

# Newsletter



## Canadian Merchant Service Guild

2016 has been a busy and challenging year for the Western Branch. As many of you know, there have been a number of negotiations, grievances and arbitrations. Despite the challenges, we have been able to achieve many positive results and with optimism look forward to what 2017 has in store.

We take this opportunity to wish all our Members and their families the blessings of health, happiness, peace, prosperity and success in the New Year.

## Who have you been talking to?

We appreciate all Guild Members who keep in touch with us, so you have an idea who has been assisting you over the years, we introduce our administrative team at the CMSG Western Branch:

### Lori Tyson - Administrative Assistant

Lori has been with the Guild for 24 years and is usually the first person you speak to when calling the Guild. Lori is very eager to help our Members and will guide them to the appropriate party.



### Trish Caldwell - Administrative Assistant

Trish has worked with the Guild for 12 years, and is passionate about providing exceptional service and organization to the branch. Trish always has the Members' interest at heart.



### Robert Samson - Business Agent

Robert is the Guild's most seasoned Business Agent with almost 5 years of service. Robert brings with him an illustrious background of Labour Relations, involving many years in Collective Bargaining, Dispute resolution, Arbitration and Grievance resolution. Robert's experience allows him to view over the horizon and see the future for our Members before it happens. This experience gives our Members a strong advantage at the bargaining table.



### Trevor Lang - Business Agent

Trevor started with us on September 2015 and has spent over 10 years on the Management side of the equation and has performed various Human Resources Management, Labour relations and Employee relations positions in both Union and non-Union Environments.





Capt. Roland Gerak - Western Branch President

Roland provides the exceptional leadership, guidance, support and operational background to our Guild Branch. Despite working a regular full time position as a Tugboat Captain, Roland frequently works at the Branch on his time off, and is involved in every aspect of negotiations, arbitrations and Guild matters. Roland always has time to educate the Members and the Western Branch staff of relevant aspects of the marine industry, the Guild and our various Collective Agreements.



Mike van der Gracht - Business Agent

Mike has been happily retired from the PPA as Fraser River Pilot. The Guild called Mike back from retirement to help navigate the bargaining, negotiations and arbitrations. Mike couldn't resist and has been instrumental in assisting the Guild and Saam Smit resolve many issues and challenges over the past few years. The Guild is very fortunate to have someone who is deeply respected and very knowledgeable of the Marine Industry.



Zulema Carranza Sanabria - Secretary Treasurer

Zulema has been with the Guild for over 6 years. She oversees the financial health of the Branch, the daily operational wellbeing and the general production of the Western Branch. Zulema ensures our staff are organized, on task, supported and accountable to our Members.

## PROMOTE YOUR GUILD!

We encourage our Members to promote our Union at all times, specially while working or offered employment with a non-Guild Employer.

# Membership Meetings

During the month October 2016, we held Membership meetings at Prince Rupert, Nanaimo, Victoria and Coquitlam. It was a great opportunity to meet our Members face to face providing them with an update of the various changes and issues affecting our Guild.

Throughout the year we attended Membership meetings/negotiations with different bargaining units, and have also attended mediation/conciliation with Seaspan ULC, Saam Smit Vancouver, Saam Smit Westminster and Saam Smit Canada.

We had the privilege to attend the "Fleet Management Conference Western" offered to officers with the Canadian Coast Guard; this provided us with a great opportunity to interact with Guild Members.

We have attended meetings with management and Guild Members with the Pacific Pilotage Authority dealing with scheduling and other issues.

# Negotiations

2016 has been an incredibly busy year for our Branch when it comes to collective bargaining.

