



January 5, 2021

Aditya Mathur
Badh & Associates
#2015 – 7495 132 Street
Surrey, BC V3W 1J8

Via Email: mathur@bandalaw.ca

Attention: Aditya Mathur

Re: Notice of Order against Safeway Trucking Ltd. and Coast Pacific Carrier Inc. to Comply with the *Container Trucking Act* (the “Act”) and Container Trucking Services Licence (the “Licence”)

In Safeway Trucking Ltd./Coast Pacific Carrier Inc. (CTC Decision No. 11/2020) it was found that Safeway Trucking Ltd. and Coast Pacific Carrier Inc. (together the “Companies”) failed to pay one driver for all hours of container trucking services performed. The audit findings indicated that for the period between March 27, 2017 and April 17, 2017 the Companies owed one driver \$2,628.00 for 100 hours of container trucking services performed. The Companies were ordered to pay an administrative penalty of \$15,000.00 in Safeway Trucking Ltd./Coast Pacific Carrier Inc. (CTC Decision No. 11/2020) – Decision Notice.

The Companies applied for reconsideration. In a reconsideration decision dated December 14, 2020 (CTC Reconsideration Decision No. 14/2020), I concluded that a \$15,000 penalty remained appropriate. However, I also decided that the imposition of the penalty should be deferred pending the submission of evidence substantiating the Companies’ assertion that the economic impact of COVID-19 on the Companies has resulted in unusual financial hardship with the result that the Companies are unable to pay the \$15,000.00 administrative fine in one lump sum. The Companies were given until December 21, 2020 to provide evidence demonstrating unusual financial hardship.

The Companies provided evidence by the required deadline. Specifically, the Companies provided five (5) documents, including a covering letter from counsel which stated that:

We ask that you lower the penalty, or in alternative, permit the Companies to pay the penalty in installments because the Companies will not be able to pay the entire penalty of \$15,000.00 in lumpsum.

We submit that given the current economic landscape, the imposition of the penalty will directly impact the drivers and employees of the Companies. We sincerely hope that you will appreciate that the Companies are in grave financial stress and despite all adversities, the Companies have done everything possible to ensure that the employees and drivers are not laid off and that timely payments are made.

The details of the remaining four (4) documents are as follows:

- Document 2: September 2020 bank statement of Coast Pacific Carrier Inc. indicating a negative balance;
- Document 3: October 2020 bank statement of Coast Pacific Carrier Inc. indicating a negative balance;
- Document 4: November 2020 bank statement of Coast Pacific Carrier Inc. indicating a negative balance; and
- Document 5: A December 18, 2020 letter of support from the Port Transportation Association noting that the Commissioner has allowed the payment of a penalty in installments on the basis of financial hardship.

The Companies seek a reduction in the penalty quantum or, in the alternative, approval to pay the penalty in installments. The Companies sought a reconsideration of the penalty ordered in Safeway Trucking Ltd./Coast Pacific Carrier Inc. (CTC Decision No. 11/2020) – Decision Notice and argued that the penalty should either have not been imposed or reduced on the basis that it was not just and equitable. The Companies arguments were dismissed, and the quantum of the penalty was not reduced. The reasons why the penalty was imposed and was not reduced were addressed in the reconsideration and will not be readdressed here.

The imposition of the penalty was deferred pending submission of additional materials. I have reviewed the documents and find that they demonstrate that the Companies have been suffering financial hardship during the months of September, October and November 2020.

I have previously ruled that the COVID-19 pandemic poses a unique set of circumstances which have resulted, among other things, in the Government of British Columbia deeming trucking to be an essential service.¹ On this basis it is important that the Companies continue to provide trucking services at this time and that their drivers are paid pursuant to the *Act* and in accordance with the timelines set out in the *Container Trucking Regulation*.

Ministerial Order No. MO98 Limitation Periods (COVID-19) Order No. 2, issued under the *Emergency Program Act* and now enacted by s. 3 of the *Covid-19 Related Measures Act* [SBC 2020], c. 8, allows a person, tribunal or other body that has a statutory power of decision to waive, suspend or extend a mandatory time period relating to the exercise of that power.

Under this authority, I am extending the time period in which the Companies are required to pay the full amount of the penalty to April 1, 2021. The Companies are permitted to pay the penalty in three monthly installments of \$5,000.00, with the first payment due on February 1, 2021, the second payment due on March 1, 2021, and the final payment due on April 1, 2021.

¹ Commissioner Order to Comply, April 27, 2020, "Notice of Order against Gur-ish Trucking Ltd. to Comply with the *Container Trucking Act* and Container Trucking Services Licence."

Failure to comply with this Order will be viewed as serious non-compliance with the *Act*, and penalties for breach of the *Act* include suspension or cancellation of the Companies' licences and the imposition of fines up to \$500,000.

This Order will be published on the OBCCTC website as required by section 11 of the *Act*. This Order does not constitute notice of penalty pursuant to section 34 of the *Act*. However, if there is not compliance with this Order, subsequent notices of penalty will be issued.

Sincerely,

OFFICE OF THE BC CONTAINER TRUCKING COMMISSIONER

A handwritten signature in blue ink, appearing to read 'Michael Crawford', is positioned above the printed name.

Michael Crawford
Commissioner