

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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January 13, 2015

Jon Slangerup
Executive Director, Port of Long Beach
4801 Airport Plaza Drive, Long Beach, CA 90815

Dear Jon,

I am writing to inform you as to the issuance of over 100 final rulings in misclassification-related wage claims against three major Port Drayage firms that currently do business or have successor companies that do business at the Port of Long Beach: Pacific 9 Transportation, Inc ("Pacific 9"), Win-Win Transportation ("Win-Win"), and Fargo Trucking ("Fargo"). The office of the California Labor Commissioner issued Orders, Decisions or Awards ("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, there are now dozens of 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 Transportation, 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 continues to operate at the Port. We maintain that each of these trucking companies is currently in violation of the spirit if not the letter of the *Port of Long Beach Motor Carrier Registration and Agreement*, specifically, Section III.c:

Motor Carrier hereby acknowledges that it is responsible to dispatch to the Port for the purpose of providing drayage services only trucks that comply with all federal, state, and Port environmental, security, and safety regulations, and certifies that it shall not dispatch any truck that it knows or in the exercise of due diligence should know does not so comply. Motor Carrier acknowledges that the Port has the right to deny access to the Port to any drayage truck that has not been registered, lacks proper identification devices, or does not meet applicable environmental, security, or safety regulations.

While this section does not explicitly list employment regulations, that could be fixed through simple clarification in an amended agreement and should not prevent you from pursuing enforcement action.

The three companies we believe to be operating out of compliance 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.¹ 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's 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.² 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.

¹ A copy of the ODA for the Pacific 9 drivers is available at the following link:
<https://www.dropbox.com/s/8nzbaw7tw4esjg/Pac%209%20ODA%20121415.compressed%20-%20Copy.pdf?dl=0>

² A copy of the ODA for the Win Win drivers is available at the following link:
<https://changetowinn.box.com/s/8jok94f952s5mhrous253bihcags956>

- It is our understanding that Win Win has ceased operations. *In spite of this, Win Win Logistic still has a valid POLA Motor Carrier Registration Agreement.* And Win Win has transferred its operations to a reincarnated or chameleon entity - **Sunflower Transport Inc** – as a way to avoid compliance with regulations and these final judgements. The company is owned by Erick Byunghak Yoo. Yoo also owns several other intermingled drayage companies, **Laca Express, Inc., JBKT, Inc., C&JJ, 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’s fees. According to court records, it appears that Fargo has only appealed three of these 49 decisions.³

We believe that these violations are egregious and willful. Because of the scale and severity of these violations, we ask that you begin the process to suspend these carriers and their related companies from operating at the Port of Long Beach, invoking Section X.b of the *Port of Long Beach Motor Carrier Registration and Agreement*:

Motor Carrier acknowledges that the Port has the right to seek suspension of Motor Carrier’s federal and/or state operating authority for the commission of an act or series of acts, or for any omission or series of omissions that it believes justifies such a suspension.

³ The ODA for the Fargo drivers is available in two parts at the following links:
<https://changetowinn.box.com/s/i4thkqp7wrf59zdqbg8ae3nhzcndtzho>
<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: Harbor Commissioners, Port of Long Beach
California Labor Commissioner Julie A. Su
Mayor's Office, City of Long Beach