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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In Re Application of
WASTE MANAGEMENT OF
WASHINGTON, INC.
d/b/a WM Healthcare Solutions
of Washington
720 4th Ave. Ste 400
Kirkland, WA 98033-8136

Docket No. TG-120033

DECLARATION OF STEPHEN B.
JOHNSON IN OPPOSITION TO WASTE
MANAGEMENT'S MOTION TO COMPEL
DISCOVERY

I, Stephen B. Johnson, declare as follows:

1. I make this declaration based on my personal knowledge. I am over the age of 18 and competent to testify to the matters addressed herein.

2. I am one of the attorneys for Stericycle of Washington, Inc. ("Stericycle") in this matter.

3. Attached hereto as Exhibit A is a revised page 5 to Stericycle's Supplemental Responses to Waste Management's Data Requests, providing the information previously noted on that page as "To be provided."

4. Attached hereto as Exhibit B is a copy of Waste Management of Washington, Inc.'s 2011 Class A Solid Waste Collection Company Annual Affiliated Interest and

1 Subsidiary Report, as it appears on the web site of the Washington Utilities and Transportation
2 Commission.

3 5. Jessica Goldman's representations in her letter of July 24, 2012, do not
4 accurately reflect the discussions among counsel on July 23, 2012 concerning discovery
5 matters. Stericycle did not agree to produce the items of information recited by Ms. Goldman
6 on p. 4 of her letter in a further response to WM Data Request No. 7.

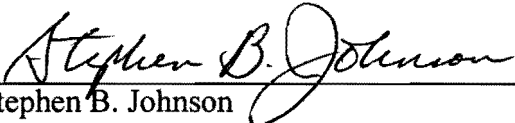
7 6. Attached hereto as Exhibit C is a copy of an email I sent to Jessica Goldman,
8 dated July 25, 2012, after receipt of her July 24, 2012 letter. In my email of July 25, I objected
9 to inaccurate characterizations and representations in her letter of July 24 concerning our
10 clients' discovery disputes and our agreements and declined to be drawn into an exchange of
11 correspondence with Ms. Goldman about those matters.

12 7. During the July 23, 2012, conference call among counsel on discovery issues, I
13 corrected my July 19, 2012 letter to make clear that Stericycle was not committing to provide
14 waste volume data in "pounds" and that such "volume" data might instead be provided in
15 "numbers of containers," consistent with the waste volume data generated by Stericycle's
16 billing system. Counsel for Waste Management raised no objection to receiving waste
17 "volume" data based on "numbers of containers" at that time.

18 8. Attached hereto as Exhibit D is a copy of Jessica Goldman's letter to Stephen B.
19 Johnson, dated July 25, 2012, with respect to Waste Management's responses to Stericycle's
20 data requests.

21 I declare under penalty of perjury under the laws of the State of Washington and the
22 United States that the foregoing is true and correct to the best of my knowledge and belief.

23 EXECUTED this 6th day of August, 2012 at Seattle, Washington

24
25 
26 Stephen B. Johnson

1
2
3 **CERTIFICATE OF SERVICE**

4 I, Vickie L. Owen, certify under penalty of perjury under the laws of the State of
5 Washington that, on August 6, 2012, I caused to be served on the person(s) listed below in the
6 manner shown a copy of DECLARATION OF STEPHEN B. JOHNSON IN OPPOSITION TO
7 WASTE MANAGEMENT'S MOTION TO COMPEL DISCOVERY:

8 Washington Utilities and
9 Transportation Commission
10 1300 S. Evergreen Park Dr. SW
11 PO Box 47250
12 Olympia, WA 98504-7250
13 (360) 664-1160
14 records@utc.wa.gov

- Via Legal Messenger
- Via Facsimile
- Via U.S. Mail, First Class,
Postage Prepaid
- Via Email

15 Administrative Law Judge
16 Gregory Kopta
17 gkopta@utc.wa.gov

- Via Email

18 Jessica Goldman
19 Polly L. McNeill
20 Summit Law Group
21 315 - 5th Avenue South
22 Seattle, WA 98104
23 jessicag@summitlaw.com
24 pollym@summitlaw.com
25 kathym@summitlaw.com
26 deannas@summitlaw.com

- Via Legal Messenger
- Via Facsimile
- Via U.S. Mail, First Class,
Postage Prepaid
- Via Email

21 James K. Sells
22 Attorney at Law
23 PMB 22, 3110 Judson Street
24 Gig Harbor, WA 98335
25 jamesells@comcast.net
26 cheryls@rsulaw.com
*Attorney for Protestant WRRRA, Rubatino,
Consolidated, Murrey's and Pullman*

- Via Legal Messenger
- Via Facsimile
- Via U.S. Mail, First Class,
Postage Prepaid
- Via Email

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Frona Woods
Office of the Attorney General
Utilities and Transportation Division
1400 S. Evergreen Park Drive SW
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1225
(360) 586-5522 Fax
fwoods@utc.wa.gov
BDeMarco@utc.wa.gov

- Via Legal Messenger
- Via Facsimile
- Via U.S. Mail, First Class,
Postage Prepaid
- Via Email

Dated at Seattle, Washington this 6th day of August, 2012.

