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February 23, 2001

David Brighton
UFCW Members For Democracy
10031 2nd Avenue
Richmond, B.C.
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Dear Mr. Brighton,

Re: Request for particulars regarding UFCW Local 777 and Local 1518 Retail Clerks Pension Plan

I am writing in response to your request for particulars and my opinion regarding the pensioning of UFCW Local 777 staff members in the UFCW Local 1518 Retail Clerks Pension Plan (The Local 1518 Plan). Likewise, I will give you my observations in regard to a letter addresses to you from Bruce Rollick on "Strategic Services letterhead.

First and foremost, I suggest that Mr. Rollick's historical account of how Local 777 staff came to be vested in The Plan is inaccurate, inasmuch as it leaves out critical events. As well, I am puzzled as to why Mr. Rollick was identifying himself at a CLC pension conference as a representative of Watson Wyatt Worldwide as recently as February 6, 2001, yet he steers clear of identifying himself as being associated with Watson Wyatt Worldwide in his letter. This is troubling as Watson Wyatt Worldwide, as The Local 1518 Plan administrator, is the entity you would expect to hold the historical records of the transactions. Likewise, one would expect that Watson Wyatt Worldwide would be the appropriate entity to respond, on behalf of the Plan Trustees, to your queries.

Nevertheless, to properly understand the issues, you will have to know the history of how Local 777 came to be and the complex nature of how the original Local 777 Collective Agreement came to be.

History

Early in 1998, I was the Principal Officer of Textile Processors, Service Trades, Health Care, Professional and Technical Employees International Union Local 299 (The Textile Processors). That International Union was an affiliate of the Teamsters International Union. The Textile Processors represented retail grocery employees in two Extra Foods stores and a Super Valu store. The Textile Processors had been promised voluntary recognition for all "big box" stores to opened in BC by Loblaws Companies subsidiary Westfair Foods. In 1998, the Teamsters Union had made overtures to the Loblaws Companies to represent the yet-to-be-opened BC Real Canadian Superstores. As principle Officer of the Textile Processors, I approached the Teamsters to tell them to quit interfering in my deal for the Superstores, as those stores had been promised to my union. The ensuing conversation with the Teamsters led to an agreement that I would roll my retail grocery members into the Teamsters, they would hire me as a business agent and they would charter a new local to represent the Superstore employees. The merger took place and the Teamsters chartered Local 711 in late 1988. This caused a row with Cliff Evans the UFCW Canadian Director. He claimed that the Teamsters were in effect "raiding" UFCW jurisdiction by cutting a deal with Loblaws.

Just before Teamsters Local 711 was chartered, Cliff Evans met with Teamsters officials in Washington D.C. to voice his opposition to the Teamsters accepting voluntary recognition from Loblaws subsidiary. When he left, I understand he went back to Toronto, Ontario where he met with Richard Currie the President of Loblaws Companies. Through those discussions he was directed to meet with a Loblaws Vice President Andrew W. Smith. Consequently, the Teamsters were advised that Loblaws would not be able to grant them voluntary recognition for their Real Canadian Superstore in B.C. The reason given was that Mr. Evans had persuaded Loblaws to give the members to him, and that he has promised to create a new local union to facilitate the new members. In a sworn affidavit Mr. Smith said:

On the 9th of November, 1988, Mr. Clifford Evans, acting in his capacity as Vice-President and Canadian Director of the Defendant International, proposed that, in return for a voluntary recognition by the Plaintiff by virtue of a Collective Agreement to be negotiated immediately between the Defendant International and Westfair, the Defendant International would not require the Plaintiff to deal with the Defendants, Local 1518 and Local 2000, in the Province of British Columbia, but, rather, would arrange for the creation of a new Local of the Defendant International to be known as "Local 777". On the 10th day of November, 1988, it was agreed by myself for the Plaintiff in the Province of British Columbia, and the Defendant, Clifford Evans, acting as a Vice President and Canadian Director of the Defendant International, that the Defendant, Clifford Evans, would take all necessary steps to have the Defendant International issue a new Charter for a new Local of the Defendant International in British Columbia, which would have exclusive jurisdiction over all employees of the Plaintiff in the Province of British Columbia, at their Extra Food stores, and their real Canadian Superstores, to be opened in 1989 and onwards in the Province of British Columbia.

