Counsel, an employee would reasonably interpret this publication rule as prohibiting the employee from disclosing any information relating to wages, hours, and other terms and conditions of employment, without first obtaining Respondent's written consent. A reasonable employee would also construe the rule to authorize Respondent to delete or revise the proposed publication. Respondent's purpose for this overbroad rule does not outweigh its chilling effect on protected speech.

Based on the foregoing, I find that Respondent's Company Authorization for Publication rule, which can be construed by reasonable employees as prohibiting them from publishing information about their wages, hours, and other terms and conditions of employment, as alleged at Paragraph 4(b) of the complaint, is unlawfully overbroad in violation of Section 8(a)(1).

3. Home Agent Agreement

In the "Privacy and Use of My Personal Information" section in the Home Agent Agreement, each employee essentially agrees to hold Respondent harmless for any costs or other issues resulting from communications between them through the employee's "personal email, phone, and text messaging accounts." The employee also agrees to "treat all emails and text messages that I receive as Confidential Information and keep them in accordance with the Concentrix Corporate Code of Ethical Business Conduct."

Respondent contends that there is nothing in the agreement barring employees from discussing their wages, schedules, discipline, supervision, or other working conditions. As written, however, an employee would reasonably interpret this agreement as prohibiting the employee from disclosing any information, including any relating to wages, hours, and other terms and conditions of employment communicated by Respondent through employees' personal email, phone, and text messages. The agreement makes no exceptions and classifies any information received through those sources as confidential, thereby preventing employees from sharing it with coworkers.

The record supports Respondent's contention that it has a legitimate and substantial business interest in protecting the sensitive and confidential information work-at-home employees

access, including client information, reports, data, trade secrets, financial information, and business plans. However, Respondent failed to demonstrate that it is unable to advance that interest with a more narrowly tailored version of the language that clarifies that the agreement does not prohibit employees from disclosing their individual wages, hours, and other terms and conditions.

Based on the foregoing, I find the "Privacy and Use of My Personal Information" section in the Home Agent Agreement, which employees could reasonably interpret as prohibiting them from disclosing information relating to their wages, hours, and other terms and conditions of employment, as alleged at Paragraph 4(c) of the complaint, to be unlawfully overbroad in violation of Section 8(a)(1) of the Act.

D. Code of Ethical Business Conduct

1. "Using Technology Appropriately"

The "Using Technology Appropriately" section in the Code of Ethical Business Conduct prohibits employees from using Respondent's technology to "communicate, store, or view inappropriate, sexually explicit, or offensive statements or materials. In addition, you may not use these systems to access illegal material, send unauthorized solicitations, or conduct business for yourself or for another organization."

The General Counsel does not dispute that this rule serves a legitimate and substantial business purpose in prohibiting the use of Respondent's computer and networking systems for "inappropriate, sexually explicit, or offensive statements or materials." However, the General Counsel takes issue with the portion of the rule that prohibits employees from "send[ing] unauthorized solicitations." That argument fails. As discussed above, Respondent's Solicitation Policy bans all solicitation by employees, including any involving labor organizations. The language at issue here mirrors and implements that policy.

The allegations at Paragraph 4(d) of the complaint regarding Respondent's "Using Technology Appropriately" are dismissed.

2. "Social Networking" policy

The Code of Ethical Business Conduct includes a Social Networking policy that requires employees to "exercise caution when using social media, including chat rooms, message forums, and social networking sites. While our Company does not seek to limit our personal or professional interactions on such sites, we are expected to conduct ourselves appropriately in accordance with Company standards." The policy requires employees to take down offensive or inappropriate posts, requires them to identify their own opinions on posts that could be connected to Respondent, and reserves to Respondent the right to have employees remove posts:

> Our Company respects your right to maintain your own blog(s) or post personal comments on social networking sites. However, our Company is committed to ensuring that the use of such communications serves the needs of our business by maintaining our Company's identity, integrity, and reputation in a manner consistent with our values and policies.

Rosalez testified that the Social Networking policy's purpose was to ensure that: (1) employees understood that only company representatives can post anything on behalf of the company; (2) employees' social media posts on social media stated that the posts reflected their opinions and not those of the company; and (3) information that comes from Respondent "is factual" and "in line with our brand and to protect" its business, programs, clients, and customers.