Vickie L Owen

Vickie L. Owen
vowen@gsblaw.com

Exhibit A

1 **DATA REQUEST NO. 7:** Produce contracts and any other documents reflecting
2 arrangements or transactions between you and any affiliated interest (as that term is defined in
3 RCW 80.16.010). If no documents are available, state a summary of the services provided and
4 the prices or values paid.

5 **SUPPLEMENTAL RESPONSE:** Stericycle, Inc. provides waste treatment and
6 disposal and sales, general and administrative services to Stericycle. Stericycle confirms that it
7 has no contracts or other documents describing these arrangements.

8 The amount charged annually for treatment and disposal of Washington regulated waste
9 is the percentage of the total costs of Stericycle, Inc.'s Morton plant equal to the percentage of the
10 waste containers delivered to Stericycle, Inc. at Morton for treatment and disposal that is
11 collected from Washington customers in regulated service. The amounts allocated to Stericycle
12 for waste treatment and disposal at Morton are included in the treatment and disposal costs
13 shown in Stericycle's annual reports to the Commission.

14 The total costs of Stericycle, Inc.'s Morton plant in 2011 and 2012 (through June 30,
15 2012) are as follows:

16 2011: \$3,505,486

17 2012 (5/31): \$1,298,318

18 The total volumes of waste handled at Stericycle, Inc.'s Morton plant in 2011 and 2012 and total
19 volumes of waste handled at the Morton plant for Washington generators in regulated service are
20 as follows:

	<u>Total</u>	<u>Washington</u>
21 2011:	653,484 containers	484,143 containers
22 2012 (5/31):	293,919 containers	163,553 containers

23 In addition to waste treatment and disposal services, Stericycle, Inc. provides sales,
24 general and administrative (SG&A) services to Stericycle of Washington, Inc, including:
25 Customer payment processing. Credit checking and delinquent account collections. Cash
26

Exhibit B



June 25, 2012

Washington Utilities and Transportation Commission
Chandler Plaza Building
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA. 98504-7250

Dear Sirs:

Subject: 2011 Class "A" Annual Affiliated Interest and Subsidiary Report

Please find enclosed the 2011 Class "A" Affiliated Interest and Subsidiary Report for Waste Management of Washington, Inc. (G-237).

If you have any questions or need additional information, please contact me at (425) 814-7840.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michael A. Weinstein'. The signature is written in a cursive style with a long horizontal line extending to the right.

Michael A. Weinstein
Senior Pricing Manager, Pacific Northwest Market Area

cc: Dean Kattler
Joe Krukowski

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**CLASS A
SOLID WASTE COLLECTION COMPANIES
ANNUAL AFFILIATED INTEREST AND SUBSIDIARY REPORT**

Waste Management of Washington, Inc. 720 4th Avenue, Suite 400 Kirkland, WA 98033-8136	
Full name and address of Company	Correct name and address, if different than shown

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
for the
YEAR ENDED DECEMBER 31, 2011**

<i>For Commission Use Only</i>	
Reception Number: _____	001-111-02-68-227-11: _____ Ref. No. _____
001-111-02-68-227-01: _____	001-111-02-68-032-08: _____

Original form to be mailed to the Washington Utilities and Transportation Commission, PO Box 47280, Olympia, WA 98504-7280
Web Site: www.wutc.wa.gov

CERTIFICATION

I certify that I, Michael A. Weinstein, the responsible official for Waste Management of Washington, Inc. have examined the attached Annual Affiliated Interest and Subsidiary Report; that to the best of my knowledge, information, and belief all statements of fact contained in said report are true, and said report is a correct statement of the affiliated interest and subsidiary transactions of Waste Management of Washington, Inc. in respect to each and every matter set forth therein during the period from January 1 to December 31, 2011, inclusive.