At this time, Mr. Smith advised me that the Real Canadian Superstores were not going to go to the newly-formed Teamsters local. However, he told me that he had asked Mr. Evans if the UFCW would consider placing me as president of the new local union. If that were not possible then the company would prefer either Gib Whitlock, the president of Local 401 or Brian Stewart, president of Local 1400 to be the new local's president. I was told that I was unacceptable as a president because the other UFCW locals would be too upset. However, it was arranged for me to be hired by the new local and Gib Whitlock was placed as the new president. I was told by Mr. Smith to expect a call from Cliff Evans. In the late fall of 1988, Mr. Evans called me at about 7:00 a.m. in the morning and asked me to meet him at the Bayshore Hotel in Vancouver. I met him for breakfast, he offered me a job with the UFCW, and I accepted.

Prior to Mr. Evans approach to Loblaws, he had a meeting with several UFCW presidents—including Brooke Sundin of Local 1518 and Leif Hansen of Local 2000. He apparently outlined the Teamster threat and was given the OK to do whatever it takes to keep the Teamsters out of UFCW jurisdiction.

From right after my meeting at the Bayshore with Cliff Evans, I began work on putting together the collective agreement that was to cover the yet-to-be-hired Westfair Foods employees. Before the new local was chartered, I asked if it could be numbered Local 711, but was advised that that number was already issued. I then asked if 777 was possible, and as it wasn't assigned, that number was eventually given to the new local. Local 777 was eventually chartered to Gib Whitlock, his wife, Cliff's girlfriend and her sister, Jerry Sullivan, Local 401's business manager and me. I was the only BC resident.

The first draft of the agreement contained Article 42, which stated that, "The Employer agrees to participate in and contribute to the Canadian Commercial Workers' Industry Pension Plan" (CCWIPP). Westfair was to contribute 53 cents per hour for all hours paid. However, as the opening of the Superstores came closer the Local 1518 members started becoming agitated about the fact that a special deal was brewing for Superstore. I was advised that Brooke Sundin was starting to waver in his support of the new local union. To keep Brooke

steadily, we negotiated a new Article 42 whereby pension contributions were to be directed to the Local 1518 Retail Clerks Pension Plan.

Nevertheless, I complained that the The Local 1518 Plan's 8000 hour vesting was ridiculous because no Superstore employee would ever last long enough to vest. Superstores were notorious for and had a CA designed for high turnover of all employees. Therefore, at my insistence, Appendix "B" – Short Term RRSP Option was negotiated. It provided an \$1,800 RRSP for employees who resigned between 2,401 hours of service and 2,601 hours. Employees who resigned between 3,441 hours of service and 3,641 hours of service would receive a \$2,500 RRSP. In early January 1989, I left for a one-week vacation, and when I returned, I found that 50 cents per hour had disappeared from the Departmental Assistant start rate. I was told that that wage reduction was negotiated by Cliff Evans to compensate Westfair Foods for the anticipated cost of Appendix "B". I understand that Westfair saved at least \$1 million from the 50-cent reduction and paid out less than \$50 thousand in RRSPs. That would have been an astounding ROI for them.

In late December 1988 and early January 1989, UFCW organizers were allowed free access to employees at a new Extra Foods Store in Kelowna. Quite a few of the "employees" were brought in temporarily from Local 401 stores in Alberta, and just about all the organizers were Local 410 business agents. When the contract was ratified, the media went into a frenzy and so did Local 1518 and 2000 members. I would assume that activity was behind Locals 1518 and 2000's contact with the UFCW International to ask that the Local 777 deal be stopped.

