

May 13, 2002

PERSONAL AND CONFIDENTIAL

UFCW, Local 1518

4021 Kingsway  
Burnaby, B.C.  
V6H1A6

Attention: Mr. Ivan Limpright Secretary/Treasurer

Dear Sirs and Madames:

Re- Overwaitea Food Group Memorandum of Understanding"I"

You have asked us to provide our opinion with respect to the steps which the Union should take if it determines that it is appropriate to declare that the Loman collective agreement is void.

In this opinion letter, we will not address the reasons why the Union will declare that the collective agreement is void. We will instead deal with the steps which the Union should take once it advises Loman that the collective agreement is void.

Once Loman is advised in writing that the Union has declared that the collective agreement is void, we suggest that the Union also notify the Overwaitea Food Group of the union's declaration. The Union's position in its Labour Relations Board applications is that Overwaitea is the true employer of the Warehouse employees, or in the alternative, is a common employer with Loman with respect to those employees. Accordingly, Overwaitea's interests are affected by the Union's declaration that the collective agreement is void, so Overwaitea should be notified.

We suggest that the next step that the Union should take is to hold a strike vote. The logistics of holding such a vote may be complicated so it may be best to begin that process as soon as possible. Collective bargaining need not take place before a strike vote is taken. However, before any strike commences, collective bargaining in good faith must have occurred.

Therefore, at the same time as the Union is making preparations for a strike vote, it should contact both Loman and Overwaitea to advise them that the Union wishes to commence collective bargaining. The Union should reiterate its position that Overwaitea is the true employer of the Langley warehouse employees, or in the alternative is a common employer with Loman with respect to those employees. We anticipate that both Overwaitea and Loman will refuse to engage in collective bargaining with the Union.

If either Loman or Overwaitea does agree to engage in collective bargaining with the Union, then the Union must meet to attempt to negotiate in good faith a collective agreement. Given

the circumstances, however, we suspect, that such bargaining would not be of a lengthy duration.

Once bargaining breaks off, the Union will be in a position to serve 72 hour strike notice pursuant to the *Code* (assuming that the Union has obtained a strike mandate from its members) Once notice is served on the Labour Relations Board, the union will be in a position to strike 72 hours later.

We hope that this is the information that you require. If you have any questions regarding this matter, please do not hesitate to contact the writer or Donald W. Bobert of our office.

Yours very truly,

Shortt, Moore & Arsenault

SHONA A. MOORE, Q.C.

SAM/cjn