

December 13, 2016

Smart Choice Transport Ltd.
410 - 4974 Kingsway Avenue
Burnaby, BC V5H 4M9

Via email: ricardo@smartchoicetransport.com
Original to follow via mail

Attention: Ricardo Forrester

CTC Decision No. 21/2016 - Decision Notice

Following receipt of an anonymous complaint alleging that Smart Choice Transport Ltd. ("Smart Choice") was paying less than the required minimum rates of remuneration required under the *Container Trucking Act* to directly employed operators ("company drivers") the Commissioner directed an auditor to audit Smart Choice's records to determine if Smart Choice was paying its company drivers in compliance with the minimum rates of pay required by the *Container Trucking Regulation* (the "Regulation"). The auditor was directed to audit the period running from April 28, 2016 to July 27th, 2016 (the "Complaint Audit Period").

The auditor reviewed all information requested from and provided by Smart Choice and determined that during the Complaint Audit Period Smart Choice was using a non-compliant method of recording hours worked and as a result underpaid its drivers during the Complaint Audit Period.

Having discovered through the audit of the Complaint Audit Period that Smart Choice was paying company drivers using a non-compliant method of recording hours worked, the Auditor expanded the audit to examine the months predating the Complaint Audit Period (April 3, 2014 – April 27th, 2016) and the period which followed (July 28th to August 13, 2016.). The expanded audit process and findings are recorded at paragraphs 14 – 20 of Commissioners Decision No. 21/2016 (the "Decision").

In the Decision I determined that this was an appropriate case to issue a penalty for the reasons set out in paragraphs 21 - 35. In that regard, I proposed to impose an administrative fine against Smart Choice in the amount of \$8,000.00. Consistent with s. 34(2) of the *Act* I advised Smart Choice that I would consider its written response to the proposed penalty if it was received within 7 days.

Smart Choice has not provided a written response within the time specified in the notice.

In the result I hereby order Smart Choice to pay an administrative fine in the amount of \$8,000.00. Section 35(2) of the *Container Trucking Act* requires that this fine be paid within 30 days of the issuance of this Notice. Payment should be made by delivering to the Office of the BC Container Trucking Commissioner ("OBCCTC") a cheque in the amount of \$8,000.00 payable to the Minister of Finance.

Finally, I note that Smart Choice may request a reconsideration of the Commissioner's Decision by filing a Notice of Reconsideration with the Commissioner not more than 30 days after Smart Choice receipt of this Decision Notice. A Notice of Reconsideration must be:

- a. made in writing,
- b. identify the decision for which a reconsideration is requested,

- c. state why the decision should be changed,
- d. state the outcome requested,
- e. include the name, an address for delivery, and telephone number of the applicant and, if the applicant is represented by counsel, include the full name, address for delivery and telephone number of the applicant's counsel,
- f. signed by the applicant or the applicant's counsel.

Despite the filing of a Notice of Reconsideration, the above orders remain in effect until the reconsideration application is determined. This Order will be published on the Commissioner's website.

Yours truly,

OFFICE OF THE BC CONTAINER TRUCKING COMMISSIONER



Duncan MacPhail
Commissioner