



July 15, 2024

Pro West Trucking Ltd
1637 Cliveden Ave.
Delta, BC V3M 6V5

Attention: Mr. Art Dahl

Commissioner's Order – Pro West Trucking Ltd.

Background

1. Pro West Trucking Ltd. ("Pro West") is a licensee within the meaning of the *Container Trucking Act* ("Act").
2. Under sections 22 and 23 of the Act, the Commissioner establishes minimum rates that licensees must pay to truckers who provide container trucking services ("Rate Order"), and a licensee must comply with those rates. In particular, section 23(2) states:

A licensee who employs or retains a trucker to provide container trucking services must pay the trucker a rate and a fuel surcharge that is not less than the rate and fuel surcharge established under section 22 for those container trucking services.
3. Section 24(2) of the *Container Trucking Regulation* ("Regulation") requires a licensee to pay remuneration to truckers who are independent operators no later than 30 days after the end of the calendar month in which the independent operator performed the container trucking services.
4. On March 11, 2024, an auditor with the Office of the BC Container Trucking Commissioner ("OBCCTC") issued an Audit Report ("First Audit Report") stating, *inter alia*, that Pro West had not complied with section 24(2) of the *Regulation* when it delayed paying its independent operators for container trucking services between November 1, 2023 to January 31, 2024. Pro West was invited and did provide a submission to the First Audit Report.
5. The First Audit Report and Pro West's response to the First Audit Report is still before the Commissioner.
6. On or around May 2024, independent operators working at Pro West ("Complainants") complained to the OBCCTC that they had not received any remuneration from Pro West for container trucking services performed between the months of February to May 2024 and the last day they were paid was on or around February 15, 2024.
7. On June 17, 2024, an OBCCTC auditor required Pro West to confirm the last date it paid the Complainants and to provide pay statements for each pay period it had not paid the Complainants.
8. On June 21, 2024, Pro West advised the auditor that the Complainants were paid on May 21, 2024 for container trucking services performed on February 1-15, 2024 but had not been paid for work

performed between February 16 to April 30, 2024 and provided the auditor with a breakdown of remuneration owed to each Complainant in each pay period with the exception of work performed in May 2024 as that amount had not yet been calculated. The total outstanding remuneration per pay period are as follows:

Pay Period	Total Payroll for Complainants	Payment Deadline ¹
February 16-29, 2024	\$250,347.27	March 30, 2024
March 1-15, 2024	\$210,038.30	April 30, 2024
March 16-31, 2024	\$195,872.17	April 30, 2024
April 1-15, 2024	\$291,704.99	May 30, 2024
April 16-30, 2024	\$164,932.72	May 30, 2024
May 1-15, 2024	Undisclosed	June 30, 2024
May 16 -31, 2024	Undisclosed	June 30, 2024
Total	\$1,112,894.45	

9. On July 5, 2024, an audit report and working papers were prepared by the OBCCTC (“Supplemental Audit Report”) and provided to Pro West demonstrating that it owed \$1,112,894.45 to the Complainants in unpaid container trucking services performed between February 16 and April 30, 2024 based on the information provided by Pro West. Pro West was provided an opportunity to respond by July 12, 2024.
10. On July 5, 2024, Pro West provided the auditor with the outstanding documentation showing Pro West owed \$146,960.07 to the Complainants for container trucking services performed between May 1 to May 15, 2024.
11. On July 12, 2024, Pro West provided the auditor with the outstanding documentation showing Pro West owed \$81,809.09 to the Complainants for container trucking services performed between May 16 to May 31, 2024.
12. In late 2023, Pro West advised the OBCCTC that, following the death of Pro West’s sole director, Mr. Bindy Sangara, Mr. Art Dahl had been appointed administrator of Mr. Sangara’s estate with certain powers to carry on the business of Pro West. On July 12, 2024, counsel for Pro West advised, *inter alia*, that Mr. Dahl had recently resigned from Pro West and was no longer serving as administrator of Mr. Sangara’s estate. Counsel sought an extension of 60 days to respond to the Supplemental Audit Report.
13. I denied Pro West’s request for an extension for the reasons set out in my July 12, 2024 letter.
14. Pro West failed to provide a submission to the Supplemental Audit Report by the deadline.

Order to Comply

¹ As per Section 24(2) of the Regulation

15. After consideration of the undisputed Supplemental Audit Report and based on the best evidence available, including uncontroverted evidence provided directly by Pro West, I am satisfied that the Complainants listed in the working papers of the Supplemental Audit Report have not been paid a total of \$1,112,894.45 for work performed between February 16 to April 30, 2024 and I find Pro West failed to comply with section 24 of the *Container Trucking Regulation*.
16. I have also reviewed the July 5 and 12, 2024 emails from Pro West and I am satisfied that Pro West has failed to pay the Complainants \$146,960.07 and \$81,809.09 respectively for May 1 to 15 and May 16-31, 2024 by June 30, 2024.
17. Pursuant to section 9 of the *Act*, I order Pro West to pay the Complainants the sum of \$1,112,894.45 as set out in the working papers of the Supplemental Audit Report and \$146,960.07 and \$81,809.09 as set out in the July 5 and July 12, 2024 emails (total of \$1,341,663.61) no later than July 22, 2024 ("Order").
18. If Pro West fails to advise the auditor that it has paid the \$1,341,663.61 to the Complainants by the deadline, I will proceed to call on Pro West's security bond.
19. The Commissioner may propose an administrative penalty based on Pro West's failure to comply with the *Act* and *Regulation*. Any such penalty will be proposed in accordance with section 34 of the *Act*.
20. This Order will be delivered to Pro West and published on the Commissioner's website (www.obcctc.ca).

Dated at Vancouver, B.C. this day of July 15, 2024

Sincerely,

OFFICE OF THE BRITISH COLUMBIA CONTAINER TRUCKING COMMISSIONER



Glen MacInnes

Commissioner