

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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Thursday, January 14, 2016

Eugene D. Seroka  
Executive Director, Port of Los Angeles  
425 S. Palos Verdes Street  
P.O. Box 151  
San Pedro, CA 90733-0151

Dear Gene:

I am writing to inform you as to the issuance of more than 100 final rulings in misclassification-related wage claims against three major Port Drayage firms that have active concession agreements with the Port of Los Angeles: Pacific 9 Transportation, Inc. ("Pacific 9"), Win-Win Transportation ("Win-Win"), and Fargo Trucking ("Fargo"). The office of the California Labor Commissioner issued Orders of Decision and Award ("ODAs") related to wage claims by drivers at these three companies. We understand that of all the ODAs issued, only three Fargo claims were appealed within the fifteen-day window during which the company has the right to appeal and initiate a de novo hearing on the issue. As a result, the remaining ODAs are now final awards against each company. We are concerned because we have not heard of any of these drivers receiving any money on these now final, enforceable judgments. In the case of Pacific 9, their owners and legal counsel have stated, in declarations related to a separate misclassification lawsuit, that they have no intention of appealing the awards or satisfying the awards by paying the drivers the amounts ordered by the Labor Commissioner.

It is our understanding that all of these companies continue to operate at the Port. We maintain that each of these trucking companies is currently in violation of the spirit and the letter of Clause 8 of the Port of Los Angeles Clean Truck Concession Agreement, specifically:

8. COMPLIANCE. Motor Carrier and all Drayage Trucks and their Drivers dispatched by Motor Carrier to perform Drayage Services shall when entering and leaving Port Property and while on Port Property, comply with this Concession Agreement, Port of Los Angeles Tariff No. 4 and all applicable federal, state and municipal laws, statutes, ordinances, rules and regulations that govern Motor Carrier's operations, including without limitation, any laws, rules and regulations regulating motor carriers, transportation, hazardous materials, safety, security, environment, employment, traffic, zoning and land use. Motor Carrier agrees that any noncompliant Drayage Trucks and drivers shall be denied access to Port property.

The three companies we believe to be operating in violation with the Concession Agreement are:

**Pacific 9 Transportation, Inc.**  
**Port Concession #POLA00029**  
**2045 East Carson St Unit B**  
**Carson, CA 90810**  
**Executive Contact: Alan Ta**

- Pacific 9 had 122 trucks with access to POLA as of 12/31/14, according to Clean Truck Program data. Pacific 9 made 38,298 full gate moves in 2014.
- In August 2015, a hearing officer at the Long Beach Labor Commissioner's office heard claims from 38 drivers who filed claims starting in June 2013 against Pacific 9 alleging misclassification and illegal deductions.<sup>1</sup> On December, 14, 2015, all 38 drivers were found to be misclassified and owed a combined total of \$6.9 million in wages, liquidated damages, reimbursable business expenses, interest, penalties and attorney fees. The company did not appeal any of the claims in the 15-day period allowed, and as a result all of the decisions are now final judgments.
- Pacific 9 is owned and operated by Alan Ta, Chris Hong, and Le Gia Phan.

**Win Win Logistic, Inc.**  
**Port Concession #POLA000249**  
**500 W. 140th St.**  
**Gardena, CA 90248**  
**Executive Contact: Thomas Montalbano**

- Win Win had 50 trucks with access to POLA as of 12/31/14. Win Win made 26,795 full gate moves in 2014. Hearings were held in May and June 2015 at the Long Beach office of the California Labor Commissioner regarding wage claims filed between July 2012 and August 2014. On October 2, 2014, 20 truck drivers were found to be misclassified as independent contractors and were awarded a total of \$3.6 million in illegal deductions and penalties.<sup>2</sup> It appears that these awards are also now final judgments, as there is no record of an appeal having been filed in Los Angeles Superior Court for any of the Win Win decisions.
- It is our understanding that Win Win has ceased operations but has transferred its operations to two related entities which also have Concession Agreements – Sunflower Transport Inc. and CJAN Express Inc. Win Win is owned by Erick Byunghak Yoo. Yoo also owns several other intermingled drayage companies, **Laca Express, Inc., JBKT, Inc., C&JJ,**

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<sup>1</sup> A copy of the ODA for the Pacific 9 drivers is available at the following link:  
<https://www.dropbox.com/s/8nzbaw7tww4esjg/Pac%209%20ODA%20121415.compressed%20-%20Copy.pdf?dl=0>

<sup>2</sup> A copy of the ODA for the Win Win drivers is available at the following link:  
<https://changetowinn.box.com/s/8jok94f952s5mhrous253bihcqs9256>

**Inc., B & G Transport, Calimex, Imex Logistics, and QTS, Inc.,** which have operated at the port at different points in recent years. QTS is also currently in bankruptcy proceedings related to a Class Action misclassification lawsuit, to which claimants have moved to relate Win Win Logistic and the other drayage companies.

**Fargo Trucking Company, Inc.  
Port Concession #POLA00076  
2727 E. Del Amo Blvd  
Rancho Dominguez, CA 90221  
Executive Contact: Heather Medlin**

- Fargo had 83 trucks with access to POLA as of 12/31/14. The company made 16,986 gate moves in 2014. In March and April 2015, the Long Beach Labor Commissioner Office heard claims by 49 drivers who filed claims between January 2013 and June 2014 alleging misclassification and illegal deductions. On July 16, 2015, these 49 drivers were found to be misclassified and owed \$8.4 million in wages, liquidated damages, reimbursable business expense, interest, penalties and attorney fees. According to court records, it appears that Fargo has only appealed three of these 49 decisions.<sup>3</sup>

We believe that each of these companies' behavior represents a default of the Port Concession Agreement as defined by Section 13.b.3 ("Any act or failure to act which operates to deprive Motor Carrier of any of the rights, powers, licenses or authorities necessary for the proper conduct and operation of Drayage Service in according with applicable laws") and Section 13.b.7 ("Any violation of Harbor Department Tariff No. 4 or applicable municipal, state or federal laws applicable to Motor Carrier's provision of Drayage Services"). As a result, we ask that you take action to issue each of these Drayage Providers a Notice of Default and to take all appropriate remedial action as authorized by Section 13.c. We also ask that you take related action against all other existing or new drayage companies owned or operated by any of the principals of Pacific 9, Fargo or Win Win. This would prevent these companies from sidestepping the Port Concession Agreement requirements, and their obligation under wage and hour law, merely by shutting down and commencing operations at the Port under a new name.

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<sup>3</sup> The ODA for the Fargo drivers is available in two parts at the following links:  
<https://changetowinn.box.com/s/i4thkqp7wrf59zdaqbg8ae3nhzcndtzho>  
<https://changetowinn.box.com/s/ab7xcgv43i1og2dbpr87oamoamupi444>

I would appreciate confirmation of this communication and ask that you follow up with our local counsel, Julie Gutman Dickinson, at (818) 973-3228 (office) or (213) 200-0260 (cell).

Sincerely,

A handwritten signature in black ink, appearing to read "Fredrick Potter". The signature is fluid and cursive, with a large initial "F" and a long, sweeping underline.

Fredrick Potter  
Director, Teamsters Ports Division  
Vice President At-Large, International Brotherhood of  
Teamsters

cc: Julie A. Sue, Labor Commissioner, State of California  
Mayor Eric Garcetti, City of Los Angeles  
Harbor Commissioners, Port of Los Angeles