In response to the media attention to the new low wage, low benefit CA, Andy Smith, Geoff McMullen (the former assistant to Cliff Evans who went to work for Loblaw's.), Gib Whitlock and myself flew to Seattle. Once there, we "re-jigged" the Collective Agreement to try to appease the International, the media and Locals 1518 and 2000. For example, the original CA had pay rates for 1989 only, so we added wage rates to make it look as if the four-year agreement would come close to matching Local 1518's rates by its end. We flew back to Vancouver and had the new CA ratified by the employees at the Metrotown Superstore that was about to open. I contacted media outlets and chastised them for inaccurate reporting. I told them that the CA they were quoting from was an "early draft" not the final document. I provided them with the re-jigged CA. I did the same with some other unions, and received apologies from them.

As history shows, Brooke and Leif's efforts to stop Local 777 were unsuccessful. However, because of Brooke's involvement in trying to stop Local 777, Gib Whitlock and Westfair Foods made a decision to withhold pension contributions to The Local 1518 Plan.

In around 1990 the pension contributions were still being held in trust by Westfair, and Brooke was starting to make noises that his plan was owed the Westfair pension contributions. About the same time, Local 777 hired Jim Smith, an International Representative, on Cliff Evans' instructions. Jim was brought on to boost his income and pension as he was near retirement. That's when Cliff asked Gib to see to it that the contributions went into the Local 1518 plan. Westfair and Gib didn't want to place the money in The Local 1518 Plan, so Cliff started negotiating with Brooke and Canada Safeway's Don Monk. I told Gib that if Brooke wanted the Westfair money bad enough, he would have to guarantee two-year vesting as opposed to the 8000-hour vesting. I was informed that we were successful in getting Brooke and Don Monk to agree to the two-year vesting, but I didn't hear about the past service credits for Jim and Gib until the deal was done. I heard that Don Monk was "holding up" the deal, and Gib told me that Cliff had promised to get a hold of Monk and tell him to get the deal done. That was when Cliff wrote to Brooke to basically tell him to get moving and do the deal. That's when he insisted that approval in "principle" wasn't good enough, so he told them, "This must be finished – approved – prior to the next step being taken."

The deal was struck and Westfair placed the pension monies held in trust into the The Local 1518 Plan. A short while after that, Canada Safeway's Don Balletto visited Local 777's offices on Buller Avenue to complain about Superstores unfair advantage in scheduling employees. It became obvious that he had information that could have only come from Westfair's pension contribution figures. Balletto apparently admitted to Gib and Jim that Brooke had OK'd his access to Westfair's pension data. Westfair's management became angry to the point that they agreed with Whitlock to negotiate out of the The Local 1518 Plan and into the CCWIPP, where Local 777 members remain to this day.

Mr. Rollick's Letter

The factual history does not match Mr. Rollick's account of how Jim Smith, Gib Whitlock and the rest of Local 777 members including myself came to be in The Local 1518 Plan. Jim Smith was not at any way involved in the original negotiation of Local 777 members' entry into The Local 1518 Plan. If he had any input at all, it was not until Cliff Evans started persuading Local 1518 to do a deal to appease Local 777 and Westfair Foods. As I have previously stated, the original deal was for the members to be placed in CCWIPP.

The special two-year vesting for Local 777 members and "prior service benefits" for Jim Smith and Gib Whitlock were not discussed until 1990. In 1989 when the original "deal" was done, Jim Smith wasn't even a Local 777 employee, and the vesting for Local regular Local 777 members was 8000 hours—the same as a regular member in The Local 1518 Plan. Therefore, Mr. Rollick is mistaken in his account of when the "special" vesting deal was done.

