



August 13, 2024

Pro West Trucking Ltd
200 – 1170 Derwent Way
Delta, BC V3M 5R1

Attention: Mr. Art Dahl

Notice of Order against Pro West Trucking Ltd. to Comply with the *Container Trucking Act* and the *Container Trucking Regulations* and Container Trucking Services Licence

Background

1. Pro West Trucking Ltd. (“Pro West”) is a licensee within the meaning of the *Container Trucking Act* (“Act”).
2. In [Pro West Trucking Ltd. \(CTC Decision No. 08/2023\) – Decision Notice](#) (“Decision Notice”), I detailed that the Commissioner’s 2022 Order/Amended Order required Pro West to review the auditor’s calculations of amounts owing to independent operators (“IOs”) for August 2018 and September 2019 and use those calculations to conduct an audit of all its payroll records between December 1, 2016 (originally December 1, 2015) and December 31, 2021. I found that Pro West had failed to comply with s. 9 and s. 40 of the Act when it failed to comply with the Commissioner’s 2022 Order/Amended Order by the April 27, 2023 deadline. An administrative penalty of \$50,000 and a 4-week licence suspension were imposed.
3. Pro West applied for reconsideration of the Decision Notice following the death of its sole shareholder and director in September 2023.
4. On November 15, 2023, the Office of the BC Container Trucking Commissioner (“OBCCTC”) requested payroll records for April and December 2016, March and September 2017, February and July 2018, January and October 2019, February and May 2020, and July 2021. Pro West was advised that the OBCCTC auditors would determine the number of unpaid trips errors in each period and then extrapolate the errors over each year (2016-2021) to determine the total amount owing to Pro West’s IOs. Pro West provided the requested documents with the exception of April 2016 and February 2018 due to an oversight.
5. On June 6, 2024, an audit report and working papers were prepared by the OBCCTC (“Audit Report”) and provided to Pro West. The Audit Report showed that Pro West owed \$631,092.42 to its IOs for container trucking services performed between January 1, 2016 and July 30, 2021. The Audit Report noted that the amount owing should be reduced by \$17,257.14 if Pro West had paid that amount to drivers for August 2018 and September 2019. Pro West was provided a copy of the Audit Report on June 10, 2024 and provided an opportunity to respond by July 10, 2024.
6. Pro West failed to provide a submission to the Audit Report or evidence of payment to IOs for August 2018 and September 2019 by the deadline.

Order to Comply

7. After consideration of the undisputed Audit Report and based on the best evidence available, I am satisfied that the IOs listed in the working papers of the Audit Report are owed a total of \$631,092.42 for work performed between January 1, 2016 and July 30, 2021 and I find Pro West failed to comply with section 24 of the *Container Trucking Regulation* and s. 23 and 24 of the *Act*.
8. Pursuant to section 9 of the *Act*, I order Pro West to pay the IOs the sum of \$631,092.42 as set out in the working papers of the Audit Report no later than August 30, 2024 and to provide the auditor with evidence of having done so no later than September 6, 2024 ("Order").
9. The Commissioner may propose an administrative penalty based on Pro West's failure to comply with the *Act*, *Regulation* or licence. Any such penalty will be proposed in accordance with section 34 of the *Act*.
10. This Order will be delivered to Pro West and published on the OBCCTC's website (www.obcctc.ca).

Dated at Vancouver, B.C. this day of August 13, 2024.

Sincerely,

OFFICE OF THE BRITISH COLUMBIA CONTAINER TRUCKING COMMISSIONER



Glen MacInnes
Commissioner