The Guild thanks all Members of the different negotiating committees for their hard work, dedication, commitment and support during these challenging negotiations. Employers are becoming more demanding in their requests in this ever-competitive market; we are working hard to ensure our Members' benefits, pensions and wages are adequate to the challenging work they do. Many of our committee Members have spent countless days away from their homes and families and we are forever grateful to each of them for their support. **THANK YOU!**



## Reached agreements during this year:

**Amix Marine Services Ltd. (Sea-Link)** - Five (5) year term agreement from October 1, 2014 to September 30, 2019.

**Harken Towing Co. Ltd.** - Ten (10) year agreement from October 1, 2015 to September 30, 2025.

**Saam Smit Canada Inc.** - Ten (10) year term agreement from October 1, 2015 to September 30, 2025.

**Saam Smit Vancouver Inc.** - Ten (10) year term agreement from April 1, 2015 to March 31, 2025.

**Saam Smit Westminster Inc.** - Ten (10) year term agreement from October 1, 2015 to September 30, 2025.

**Seaspan Ferries** - Six (6) year term agreement from October 1, 2013 to September 30, 2020.

**Seaspan ULC** - Five (5) year term agreement from October 1, 2013 to September 30, 2019.

**Western Forest Products Inc.** - Five (5) year term agreement from October 1, 2015 to September 30, 2020.

**Western Pacific Marine Ltd.** - Five (5) year term agreement from April 1, 2015 to March 31, 2019.

## Other bargaining units:

**City of Prince Rupert** - CA previously negotiated, expiry date June 30, 2018.

**D. H. Timber Towing & Salvage Ltd.** - CA previously negotiated, expiry date September 30, 2017.

**FMW Towing Ltd.** - CA expired September 30, 2015, negotiation is underway.

**Fraser River Pile & Dredge** - CA expired June 30, 2015, waiting on mediation dates after MOA was voted down.

**GSO Treasury Board** - CA expired March 31, 2014, negotiations to resume in 2017.

**Harbour Cruises** - CA previously negotiated, expiry date December 31, 2019.

**Hodder Tugboat Co. Ltd.** - CA previously negotiated, expiry date September 30, 2019.

**International Forest Products Ltd.** - CA previously negotiated, expiry date September 30, 2019.

**Island Tug & Barge Ltd.** - CA previously negotiated, expiry date September 30, 2017.

**Jones Marine Services Ltd.** - CA previously negotiated, expiry date September 30, 2025.

**Lafarge Marine** - CA previously negotiated, expiry date September 30, 2019.

**North Arm Transportation Ltd.** - CA expired September 30, 2015, negotiation is underway.

**Pacific Pilotage Authority** - CA previously negotiated, expiry date March 31, 2018.

**Pacific Towing Services Ltd.** - CA expired September 30, 2015, negotiation is underway.

**Valley Towing Ltd.** - CA expired September 30, 2015, negotiation is underway.

# Update from the National Office

The Western Branch President and Branch staff have all devoted considerable time working diligently and collaboratively with the National Officers on a number of extremely important national issues and projects in the interest of all Guild Members. Some of these recent initiatives include the following:

- ◆ Arranging for the Guild Members employed on government ships (the GSO's) to be moved away from the "strike route" in the event that an impasse is reached in collective bargaining, because the previous federal government implemented legislation which allows only 4% of these Members to engage in a strike. Any impasse in bargaining will now be the subject of "binding arbitration".
- ◆ Advocating for provisional marine medical examinations to be valid for 1 year instead of 6 months for most seafarers engaged in domestic voyages, due to a lack of resources at Transport Canada to process marine medical documentation within a 6-month period.
- ◆ Confirming that vessels of the Crown cannot be seized for non-payment of seafarer wages due to the botched new government so-called "payroll system".
- ◆ Assisting Guild Members who have been short-changed by their employer.
- ◆ Launching a lawsuit against the federal government due to non-payment of Guild Members employed as GSO's due to the new payroll system.
- ◆ Initiating a constitutional challenge of legislation which undermines collective bargaining in the federal sector.
- ◆ Filing a complaint with the International Labour Organization (ILO) in Geneva due to Canada's non-compliance with international conventions relating to organized labour.
- ◆ Keeping officers informed of the new international requirement for Marine Emergency Duties (MED) refresher training for individuals engaged as Members of the complement on STCW vessels engaged in voyages beyond "Near-Coastal 2" waters (generally over 25 miles from shore).
- ◆ Completion of a comprehensive submission to the Minister of Transport which includes a response and detailed analysis by the Guild regarding the Canada Transportation Act Review which effectively recommended eliminating within 7 years, the requirement for Canadian ships and Canadian seafarers to be used in Canadian waters. Our analysis shows that if this recommendation were to be implemented it would result in the loss of approximately 12,000 Canadian jobs.

