



May 4th, 2017

Forfar Enterprises Ltd.
17471 29 Avenue
Surrey, B.C. V3Z 0E7

Via email: goforfar@gmail.com
Original via mail

Attention: Ivan Morton

Dear Sir:

Re: Forfar Enterprises Ltd. (CTC Decision Nos. 20 and 20A/2016) - Decision Notice

In February of 2016, the then Acting Commissioner directed that an audit of Forfar Enterprises Ltd. ("Forfar") be undertaken. The purpose of the audit was to determine if Forfar was paying its directly employed operators ("company drivers") the minimum rates required under the *Container Trucking Regulation* (the *Regulation*). The audit review periods identified in the Acting Commissioner's direction were April 1-30, 2015 and October 1-31, 2015.

Based upon the audit results I concluded that Forfar was engaged in non-compliant compensation practices and ordered Forfar to:

- a) correct its non-compliant behavior;
- b) take all necessary steps to identify and calculate the monies owing to its drivers as a result of its failure to comply with the *Act* and *Regulation*;
- c) pay its drivers the monies found to be owing; and
- d) report to the auditor with regards to these matters by no later than January 6th, 2017.

See *Forfar Enterprises Ltd.* (CTC Decision No. 20/2016) (the "Original Decision").

In the Original Decision I reserved on the matter of penalty and advised Forfar that upon receiving a supplemental report from the auditor, I would make a decision on whether or not an administrative penalty was appropriate in the circumstances.

It was determined through the supplemental audit process and review that as a result of Forfar's failure to comply with the *Act* and *Regulation* it owed a further \$8,352.99.

Forfar acknowledged that it owed its drivers the above described amount and paid the \$8,352.99 adjustment owing to its drivers. By making this payment Forfar brought itself into compliance with the minimum rates of pay required under the *Act* and *Regulation*.

Following receipt of the auditor's supplemental report and payment by Forfar of the outstanding adjustment owing, I issued a further decision addressing the penalty issue. See *Forfar Enterprises Ltd.* (CTC Supplemental Decision No. 20A/2016) (the "Supplemental Decision").

In the Supplemental Decision I determined that this was an appropriate case to issue a penalty for the

reasons set out in paragraphs 12 - 19. In that regard, I proposed to impose an administrative fine against Forfar in the amount of \$1,500.00. Consistent with s. 34(2) of the *Act* I advised Forfar that I would consider its written response to the proposed penalty if it was received within 7 days.

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

In the result I hereby order Forfar to pay an administrative fine in the amount of \$1,500.00. 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 \$1,500.00 payable to the Minister of Finance.

Finally, I note that Forfar may request a reconsideration of the Commissioner's Decision by filing a Notice of Reconsideration with the Commissioner not more than 30 days after Forfar'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,
- 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