Name (Printed): Michael A. Weinstein Title: Senior Pricing Manager

Signature:  Date: June 25, 2012

SOLID WASTE ANNUAL REPORT

AFFILIATED INTEREST AND SUBSIDIARY TRANSACTIONS

1. Company Identification:

Full and Exact Name: Waste Management of Washington, Inc. Solid Waste Certificate No. G- 237
Doing Business As: See attached list of Trade Names

2. Annual Report/Accounting Contact Person:

Name:	<u>Michael A. Weinstein</u>	Title:	<u>Senior Pricing Manager, Washington Market Area</u>
Mailing Address:	<u>720 4th Avenue, Suite 400</u>	City/State/Zip:	<u>Kirkland, WA 98033-8136</u>
Physical Address:	<u>Same as above</u>	City/State/Zip:	<u>Same as above</u>
Telephone Number:	<u>(425) 814-7840</u>	FAX Number:	<u>(425) 814-7866</u>
E-mail Address:	<u>mweinstein@wm.com</u>	Web Site Address:	<u></u>

3. Type of Business Structure (check that which applies):

Sole Proprietorship Partnership Corporation Other (LP, LLP, N/A LLC, etc.)

4. Affiliated interests and subsidiaries:

a. Affiliated Interest or subsidiary:

Waste Management, Inc.

b. Address:

<u>Corporate Offices:</u>	<u>Western Group Offices:</u>
<u>1001 Fannin Street</u>	<u>7025 N. Scottsdale Road</u>
<u>Suite 4000</u>	<u>Suite 200</u>
<u>Houston, TX 77002</u>	<u>Scottsdale, AZ 82553</u>

c. Corporate organization chart:

Attached

5. Summary of transactions:

Waste Management, Inc. provides general and administrative services to Waste Management of Washington, Inc.

Schedule 2 – Additional information required by WAC 480-70-079(3)

(a) Balance sheet and income statement:

Attached for Waste Management, Inc.

(b) Description of products or services:

Customer payment processing, Credit checking and delinquent account collections, Cash management and treasury services, Investor relations and shareholder communications, SEC compliance and reporting, Procurement services, Information Technology services, Real estate services, Accounting services and GAAP compliance, Federal, state and local tax compliance, Accounts payable processing, Payroll and benefits administration, Human resource services, Workers' compensation administration, Risk management (insurance) administration, Safety program support services, "Service Machine" support and administration (enhanced customer service), Engineering services, Federal and state environmental regulatory compliance, Legal services

(c) Description of pricing basis:

Allocation based on proportionate share of total operating expenses less disposal charges and taxes

(d) Description of loans:

None

(e) Description of any obligations or liabilities assumed:

None

(f) Description of affiliated interest activities:

Comprehensive Waste and Environmental Services in North America

(g) List all common officers and directors:

Name	Company Title	Affiliated Interest Title
Duane C. Woods	President	Senior Vice President, Western Group
Cherie C. Rice	Vice President & Treasurer	Vice President, Finance & Treasurer

**WASTE MANAGEMENT OF WASHINGTON, INC.
REGISTERED TRADE NAMES**

Brem-Air Disposal

Cascade Recycling Center

Envirocycle

Federal Way Disposal

Graham Road Recycling and Disposal Facility

Greater Wenatchee Regional Landfill and Recycling Center

Nick Raffo Garbage

North Cascades Disposal

Olson's Sanitation Service

Olympic View Transfer Station

Port - O - Let

R.S.T. Disposal

Recycle America

Recycling Northwest

Rural Skagit Sanitation

Spokane Material and Recycling Technology Center

Stanwood Camano Disposal

Tri-Star Disposal

Valley Garbage

Washington Waste Hauling & Recycling, Inc.

Washington Waste Systems

Waste Management

Waste Management - Marysville

Waste Management - North Sound

Waste Management - Northwest

Waste Management - Rainier

Waste Management - Sno-King

Waste Management - South Sound

Waste Management of Addy

Waste Management of Ellensburg

Waste Management of Greater Wenatchee

Waste Management of Kennewick

Waste Management of Seattle

Waste Management of Skagit County

Waste Management of Spokane

Waste Management of Yakima

Western Refuse

WM Envirocycle

WM Healthcare Solutions of Washington, Inc.

Exhibit C

Steve Johnson

From: Steve Johnson
Sent: Wednesday, July 25, 2012 11:55 AM
To: 'Jessica Goldman'
Cc: 'Woods, Fronda (UTC)'; jamesells@comcast.net; Polly McNeill; Jared Van Kirk
Subject: RE: Waste Management's Data Requests

Jessica,

Just to be clear, we do not accept your letter as an accurate representation of our phone call on discovery issues. We had a substantial dialogue on many issues related to discovery, only some of which you have captured in your email. In the parts you have discussed, we believe that there are consistent mischaracterizations of our statements during the call and Stericycle's positions, as stated in that phone call and in Stericycle's prior responses to your data requests.