I agree that Respondent's stated considerations serve a legitimate business interest by protecting confidential client information, ensuring productivity, and maintaining a professional working environment necessary to serve Respondent's clients. However, that is not all the rule does. The Social Networking policy gives Respondent complete discretion in determining whether an employee's social media post is "inappropriate" or "serves the needs of our business." Employees could reasonably construe the Social Networking policy as prohibiting any posts critical of Respondent. Posts that could reasonably be considered to run contrary to the "needs of [Respondent's] business" would include concerns expressed with respect to wages, benefits, and other terms and conditions of employment. Respondent's proffered business justification is less than compelling when balanced against the coercive effect the rule has on employees' Section 7 rights.

Based on the foregoing, I find that the "Social Networking Policy" section of the Code of Ethical Business Conduct, which employees could reasonably interpret as prohibiting them from posting social media posts relating to their wages, benefits, and other terms and conditions of employment, as alleged at Paragraph 4(d) of the complaint, to be unlawfully overbroad in violation of Section 8(a)(1) of the Act.

3. "Communicating with External Audiences"

The "Communicating with External Audiences" section of the Code of Ethical Business Conduct prohibits employees from speaking on behalf of Respondent without Respondent's permission and requires employees to forward any "request from the media for information, for an interview, or to author a technical article or present a paper . . . to a member of our Marketing team, who will handle the request or provide support and guidance."

As with the Social Networking policy, Respondent contends that this policy is narrowly tailored to serve its legitimate business interests, ensure that only factually correct information is disseminated to the media, protect confidential client information, ensure productivity, and maintain a professional working environment. Not so. An employee would reasonably interpret this rule as prohibiting any communication with any outside entity, without first forwarding the request to the marketing team, regardless of the nature of the request. Such a requirement would mean that employees would have to relinquish their Section 7 rights by clearing any communications with outside entities about their wages, benefits, and other terms of employment with the marketing team. Balancing Respondent's business interests against employees' interests in protecting their Section 7 rights, the restriction on communicating with external audiences is overly broad.

Based on the foregoing, I find that the "Communicating with External Audiences" section of the Code of Ethical Business Conduct, which employees could reasonably interpret as prohibiting them from communicating with external audiences relating to their wages, benefits,

and other terms and conditions of employment, as alleged at Paragraph 4(d) of the complaint, to be unlawfully overbroad in violation of Section 8(a)(1) of the Act.

CONCLUSIONS OF LAW

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

2. On June 18, 2024, Respondent violated Section 8(a)(1) of the Act by telling employee Daniel James Hinton that he needed to speak with the People Resources department about the idea of unions or unionization.

3. Since about January 3, 2024, Respondent violated Section 8(a)(1) of the Act by implementing and enforcing the following policies or work rules: (a) the Proprietary Information and Inventions Agreement, which defines Respondent's proprietary information as including information about employees' terms of compensation and performance levels; (b) the Company Authorization for Publication rule, which can be construed by reasonable employees as prohibiting them from publishing information about their wages, hours, and other terms and conditions of employment; (c) the "Privacy and Use of My Personal Information" section in the Home Agent Agreement, which employees could reasonably interpret as prohibiting them from disclosing information relating to their wages, hours, and other terms and conditions of employment; (d) the "Social Networking Policy" section of the Code of Ethical Business Conduct, which employees could reasonably interpret as prohibiting them from posting social media posts relating to their wages, benefits, and other terms and conditions of employment; and (e) the "Communicating with External Audiences" section of the Code of Ethical Business Conduct, which employees could reasonably interpret as prohibiting them from communicating with external audiences relating to their wages, benefits, and other terms and conditions of employment.

4. The complaint allegations at Paragraph 4(a) regarding the Solicitation Policy, Paragraph 4(d) regarding "Using of Technology Appropriately," Paragraph 5(a) regarding the directive to Hinton that he was not permitted to discuss unions or solicit other employees to form a union on Respondent's QuickConnect communication system, and Paragraph 6 regarding Hinton's discipline for misconduct/professionalism, are dismissed.

5. Respondent's unfair labor practices affected commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

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

Respondent shall be ordered to rescind the portions of the Proprietary Information and Inventions Agreement, the Home Agent Agreement, and Code of Ethical Business Conduct found to be unlawful or revise those provisions so they are consistent with the terms of the Board's

Decision and Order and provide written notification of the revised versions to Respondent's current and former employees to whom those documents have applied since January 3, 2024.

