



September 17, 2018

Roadstar Transport Company Ltd.  
PO Box 1090 - 222 Burton Avenue  
Princeton, BC V0X 1W0

Via email  
Original via mail

## **Roadstar Transport Company Ltd. (CTC Decision No. 20/2018) – Decision Notice**

### **A. Overview**

In Roadstar Transport Company Ltd. (CTC Decision No. 20/2018) (the “Original Decision”), I determined that Roadstar Transport Company Ltd. (“Roadstar”) violated section 24(2) of the *Container Trucking Regulation* (the “*Regulation*”) on two occasions and also violated section 24(2) of the *Regulation* on six other occasions (including the issuance of two sets of cheques with the same issuing date). I also found that some of records provided to the Office of the BC Container Trucking Commissioner (“OBCCTC”) auditor by Roadstar had been falsified and that Roadstar, as of July 6, 2018, remained non-compliant for failure to remunerate its I/Os for container trucking services performed in May 2018. An administrative fine of \$50,000.00 was proposed and, consistent with s. 34(2) of the *Act*, Roadstar was given 7 days to provide a written response setting out why the proposed penalty should not be imposed.

Roadstar provided a written argument in response to the proposed penalty within the specified timeframe. I have considered Roadstar’s submission and provide the following Decision Notice.

### **B. Roadstar’s Response**

Roadstar argues that the proposed penalty should not be imposed. Its arguments are as follows:

- a. Roadstar drivers were paid after March 20, 2018 as evidenced by records provided by Roadstar to the OBCCTC auditor.  
Roadstar argues that it provided cheque clearance records to the auditor indicating that Roadstar drivers were paid after March 20, 2018. Roadstar attributes its contravention of section 24(2) of the *Regulation* to payroll delays which have now been rectified with the introduction of a new payroll system.
- b. Roadstar I/Os have made spurious complaints.  
Roadstar cites investigations undertaken by the OBCCTC auditor and cited in the Original Decision which determined that Roadstar I/Os also provided container trucking services for brokers. Roadstar argues that such activity is evidence that one of its I/Os is unloyal and not trustworthy. As such, Roadstar states that a complaint from this I/O (does not specify the I/O) should be considered spurious.
- c. The OBCCTC auditor erred when confirming receipt of cheque with a Roadstar I/O.  
Roadstar argues that one of the I/Os contacted by the OBCCTC auditor does not speak English well, and, as such, could not be relied upon to confirm that he had not received a May 31, 2018 cheque from Roadstar because he may have “stated wrongly” or have been “misunderstood”.

- d. Roadstar never intended to provide falsified records.  
Roadstar argues that the records provided to the OBCCTC auditor, which were intended to demonstrate that Roadstar drivers had been paid for the period April 16 to 30<sup>th</sup>, 2018, were sent “inadvertently” by Roadstar office staff and were later correctly resubmitted. Roadstar maintains that it never had any intention of submitting falsified documents.
- e. Roadstar does not owe money to its drivers for container trucking services performed in May 2018.  
Roadstar has supplied records intended to demonstrate that its drivers have been paid for container trucking services performed in May 2018. As a result, Roadstar contests the Order in the Original Decision requiring that Roadstar pay each I/O owed money for container trucking services performed in May 2018. Money orders (not cheques) were to be made out to each Roadstar I/O owed money for container trucking services performed in May 2018 and were to be delivered forthwith and in any event no later than August 7, 2018, to the OBCCTC for distribution to Roadstar I/Os.

### C. Consideration of Roadstar’s Response

Roadstar submits that it provided cheque clearance records to the auditor indicating that Roadstar drivers were paid after March 20, 2018. Roadstar does not dispute its contravention of section 24(2) of the *Regulation*. Roadstar notes that its violations of section 24(2) of the *Regulation* were a result of payroll delays that have now been rectified with the introduction of a new payroll system which will avoid future delays in payments to I/Os. Yet, Roadstar has not provided any evidence demonstrating that a new payroll system has been introduced and the OBCCTC has since received a complaint from a Roadstar driver (August 17, 2018) that Roadstar pays its drivers two months after work has been performed in contravention of section 24(2) of the *Regulation*.

Roadstar is also attempting to impugn those I/Os who have made complaints to the OBCCTC against the company by suggesting that their complaints are false and cannot be trusted on the grounds that previous activity by some Roadstar I/Os – specifically the provision of container trucking services by Roadstar I/Os to other companies – demonstrates their disloyal and untrustworthy nature. This is not an argument that I will consider. I see no correlation between an I/O’s choice to provide services to another company and the veracity of an I/O complaint made to the OBCCTC.