We do not believe a one-sided letter writing campaign is consistent with or conducive to a good faith effort to resolve discovery disputes. We do not believe it is necessary to spend our time responding to your written statements when both sides have already agreed to additional production and to the resolution of outstanding issues by motions to compel. Our remaining differences will be resolved on those motions and not by an exchange of letters full of one-sided posturing. We will reserve our responses to your most recent letter until we see your motion to compel.

We will continue to work on the production of additional information, as agreed in the phone call and in my letter to you of July 20. When this supplemental production has been completed, we can reconvene to see where we are.

Steve

From: Jessica Goldman [<mailto:jessicag@SummitLaw.com>]
Sent: Tuesday, July 24, 2012 5:17 PM
To: Steve Johnson; Jared Van Kirk
Cc: 'Woods, Fronda (UTC)'; jamesells@comcast.net; Polly McNeill
Subject: Waste Management's Data Requests

Steve and Jared,

Please see the attached letter. Thanks.

Jessica L. Goldman
Summit Law Group PLLC
315 Fifth Ave. S., Suite 1000
Seattle, WA 98104-2682
tel: (206) 676-7062
fax: (206) 676-7063
www.summitlaw.com

----- Summit Law Group -----
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Exhibit D

SUMMIT LAW GROUP®

a professional limited liability company

JESSICA L. GOLDMAN
DID: (206) 676-7062
EMAIL: jessicag@summitlaw.com

July 25, 2012

Via Email

Stephen B. Johnson
Jared Van Kirk
Garvey Schubert Barer
1191 Second Avenue, 18th Floor
Seattle, WA 98101-2939

Re: Waste Management's Supplemental Response to Stericycle's Data Requests

Dear Steve and Jared:

I write to follow up on and confirm our discussion on July 23 in regard to Waste Management's supplementation of its responses to Stericycle's discovery requests.

DR Nos. 12(Y), 15, 45.

You asked again whether there are any documents which reference the "nature of services" offered by Waste Management which Waste Management has not produced. Again, I answered affirmatively and referred you to our stated objections.

DR No. 18.

You requested that we advise of, alternatively, the names of Waste Management customers signed up for the BD ecoFinity program in Washington or the number of such customers. We will provide this information.

DR No. 20

I confirmed that Waste Management will produce correspondence and contracts with the six generators named in this Data Request.

315 FIFTH AVE S SUITE 1000
SEATTLE, WASHINGTON 98104
telephone 206 676-7000
facsimile 206 676-7001
www.summitlaw.com

Stephen B. Johnson
July 25, 2012
Page 2

DR No. 21

You advised that Waste Management need not produce the information requested in this Data Request pending your review of the materials we produce in response to Data Request No. 20.

DR No. 22

You explained that you seek the information requested in this Data Request based on your theory that Waste Management has improperly discounted its recycling services to attract biomedical waste business and your theory that Waste Management has improperly characterized its BD ecoFinity program as recycling. We will produce correspondence between Mr. Norton and any generators related to recycling.

DR No. 29

You agreed that you are satisfied with Waste Management's response to this Data Request.

DR Nos. 33, 35-36

You reiterated your request for the documents and information in these Data Requests. I reiterated our objections and that you are not entitled to discovery on these subjects.

DR No. 38.

In follow up to our prior discussion, I advised that we would provide you information regarding the requested lawsuits but we will not produce responsive documents. You agreed that we need not produce the documents.

DR No. 39

In follow up to our prior discussion, I advised that we would provide you the requested information. We will also produce responsive documents concerning Waste Management's biomedical waste services.

DR No. 40

I have consulted with Waste Management further in regard to this Data Request. Waste Management has a call center which handles customer calls from throughout the West Coast. There are more than one hundred employees who staff this call center. We do not believe that any information about customer complaints which may be found in the call center logs is relevant to the issue of Waste Management's regulatory fitness or justifies the burden of reviewing logs for possible customer complaints. Regulatory

Stephen B. Johnson
July 25, 2012
Page 3

fitness addresses whether the applicant has been found to have violated any state laws or Commission regulations. To the degree there are any relevant complaints about Waste Management's services, those complaints are available from the Commission.

DR No. 10.

You reiterated your request for Waste Management's entire customer list. You contend that Stericycle needs this information to contact Waste Management's customers and demonstrate to the Commission what is desired by the generator community. I reiterated our previous objections and noted that Stericycle currently serves the large majority of Washington generators and should have no trouble accessing the views of the generator community.

Sincerely,

SUMMIT LAW GROUP PLLC

A handwritten signature in black ink, appearing to read "J L Goldman", written in a cursive style.

Jessica L. Goldman

cc: Fronda Woods
James K. Sells
Polly L McNeill