Respondent will be ordered to post a Notice to employees in English and other languages if the Regional Director determines it is appropriate to do so, text the Notice to employees employed by Respondent since January 3, 2024, and mail the Notice to the last known address of any employees who were employed by Respondent at any time after January 3 , 2024, including employees who are no longer employed by Respondent. Furthermore, Respondent shall be required to notify employees that Respondent will not require employees to discuss unions or unionizing with the People Solutions department.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[36]

ORDER

The Respondent, Concentrix CVG Customer Management Group, Inc., Cincinnati, Ohio, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Telling employees that they need to speak with the People Resources department about the idea of unions or unionization.

(b) Telling employees that they are only permitted to discuss unions with the People Solutions department, and prohibiting them from discussing unions with coworkers and other persons.

(c) Maintaining or enforcing any rules that define terms of compensation and performance levels of employees as proprietary or confidential information.

(d) Maintaining or enforcing any rules that require employees to treat "all" emails and text messages received from the company as confidential.

(e) Maintaining or enforcing any rules prohibiting employees from publishing information about their wages, hours, and other terms and conditions of employment.

(f) Maintaining or enforcing any rules prohibiting employees from posting social media posts relating to their wages, benefits, and other terms and conditions of employment.

(g) Maintaining or enforcing any rules prohibiting employees from communicating with external audiences relating to their wages, benefits, and other terms and conditions of employment.

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

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

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

(a) Upon request by the Union, and to the extent it has not already done so, rescind or lawfully revise the Proprietary Information and Inventions Agreement provision prohibiting employees from disclosing "proprietary information"; the Company Authorization for Publication rule; the "Privacy and Use of My Personal Information" section in the Home Agent Agreement; the "Social Networking Policy" section of the Code of Ethical Business Conduct; and the "Communicating with External Audiences" section of the Code of Ethical Business Conduct.

(b) Within 14 days after service by the Region, notify employees that Respondent will not require employees to discuss unions or unionizing with the Respondent People Solutions department.

(c) Within 14 days after service by the Region, post the attached Notice, marked Appendix,[37] in English and other languages if the Regional Director determines it is appropriate to do so, text the Notice to employees employed by Respondent since January 3, 2024, and mail the Notice to the last known address of any employees who were employed by Respondent at any time after January 3, 2024, including those who are no longer employed by Respondent.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act that were not specifically found.

Dated, Washington, D.C. Novcmber 16, 2026

Michael A. Rosas
Administrative Law Judge

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

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.

YOU HAVE THE RIGHT to discuss union organizing, wages, hours, and/or other terms and conditions of employment with coworkers, and **WE WILL NOT** prohibit you from engaging in such discussions.

WE WILL rescind or lawfully revise the following unlawful policies or work rules:

The Proprietary Information and Inventions Agreement provision prohibiting employees from disclosing "proprietary information."

The Company Authorization for Publication rule.

The "Privacy and Use of My Personal Information" section in the Home Agent Agreement.

The "Social Networking Policy" section of the Code of Ethical Business Conduct.

The "Communicating with External Audiences" section of the Code of Ethical Business Conduct.

WE WILL NOT maintain or enforce any rules that require you to treat "all" emails and text messages received from the company as confidential.

WE WILL NOT maintain or enforce any rules that prohibit you from publishing information about your wages, hours, and other terms and conditions of employment.

WE WILL NOT maintain or enforce any rules prohibiting you from posting social media posts relating to your wages, benefits, and other terms and conditions of employment.

WE WILL NOT maintain or enforce any rules prohibiting you from communicating with external audiences relating to your wages, benefits, and other terms and conditions of employment.

WE WILL NOT tell you that you are only permitted to discuss unions with our People Solutions department, and **WE WILL NOT** prohibit you from discussing unions with coworkers and other persons.

WE WILL NOT maintain or enforce any rules that define terms of compensation and performance levels of employees as proprietary or confidential information.

CONCENTRIX CVG CUSTOMER MANAGEMENT GROUP, 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. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies 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. You may also obtain information from the Board's website: www.nlrb.gov
South Trust Plaza, 201 East Kennedy Boulevard, Suite 530, Tampa, FL 33602-5824
(813) 228-2641, Hours: 8:00 a.m. to 4:30 p.m.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/12-CA-345633 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 (813) 228-2641.