Western Branch Members are encouraged to view other interesting developments as well as the copies of all Guild submissions and complete details regarding the above projects and topics which are posted on the Guild website at [www.cmsg-gmmc.ca/newsroom/](http://www.cmsg-gmmc.ca/newsroom/)

## CMSSG 2017 Convention Notice

The CMSSG National Board has determined that the 2017 Guild National Convention will be held on May 17<sup>th</sup> to 19<sup>th</sup> in Ottawa.

The Convention Delegates from both Branches will be chosen based on the provisions of the by-laws.

Convention resolutions may be submitted by either the National Board or by a Branch Board. National Board Members may submit proposed resolutions directly to the National Board.

Individual Guild Members in good-standing may submit proposed resolutions to their Branch Office for consideration by their Branch Board at the Spring Board meeting.

Any proposed resolutions for this National Convention should only be related to establishing by-laws and policies of the Guild at the National level.



Branch Boards will carefully examine all proposed resolutions in accordance with the CMSSG National by-laws. Resolutions that are submitted by Members to their Branch Office should clearly state what exactly is being proposed as well as the rationale of why the resolution is necessary and desirable. Any such resolutions that are endorsed by the Branch Board and are submitted to the National office by March 2<sup>nd</sup>, 2017 will be presented for consideration at the National Convention.

**Note:** For Members of the Western Branch, the deadline for resolutions to be received in the Western Branch Office is **January 22, 2017**.

The contact information for the Western Branch Office is listed in this newsletter.

# Other Issues...

2017 is scheduled to be a busy year dealing with Arbitrations:

- ◆ **Amix: 3 Wrongful Dismissals and 1 Termination, scheduled for February and June 2017.**
- ◆ **Saam Smit Vancouver: Class 10 Pay Denied, scheduled for March 2017.**
- ◆ **Saam Smit Vancouver: Familiarization on SST Capilano, scheduled for March 2017.**
- ◆ **Saam Smit Vancouver: Recognition of SVMO, awaiting dates for Spring 2017.**
- ◆ **Saam Smit Westminster: Basic monthly and class 8 pay for the SMIT Pride, scheduled for March 2017.**
- ◆ **Seaspan Ferries: Banked Overtime, scheduled for January 2017.**
- ◆ **Seaspan Ferries: Subsistence, scheduled for February 2017.**
- ◆ **Seaspan ULC: Elimination of Engineers Positions, scheduled for April 2017.**
- ◆ **Seaspan ULC: Drug & Alcohol Testing and Discrimination, awaiting Arbitration award.**

In April of this year NTCL gave notice of their insolvent financial position and filed an application with the Alberta Court for protection under the Companies' Creditors Arrangement Act (CCAA).

Our Members were concerned whether or not to accept a contract for the 2016 season. Despite these difficulties, we are happy to report that the season ended without much fanfare and the Company was thrilled at the commitment and professionalism of the Guild's Officers.

At the end of the season NTCL made the decision to terminate all employees and the Guild learned and was troubled by NTCL's decision to pay compensation/severance to our Members based on the Employment Standards as opposed to rights afforded under our Collective Agreement. At all times it was the Guild's position that our Members deserve better compensation for their unwavering commitment to the Company and we encouraged the Company to reconsider paying the

severance per our Collective Agreement. Our request was denied. Therefore we filed a grievance.

The Guild sought the legal advice from one legal firm specialized in Labour and Employment law, and a firm specializing in Maritime law. The Counsels' point of view was that if by way of the CCAA proceedings we were unable to fulfill our rights of the Collective Agreement, we would seek the outstanding severance amounts as maritime liens under the Maritime law.

A third firm was appointed by OSFI to represent the interests of the Pension Plan, which was also supported by PSAC.

The legal team participated in different meetings and hearings throughout the year, and finally on December 15, 2016, the Government of N.W.T. purchased NTCL assets for \$7.5M.

