

EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN R. KABLER, JR.,

Plaintiff,

v.

**UNITED FOOD AND COMMERICAL
WORKERS UNION, LOCAL 1776
KEYSTONE STATE, et al.,**

Defendants.

:
:
: **CIVIL ACTION NO.**
: **1:19-cv-00395 SHR**
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DECLARATION OF WENDELL W. YOUNG, IV

I, Wendell W. Young, IV, declare, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, based on my personal knowledge, that the following facts are true and correct:

1. I am currently the President of the United Food and Commercial Workers Union, Local 1776 Keystone State (“Local”), and work at its main office at 3031-A Walton Road, Plymouth Meeting, PA 19462. I have been the President of the Local since 2005.

2. As President of the Local, I am familiar with the Local’s process for accepting and welcoming new union members, including new members working for the Pennsylvania Liquor Control Board (“PLCB”). I am also familiar with the Plaintiff’s authorization of dues deduction from his paycheck, the materials and

correspondence provided to Plaintiff regarding union membership, and the current and prior Collective Bargaining Agreements (“CBA”) as they relate to union membership.

I. The Local’s Presence at New Employee Orientations.

3. As President, I direct staff representatives to attend new employee orientations for PLCB employees.

4. At such orientations, the Local speaks directly to new employees and provides them with information regarding membership in the Local.

5. The contents of the Local’s presentation at such orientations is entirely the creation of the Local and is not subject to the approval of the Commonwealth of Pennsylvania or any of its agents or employees. In fact, neither the Commonwealth of Pennsylvania, nor its agents or employees, had any input whatsoever into the content of the Local’s presentation or the content of the Local’s membership application, which included its political action committee (“PAC”) contribution authorization and dues deduction authorization.

6. During the Local’s presentation, it is my understanding that neither the Commonwealth of Pennsylvania, nor its agents or employees, encourage, discourage, or otherwise opine on the merits of union membership and employee-elected dues deductions or political action contributions.

7. After an employee chooses to become a member of the Local, the Local sends the new member a “Welcome Letter,” and a membership card. Once again, the “Welcome Letter” and the membership card are entirely the creation of the Local and are not subject to the approval of the Commonwealth of Pennsylvania or its agents or employees. In fact, neither the Commonwealth of Pennsylvania, nor its agents or employees, had any input whatsoever into the contents of the Local’s Welcome Letter or its membership card.

8. In addition to the above, the Local provides members with information about their membership, including an excerpt entitled “Membership Information.” (A true and correct copy of the “Membership Information” sent to new members in 2017 is attached to this Declaration as Exhibit “A”). The Local created this document without any input from the Commonwealth.

9. Based on my review of the Local’s records, between April 10, 2017 and July 17, 2018, the PLCB hired 2,131 new employees in the bargaining unit represented by the Local. Of those 2,131 employees, 1,305 became members of the Local, while 826 chose to be non-members.

10. Based on my review of the Local’s records, on or about June 2, 2017, the Local sent Plaintiff a Welcome Letter, which I signed, after he decided to become a member of the Local. (*See Compl.*, Ex. B.)

11. Based on my review of the Local's procedures, prior to receiving the Welcome Letter, Plaintiff was also sent a copy of the then-current CBA, as confirmed by the Welcome Letter, which states that the CBA was sent to Plaintiff and advises Plaintiff to read the CBA. (*See Compl., Ex. B.*)

II. Plaintiff's Complaint.

12. On March 7, 2019, Plaintiff served the Local and certain named officers, including myself, with the Complaint at issue in this lawsuit.

13. Since Plaintiff's Complaint met the requirements of revocation under the terms of his dues deduction authorization, in that it was in writing and provided to the Local within Plaintiff's window, the Local considered it a timely, written request to revoke Plaintiff's authorization. Accordingly, the Local accepted Plaintiff's revocation.

14. The decision to accept Plaintiff's Complaint as a revocation of his authorization was made solely by the Local. The Commonwealth had no influence over, or input into, the Local's decision, nor did it seek to influence or otherwise impact the Local's decision.