You may find it interesting to note that though many of the new employees brought into BC to open the new Superstores were UFCW members from other provinces. However, they were not included in the special deal for "prior service benefits." Only Jim Smith and Gib Whitlock received those benefits. All other Local 777 members, myself included, were credited only to January 1989, when Westfair started opening its new stores and I was hired.

I am not a lawyer, so I advise you to seek legal advice on my next observation. Mr. Rollick says that the "...benefits [received by Jim Smith and Gib Whitlock] was [sic] insignificant relative to the benefit gained for the existing Plan members." That may be so, but it does not alter the fact that Jim Smith, and Gib Whitlock, or Cliff Evans on their behalf, seem to have negotiated a deal that gave themselves significant benefits over and above those afforded their members. They were the only UFCW members in Local 777 to receive "prior service benefits" related to their membership in the UFCW. If they received those valuable benefits specifically for turning over their members and their pension contributions to The Local 1518 Plan then I would advise you to investigate whether such benefits constitute illegal payments, bribes or kickbacks.

As second troubling point is that Mr. Rollick, who was employed by Watson Wyatt Worldwide at the material time, seems to condone unnecessary payouts from The Local 1518 Plan because there is a net gain for The Local 1518 Plan. I find such a laissez-faire attitude toward needless expenditures shocking. Perhaps Watson Wyatt Worldwide can explain to you how the Trustees met their fiduciary duty by allowing such a deal. If the benefits received by Jim Smith and Gib Whitlock are comparatively "insignificant", perhaps a Watson Wyatt representative could explain at what point and how much of a benefit would be considered "significant" in relation to the benefit gained by the plan. Furthermore, considering that the original deal didn't include the past service benefits,

Jim Smith, Gib Whitlock et al. may or may not be found to have engaged in a criminal act by offering and accepting what might be interpreted to be illegal payments, bribes or kickbacks. It may take a careful reading of the Criminal Code or other statutes to answer that question. However, one or more of them must have been in a severe conflict of interest by spending trusted funds for personal gain. I find it hard to believe that said dealings are a "normal practice" as Mr. Rollick asserts they are. If it is, it makes no practical or logical sense. Giving

pensions to people with maximum pension benefits is tantamount to giving the old lady who lived in a shoe, one more child. How did any of the participants exercise their fiduciary duty to the members of The Local 1518 Plan or to the rank-and-file members of Local 777?

While Mr. Rollick states that, "...the participation of Local 777 members in the Plan would have been positive for the existing Plan members," He fails to express how such a deal would have been beneficial to Local 777 members employed by Westfair Foods. From my understanding of pension plans and relying on Mr. Rollick's admission that the Local 777 group "would also have much higher turnover," I'm confounded by the fact that such a young group with the potential to create enormous amounts of "breakage" would see it in their best interest to go into The Local 1518 Plan. On their own, and with high turnover, they could had had the benefit of an almost completely self-funding pension plan that could generate many contribution holidays for the members. If not, then if left on their own they might have created a fund so flush with cash that their pension benefits could much exceed those offered by The Local 1518 Plan. I guess a big questions are, did The Local 1518 Plan benefit to the detriment of Local 777 members? Did the negotiator(s) of the deal exercise due diligence and fiduciary duty?

Finally, a question that needs answering is, how could there be a net gain from UFCW Local 777 past service benefits, when Loblaws subsidiary Westfair Foods is the employer that put the cash into The Local 1518 Plan? There are two employers that play a part in this pension scheme, Westfair Foods and UFCW Local 777. The amount that UFCW Local 777 put in, if any amount at all, would have been truly insignificant compared to the benefit its employees, Jim Smith and Gib Whitlock received. Did Loblaws' funds pay for the past service of Jim Smith and Gib Whitlock?

Mr. Brighton, I could go on, but perhaps it might be beneficial if you could have Watson Wyatt Worldwide clarify some of the issues I have raised. When they respond, I will be only too happy to respond to any related questions at that time.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Hugh Finnamore".

Hugh Finnamore
Senior Consultant