NTCL and the Syndicate of Banks' position was that the CMSG, PSAC and SIU should get \$0 from the sale of assets and cash held in trust, but the Court awarded that 75% of the special payments made by NTCL and held in trust (towards the pension shortfall) be paid into the pension fund (equivalent to \$742,500). In addition, 21% of the net proceeds of sale of the vessels (approximately \$2,520,000) to be paid to the pension fund. The Guild's and Pension legal team were successful and received an estimated \$3.2 Million dollars for the Pension Plan. In addition, the Guild and SIU were awarded \$192,000 (60%-Guild and 40%-SIU) to settle outstanding grievances and severance shortfalls.

The remaining balance of the net sale proceeds go to the Syndicate to pay off NTCL's mortgages and guarantees.

Although this case was fought tremendously hard fought, the recovery was not as great as we had hoped. There was a real risk of losing an argument that had never been made in Canada before (that defined benefits formed part of a maritime lien). We have a bird in the hand, and we stood our ground to get additional money when PSAC and SIU would not.

It is expected that NTCL will file for bankruptcy in January 2017.

We have sent a letter to the Government of the North West Territories introducing the Guild.

# Be aware ...

## Bullying and Harassment

The Guild Western Branch is a Provincial employer which falls under WorkSafe BC jurisdiction. As a result, we have an obligation to protect our staff Members from bullying and harassment.

Workplace bullying and harassment take many forms including verbal aggression, personal attacks, and other intimidating or humiliating behaviors. If workplace bullying and harassment is not addressed, it can lead to low productivity, and anxiety.

A worker is bullied and harassed when someone takes an action that he or she knew or reasonably ought to have known would cause that worker to be humiliated or intimidated.

The Guild by-laws outline the professional conduct, code of ethics and offences, which clearly oppose to negative behaviour, intimidating, threatening, humiliating or harassment, and no Guild Member or staff should tolerate it. We remind you that bullying and harassments may be thoroughly investigated and may lead to charges under our by-laws.

### Promotion

Recently, a number of our Members have been asked or have accepted promotions which they may not feel overly excited about or ready for. Any promotion, whether it be at sea or ashore; entails limitations, liabilities and ramifications which all need to be carefully considered and evaluated.

We encourage our Members to consider the potential for liability when promoted into an Officers capacity in the marine sector, and carefully asses all of the relevant facts, including but not limited to current ability, certificates/licenses, skills level necessary before accepting any promotion and your own long term goals. Members should also consider the compensation package for the new position including health benefit and pension contributions, and ensure to have all of the necessary information before accepting the change. Often times, once a new door opens, the old door closes – along with the old position and benefits.

Many of our Members have worked long and hard in their careers and what may look like a good opportunity may not actually be a good idea after a few weeks or months into the new position. Once a contract is signed, there is little the Guild can do to assist the Member.

As always, the Guild is available to our Members to help review all of their options in order to make an informed decision about the new promotion before it's accepted.



### Grievance Procedure

The grievance procedures are outlined in most of the Guild Collective Agreements.

Step 1 for all grievances: The Officer (s) involved in a grievance shall first present the matter, in writing, to the designated Employer Representative. A copy must be forwarded to the CMSG-WB Business Agent.

Step 2: If the matter is not satisfactorily resolved at Step 1, the Officer (s) shall refer the matter to the CMSG-WB Business Agent and provide additional information in writing if necessary in the prescribed timeline outlined in the Collective Agreement. If the matter is not raised within the appropriate timeline, your grievance may be considered "out of time" and may not be moved forward.

Officers can, at their discretion, contact the Business Agents seeking assistance, advice or consultation on the grievance prior to submitting it to the Employer at Step 1. Business Agents, however, are not responsible to write and file grievances at Step 1 on behalf of individual Members.

It is the responsibility of the Business Agents to write and file all policy grievance on behalf of the Guild.

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# MOPS Coverage and additional Protection

The MOPS plan is an excellent benefit for working Guild Members. To be eligible for MOPS coverage protection, Guild Members must be paying working dues. As you can imagine, this service is a very valuable resource should you be involved in a marine incident.

Be aware that MOPS only provides legal representation in case of marine incidents and does not provide legal representation for labour relations matters. If you need representation to deal with a labour relation issue, contact your Guild Branch.