15. On or about April 2, 2019, I sent correspondence via certified mail to Plaintiff confirming that he was no longer a union member, and further informing him that the Local was considering his Complaint a timely, written request to revoke his dues deduction authorization and that, accordingly, he would no longer pay union

dues effective April 10, 2019. (A true and correct copy of the April 2, 2019 letter is attached to this Declaration as Exhibit “B”)

16. On or about April 10, 2019, Liana Reed, an employee of the Local, sent correspondence via certified mail and email to Ed Phillips, the Chief of the Bureau of Labor Relations in the Commonwealth’s Office of Administration, informing him that dues deduction for Plaintiff should cease. (A true and correct copy of the April 10, 2019 letter is attached to this Declaration as Exhibit “C”)

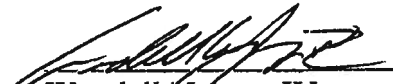
17. Subsequently, the Local contacted the Commonwealth of Pennsylvania which confirmed that, after the April 18, 2019 payroll date (the next one following April 10, 2019), union dues deduction from Plaintiff’s paycheck ceased.

III. Maintenance of Membership Is No Longer Referenced in the CBA.

18. On June 26, 2019, the Pennsylvania Liquor Control Board, on behalf of the Commonwealth, and the Local ratified a successor collective bargaining agreement, with a term from July 1, 2019, through June 30, 2023. In the new CBA, Article 4 no longer has any provision regarding maintenance of membership or fair share fees. (A true and correct copy of the revised Article 4 CBA language is attached to this Declaration as Exhibit “D.”)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 18, 2019.



Wendell Young, IV

EXHIBIT A

Membership Information

Membership dues and initiation fees

All members of United Food and Commercial Workers (UFCW) Local 1776 are required to pay membership dues in addition to an initiation fee. The amount varies according to the member's employer and job classification. Dues and initiation fees are deducted by employers through weekly, bi-weekly or monthly payroll deductions. These deductions are remitted monthly to Local 1776. In accordance with the Constitution of the UFCW International Union, all employees covered by a collective bargaining agreement with Local 1776 are affiliated into the union 30 days after their date of hire. Appropriate dues are deducted starting with the first payroll period for most new members of Local 1776. The policy of Local 1776 is that dues are payable one month in advance. Therefore, the dues that are deducted from the first payroll period for a new member are applied to the corresponding week in the following month which is the same period as the affiliation date. Each member is responsible for dues during any period(s) in which he or she is an employee of an employer covered by a collective bargaining agreement with Local 1776, but does not receive a paycheck, i.e. approved sick leave, personal leave, vacation, short term disability, etc. up to a six month period beyond the date of his/her leave.

Initiation fees also are deducted through payroll deductions starting with the fifth pay period. The appropriate initiation fee is deducted over several pay periods.

In accordance with a U.S. Supreme Court decision, you have the right to refrain from being a member of the Union. Employees who are not members of the Union are required to pay as a condition of employment an agency fee and, when applicable, initiation fees. Under the Local 1776 policy on agency fee objections, an employee who is not a member of the Union, but who pays agency fees pursuant to the union security clause, may request a reduction in that fee based on objection to certain kinds of Union expenditures. Public employees in Pennsylvania are covered by the fair share fee system applicable to them, and are not covered by this policy. Local 1776 provides an objection period each year during the month of September, followed by a reduction in the objector's fee for the 12 months beginning with November and running through October of the following year.

Local 1776's objection policy: the agency fee payable by objectors is based on the Union's expenditures for those activities or projects "germane to collective bargaining, contract administration and grievance adjustment" within the meaning of applicable U.S. Supreme Court decisions. Among these "chargeable" expenditures are those for negotiations with employers, enforcing collective bargaining agreements, informal meetings with employer representatives, discussion of work-related issues with employees, handling employees' work-related problems through the grievance procedure, administrative agencies or informal meetings, and union administration. Among the expenditures treated as "non-chargeable," which objectors are not required to support, are those for community service (including participating in charitable events), legislative activity, cost of affiliation with non-UFCW organizations, support of political candidates, participating in political events and recruitment of members to the Union and members-only benefits.

Objectors will be given a full explanation of the basis for the reduced fee charged to them. The explanation will include a more detailed list of the categories of expenditures deemed to be chargeable and those deemed to be non-chargeable, and a report by accountants showing the Union's expenditures on which the fee is based. In addition to any other avenue of relief available under the law, objectors will have the option of challenging the Union's calculation of the reduced fee before an impartial arbitrator appointed by the American Arbitration Association, and a portion of the objector's fee shall be held in escrow while he or she pursues that challenge. Details on the method of making such challenge and the rights accorded to those who do so will be provided to objectors along with the explanation of the fee calculation.