Roadstar further argues that one of the I/Os contacted by the OBCCTC auditor does not speak English well, and, as such, should not have been relied upon when he advised that he had not received a May 31, 2018 cheque from Roadstar because he may have “stated wrongly” or have been “misunderstood”. The auditor confirms that she spoke with two I/Os in order to confirm that cheques dated May 31, 2018 were issued in a timely manner and notes that one I/O had no difficulty communicating in English while the second I/O did struggle. As such, on July 18, 2018, one of the OBCCTC’s staff spoke with the second I/O in Punjabi and confirmed his statement that, as of mid-June 2018, he had not received his cheque dated May 31, 2018 representing work performed during April 2018.

In the Original Decision it was found that Roadstar provided falsified records to the Commissioner. Roadstar does not dispute that it sent inaccurate documentation. Rather, Roadstar argues that the

records provided to the OBCCTC auditor, which were intended to demonstrate that Roadstar drivers had been paid for the period April 16 to 30<sup>th</sup>, 2018, were sent “inadvertently” by Roadstar office staff who accidentally “mixed and matched copies”. My finding regarding the falsification of records was based upon a review of the records conducted by the auditor and was referenced in paragraph 11 of the Original Decision:

After close examination of the clearing information stamped on the backs of the above noted cheques, the auditor determined that the placement of the bank stamps confirming clearance, along with smudges around the bank stamps and the above-noted clearing numbers on the backs of the cheques dated May 31, 2018 appear identical to “partner” cheques dated May 15, 2018. The auditor is of the opinion that Roadstar altered (using a photocopier) copies of the four cancelled cheques issued on May 31, 2018 to make it appear that these cheques had cleared the bank and that its I/Os had been issued payment for the period April 16-30, 2018 in accordance with section 24(2) of the *Regulation*.

The findings of the auditor noted above suggest that the photocopying activity was conducted in such a way as to ensure that information on the back of the cheque copies matched exactly with a set of previously issued cheques. Roadstar argues that staff photocopying errors resulted in the provision of falsified documents but does not provide any other explanation as to how the records in question could have been accidentally altered to the degree that a complete set of documents was produced and provided which demonstrated compliance with section 24(2) of the *Regulation*. Therefore, I find that Roadstar’s submission is not credible and I do not accept its version of events.

Roadstar also contends that its resubmission of the correct documents demonstrates its intention to not mislead the OBCCTC auditor but does not address paragraphs 12-15 of the Original Decision concerning the re-submitted documents. As set out in those paragraphs, the auditor again questioned the veracity of the cheque images supplied by Roadstar and advised that Roadstar may have once again used a photocopier to make it appear that the cheques cleared on earlier dates. Again, I am not inclined to accept Roadstar’s submission on this matter.

The record keeping requirements of the Licence are intended to assist licensees, drivers and the OBCCTC in ensuring compliance. Previous decisions have discussed instances of failure to keep and maintain records as required, noting that such failures will almost certainly result in a penalty. In this case, Roadstar was found to have intentionally falsified records which is a finding of a much more serious nature and the proposed penalty reflects this finding.

Finally, I note that Roadstar has provided records intended to demonstrate that its drivers have been paid for container trucking services performed in May 2018. Roadstar argues that the provision of these records demonstrates that it has met the Order in the Original Decision to pay each Roadstar I/O owed money for container trucking services performed in May 2018. In the Original Decision, Roadstar was ordered to deliver to the OBCCTC money orders (not cheques), made out to each Roadstar I/O owed money for container trucking services performed in May 2018 and deliver forthwith, and in any event no later than August 7, 2018, the money orders to the OBCCTC for distribution to Roadstar I/Os. Roadstar did not comply with this Order when it provided the OBCCTC with records of pay as part of its August 7, 2018 submission. Rather, copies of cancelled cheques dated June 15 and 30, 2018 were provided. Examination by the auditor of the bank clearing stamps on these cheques indicates that the June 15, 2018 cheques were cashed around the second week of July and the June 30, 2018 cheques

were cashed around the last week of July 2018. This raises questions regarding the timing of the cheques' distribution or the unusually long period of time between cheque distribution and cashing. It is the auditor's opinion that these payments were made in contravention of section 24(2) of the *Regulation*.

#### **D. Conclusion**

Having carefully considered Roadstar's submission, and for the reasons outlined above and in my Original Decision, I will not refrain from imposing a monetary penalty. In the result, I hereby order Roadstar Transport Company Ltd. to pay an administrative fine in the amount of \$50,000.00. Section 35(2) of the *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 a cheque in the amount of \$50,000.00 payable to the Minister of Finance.

Finally, I note that Roadstar Transport Company Ltd. may request a reconsideration of the Commissioner's Decision by filing a Notice of Reconsideration with the Commissioner not more than 30 days after the company's 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; and
- f. signed by the applicant or the applicant's counsel.

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

Dated at Vancouver, B.C., this 17<sup>th</sup> day of September, 2018.



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Michael Crawford, Commissioner