The Guild reminds all Members to ensure that your Tickets/Certifications and Marine Medicals are current and up-to-date. An expired certificate or license can negatively affect the outcome of any investigation, and may seriously compromise the outcome of any legal proceedings. If you have questions about the validity of your license, certification or tickets, you can check with your employer, Transport Canada Agency and/or your Guild Branch.

The frequency of certificate and license suspensions resulting from marine mishaps may increase due to amendments to the enforcement and penalty provisions of the Canada Shipping Act. The Guild is pleased to provide optional certificate coverage to Members on a voluntary basis. Benefits are paid in compensation for the actual loss of remuneration due to the suspension or revocation of the Member's certificate or license, by any duly authorized Canadian Authority, Board, Commission, or Court as a result of marine occurrence involving a Member acting in an official capacity. For more information, contact your Guild Branch.

## CMSG Benefit Plan

The Trustees of the CMSG WB Benefit Plan were pleased that the financial state of the Benefit Trust Fund has been restored to a favorable position with adequate reserves in place to protect the financial integrity of the Plan for the present and near future. As a result, the Trustees declared a one month premium holiday for employers and all Members of the plan during the month of May 2016. The news was very well received. Furthermore, the individual Member's premium was reduced from \$114.82 to \$107.73, effective September 1, 2016.

As of September 1, 2015, the new maximum age for LTD claims is 65, the maximum age for any LTD claim filed prior to that date was 62.

**Please note that Members who are on LTD, WI or WCB Claim, are not required to pay the individual's Member premium. If you are on LTD and paying this premium, please contact your Business Agent to have this rectified with your Employer.**

Things that are never too soon or too late to consider...

Members are reminded that in order to be eligible to retain the benefit plan coverage into their retirement years, ACTIVE membership of the plan for 2 full years prior to retirement is required. This ensures that the post-retirement benefits will be funded adequately for those who have fully contributed to the plan prior to retirement.

- ◆ Retired Members (with subsidy) pay \$150.00 per month for their benefit plan coverage.
- ◆ Unfortunately, when retired Members pass away after the eligibility age of benefit entitlements, there is no life benefit payable to the Estate, or death benefit payable to cover funeral expenses under the CMSG WB benefit plan nor through the CMSG Western Branch. Proper planning must be made in order to avoid this burden on your loved ones.
- ◆ Surviving spouses are entitled to Medical, Dental, and Out of Country coverage for a period of 12 months after the death of a Member. They are required to remit the monthly established premiums. Coverage does not include BC Medical Health Insurance coverage.

# Worksafe

There has been an increase in the number of near misses and incidents over the years due to the fact that the marine industry is very dangerous and fast changing.

We encourage all of our Members to take their safety and the safety of their crew seriously as we face months of cold, wet and windy conditions. No journey is worth your safety or the safety of your crew.

The Guild reminds all of our Members about the process concerning WorkSafe BC:

The first course of action is to call and follow the recommendations of the Workers Advisors Office. It is their sole purpose to assist and work for the interest of injured workers in BC. The Advisors are not employed by WorkSafe, they are a completely separate entity and they are very knowledgeable to assist individuals with their WCB claim.



WorkSafe BC's decisions are based on Law, not fairness. After you contact the Workers Advisors and have followed their advice, you may contact the Guild for representation and we may get involved depending on the circumstances. We will conduct a review of the claim and depending on the merits and jurisprudence of your case we may engage outside counsel to assist.

Being on a claim with WorkSafe can be a complicated and an emotional process to deal with, therefore, we highly encourage all Members to engage the Workers Advisors Office promptly.



We found our new home, currently under renovation, located in New Westminister, BC. We will inform you when we are ready to move in 2017!



## FEEDBACK

### WE WANT TO HEAR FROM YOU

The Canadian Merchant Service Guild believes in the importance of being transparent and accountable, and recognize the valuable significance of providing fair, equitable, timely and accurate responses to our Members. We acknowledge that our main objective and first priority is to efficiently serve our Guild Members.

To help us ensure we are providing the type of service you deserve, we welcome any feedback you may have for us (good or bad). Your feedback will be held in the strictest of confidence, and we will ensure to take it into consideration as we work hard to maintain and improve the benefits for our Industry and our Members.

Please send your feedback via e-mail to [zulema@msg.org](mailto:zulema@msg.org).