Objections for the period of November through October must be sent during the month of September. In addition,

agency fee payers who are new to the bargaining unit may object within 30 days of receiving this notice. If for any reason a new bargaining unit member begins paying agency fees prior to receiving this notice, he or she may object retroactively to the commencement of such payments and for the duration of the current annual objection period. The letter of objection should include the name, address, work location, employer and Social Security number. Objections must be sent to UFCW Local 1776, Agency Fee Administrator, Walton Campus, 3031-A Walton Rd., Suite 201, Plymouth Meeting, PA 19462.

The advantages of becoming a member of the Union are significant. If you chose to be a non-member fee payer, you do not have the right to vote on the terms of your contract, the right to participate in the development of contract proposals, the right to nominate and vote for officers of the union, the right to attend the international convention as a delegate, the right to participate in strike votes and the right to numerous other benefits available to members only. Therefore, we urge you to become a member of the Union.

Classification changes & balance of initiation fees

Members who are promoted from one job classification to another, i.e. Customer Service Attendant to Part-Time Clerk; Part-Time Clerk to Full-Time Clerk, are required to pay the difference in the initiation fee to conform with the new classification. This difference can be paid through payroll deductions or directly by the member.

Suspensions and reinstatements

It is each bargaining unit member's responsibility to remain a member or agency fee payer in order to protect his or her rights as defined by the collective bargaining agreement. If an employee fails to maintain these obligations, the employer is required to remove the employee's name from the work schedule and he or she will not be permitted to work. Any member of the Union not current in dues for a period of two consecutive calendar months automatically shall be suspended from membership in accordance with the Constitution of the UFCW International Union.

In cases of suspension of a member, a reinstatement fee of \$5 shall be charged.

Withdrawal cards - membership protection

Any member who is no longer employed within the jurisdiction of UFCW Local 1776 should notify the Union office immediately and request a withdrawal card. The card is valid indefinitely and entitles the member on withdrawal to return to the UFCW International Union, AFL-CIO, in the United States or Canada without payment of a further initiation fee. A withdrawal card will be issued only if all appropriate dues and initiation fees have been paid covering any period up to the date a member permanently leaves employment covered by a collective bargaining agreement with Local 1776. If there is any outstanding balance for dues and/or initiation fees, the member's record will be suspended. If a former member with a suspended record returns to employment within one year with any employer covered by a collective bargaining agreement within the jurisdiction of UFCW Local 1776, he or she will be required to pay any previous outstanding balance plus a reinstatement fee of \$5. If the return to employment with any employer covered by a collective bargaining agreement within the jurisdiction of UFCW Local 1776 is later than one year, the appropriate initiation fee will be charged based on the employer and job classification.

Change of address; change of job

Please notify the Union office if you change your name, address or place of employment. It is your responsibility as a member to keep all records current with UFCW Local 1776. The various Health and Welfare and Pension Fund offices, in addition to the UFCW Local 1776 Federal Credit Union, that service the benefits of the membership of UFCW Local 1776 are completely separate organizations and maintain their own respective member/beneficiary

records, i.e., name, address, employer, etc. Therefore, a member must inform each of the appropriate organizations of any change in name, address and employer.

Hours of operation

The Union's administrative office hours are 9am to 4:30 pm Monday through Friday, except holidays. The Union's offices are equipped with voice mail boxes for all representatives and departments. Members have the convenience of leaving messages for their representative at any hour.

Offices are in the areas of Gettysburg, Harrisburg, Philadelphia and Wilkes-Barre (see back page.) The main office of Local 1776 is: Walton Campus, 3031-A Walton Rd., Suite 201, Plymouth Meeting, PA 19462. The Internet address is www.ufcw1776.org.

Credit Unions

The United Food and Commercial Workers Local 1776 Federal Credit Unions have been established for the benefit of the members of Local 1776 and their families and operate as full service Credit Unions. For more information, contact their offices: 1-888-244-2604 (toll-free) or 610-941-2804 in Plymouth Meeting, or 570-693-4072 or 570-693-0500 in Wilkes-Barre.

Health and Welfare/Pension Funds

The health and welfare and pension benefits for the members of UFCW Local 1776 are administered by the following funds based on the member's employer. The appropriate fund will communicate with new members when they become eligible for benefits:

The UFCW Local 1776 and
Participating Employers Health & Welfare Fund
www.ufcw1776benefitfunds.org

The UFCW Local 1776 and
Participating Employers Pension Fund
www.ufcw1776benefitfunds.org

The UFCW Local 1776 and
Participating Employers Legal Trust Fund
www.ufcw1776benefitfunds.org

The above funds are administered at:

Walton Campus, 3031-B Walton Road
Plymouth Meeting, PA 19462
610-941-9400 or (toll-free) 1-800-458-8618

UFCW Central PA & Regional Health and Welfare Fund
Room 214, 150 S. 43rd Street
Harrisburg, PA 17111
717-561-9932 or (toll free) 1-800-225-7741
www.ufcw1776benefitfunds.org

UFCW Health and Welfare Fund of Northeastern PA
2007 Highway 315
Suite 201
Pittston, PA 18840
570-655-0554 or (toll-free) 1-800-578-5899
www.ufcw1776benefitfunds.org

UFCW Pension Fund of Northeastern PA
Walton Campus, 3031-B Walton Road
Plymouth Meeting, PA 19462
610-941-9400 or (toll free) 1-800-458-8618
www.ufcw1776benefitfunds.org

UFCW Union and Participating Food Industry Employers
Tri-State Pension Fund
Walton Campus, 3031-B Walton Road
Plymouth Meeting, PA 19462
610-941-4282 or (toll free) 1-866-828-8329
www.ufcw1776benefitfunds.org

EXHIBIT B



FOUNDED IN 1937

April 2, 2019

WENDELL YOUNG IV
President
MICHELE L. KESSLER
Secretary-Treasurer
ANTHONY M. HELFER
Recorder

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – 7017 2680 0000 2304 0338

John Kabler

Dear Mr. Kabler:

We are writing to confirm that you are no longer a member of UFCW Local 1776KS, and that your dues deductions will cease effective April 10, 2019, the anniversary of your authorization of union dues deductions.

To be clear, we did attempt to communicate with you on multiple times on this subject. After you requested to stop dues deductions in 2018, we contacted you and explained your rights and our dues revocation policy. Local 1776KS also spoke to you again very recently in March 2019. We did so solely on our own initiative to inform you that you were within your revocation window during which you can stop dues deductions. When our representative called and attempted to give you this reminder, you talked over him and would not let him speak. After a brief time on the phone, you hung up on him. He tried to call you back but you did not answer. Two days later, we were informed you had sued Local 1776KS and others.

As we originally advised you in 2018, the request simply needed to be both in writing and made timely. Given that you filed your Complaint against Local 1776KS within the proper revocation period, we will consider such filing a timely, written request to stop deductions and we will process it accordingly.

Local 1776KS has successfully fought against the privatization of the PLCB for years and preserved your job and the jobs of your coworkers. We will continue this fight- on behalf of both members and non-members. If you have any questions at all, please do not hesitate to contact us or have your legal counsel do so.

Sincerely,

Wendell Young IV
President, UFCW Local 1776KS

MAIN OFFICE: Walton Campus • 3031A Walton Road, Suite 201 • Plymouth Meeting, Pennsylvania 19462-2344
Phone: (610) 940-1776 • 1-800-822-3737 • 1-866-329-1776 Fax: (610) 941-9525 www.ufcw1776.org

CENTRAL PA DIVISION (Gettysburg/Harrisburg)
3161 Chambersburg Road • Biglerville, PA 17307-9405 • 1-800-332-9421
150 S. 43rd Street, Suite 214 • Harrisburg, PA 17111 • 1-866-329-1776 • Fax (717) 558-3512

N.E. PA DIVISION • 2007 Highway 313, Suite 100 • Pottsville, PA 18640-6105
(570) 855-8886 or 1-800-836-8994 Fax (570) 855-8884

WESTERN PA and the OHIO VALLEY DIVISION • 346 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317
(724) 514-3228 or 1-800-245-2424 Fax (724) 514-3238



EXHIBIT C



FOUNDED IN 1937

WENDELL YOUNG IV
President
MICHELE L. KESSLER
Secretary-Treasurer
ANTHONY M. HELFER
Recorder

April 10, 2019

CERTIFIED MAIL - RETURNED RECEIPT REQUESTED - 7017 2680 0000 2304 0376

Mr. Ed Phillips
Chief, Bureau of Labor Relations
PA Office of Administration
404 Finance Building
613 North Street
Harrisburg, PA 17120

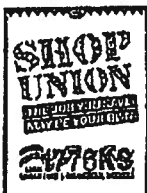
Dear Mr. Phillips:

Please note that Pennsylvania Liquor Control Board employee John Kabler (Store #) is no longer a member of UFCW Local 1776KS. Effective today, April 10, 2019, union dues should no longer be deducted from Mr. Kabler's pay, pursuant to his request to Local 1776KS that such deductions cease.

If you have any questions please do not hesitate to contact me at 610-940-1776, ext.

Sincerely,

Liana Reed
Membership Services
lreed@ufcw1776.org



MAIN OFFICE: Wallon Campus • 3031A Wallon Road, Suite 201 • Plymouth Meeting, Pennsylvania 19462-2344
Phone: (610) 940-1776 • 1-800-822-3737 • 1-866-929-1776 Fax: (610) 941-9525 www.ufcw1776.org

CENTRAL PA DIVISION (Gettysburg/Harrisburg)
3161 Chambersburg Road • Biglerville, PA 17307-9405 • 1-800-332-8421
150 S. 43rd Street, Suite 214 • Harrisburg, PA 17111 • 1-866-329-1776 • Fax (717) 558-3512

N.E. PA DIVISION • 2007 Highway 315, Suite 100 • Pittston, PA 18640-8105
(570) 855-8885 or 1-800-633-6994 Fax (570) 855-8864

WESTERN PA and the OHIO VALLEY DIVISION • 345 Southpointe Boulevard, Suite 300, Canonsburg, PA 15317
(724) 514-3228 or 1-800-245-2424 Fax (724) 514-3238

Affiliated with the United Food and Commercial Workers International Union

EXHIBIT D

ARTICLE 4

MAINTENANCE OF MEMBERSHIP AND DUES DEDUCTION CHECKOFF

~~A. Each employee who is or becomes a member of the Union shall maintain such membership for the duration of this Agreement provided that such employee may resign from the employee organization within the 15 days prior to the expiration of this Agreement upon written notice by certified mail, (return receipt requested) to the Employer and the Union.~~

B. The Employer agrees to deduct dues and initiation fees, ~~as defined in Article III, Section 301, Paragraph 11 of Act 195. Said deductions shall be made from the wages of employees who have provided upon proper written authorization for such deductions from the employee.~~ The Union shall certify to the Employer the amount of Union dues to be deducted biweekly, and dues at this rate shall be deducted for each biweekly pay period for which the member is paid. Dues shall also be deducted from back pay awards and from pay received to supplement workers' compensation to the extent monies are available after appropriate deductions are made.

An employee's dues deduction authorization shall remain in effect until expressly revoked in writing by the employee in accordance with the terms of the authorization. When it is determined by the Union that an employee's payroll dues deductions should cease, the Union shall be responsible for notifying the Employer. Such notices shall be communicated in writing and shall include the effective date of the cessation of payroll dues deduction. The Employer shall rely on the information provided by the Union to cancel or change authorizations.

C. The Employer further agrees to deduct from the wages of employees having executed the authorization in Section B of this Article an annual assessment, if any, upon certification of the assessment by the Union to the Employer.

~~D. The Employer and the Union hereby agree that all non-members of the Union shall be subject to a fair share fee as provided for in Act 84 of 1988 (S.B. 291) and any amendments thereto. The fair share fee shall be deducted biweekly from all employees in the bargaining unit who are not members of the Union.~~

~~Authorization from non-members to deduct fair share fees shall not be required. The amounts to be deducted shall be certified to the Employer by the Union, and the aggregate deductions of all employees shall be remitted together with an itemized statement to the Union by the last day of the succeeding month, after such deductions are made.~~

E. The Union shall indemnify and hold the Commonwealth harmless against any and all claims, suits, orders, or judgments brought or issued against the Commonwealth as a result of any action taken or not taken by the Commonwealth under the provisions of this Article.

~~F. The above authorization shall be irrevocable during the term of this Agreement.~~

G. The Employer shall furnish each new employee with a copy of this Agreement together with an authorization for dues payroll deduction, provided the Union has furnished the Employer with sufficient copies of the Agreement containing the authorization for dues payroll

deduction.

H. Upon written request of the Union, the Employer shall, on a monthly basis, provide a statewide list of all employees who have been hired including their work locations and most recent date of hire. The Union shall be given the opportunity to speak to newly hired bargaining unit members during new employee orientation.