

MEMORANDUM

October 23, 2012

To: Port of Seattle Commission

From: Russ Perisho



Re: Timeline of Pertinent Events

Pursuant to a motion adopted by the Port of Seattle Commission on September 11, 2012, I was retained to provide a timeline of the pertinent events from the time Mr. Yoshitani's CEO Retention Agreement was approved on March 1, 2011 through September 10, 2012, with respect to the approval process with respect to the Expeditors board position. The adopted motion required that event descriptions minimally include individuals involved and matters addressed and any other relevant facts.

A temporary committee composed of Commissioners Tom Albro and Rob Holland represented the Commission in the completion of this task and other tasks related to the issues raised by the Expeditors board position. With the assistance and cooperation of the Commissioners, Port staff, Mr. Yoshitani and Expeditors International of Washington, Inc., I conducted an investigation and compiled the attached timeline of pertinent events.

RESPECTFULLY SUBMITTED THIS 23rd DAY OF OCTOBER, 2012.

Russ Perisho

Attorney
Russ Perisho, PLLC
P.O. Box 1719
Poulsbo, WA 98370
Phone: 206-713-6343
Email: rperisho@gmail.com

TIMELINE OF PERTINENT EVENTS

2011

March On March 1, 2011, the Port of Seattle Commission (“Commission”) adopts a motion (3 – 2 vote) to execute a retention agreement with Tay Yoshitani, Chief Executive Officer of the Port of Seattle (“Port”). The Chief Executive Officer Retention Agreement (“CEO Retention Agreement”) is executed by Mr. Yoshitani and Bill Bryant, then President of the Commission. The CEO Retention Agreement includes the following term:

Section 2 - Participation as a Member of a Private Sector board of Directors

*During the term of this Agreement, CEO may on his own time (e.g. after the close of business or while on Paid Time-Off), participate as a member of a Board of Directors for a private entity; **provided**, that prior to accepting such appointment, the Port’s General Counsel determines that CEO’s participation would not create or appear to create a conflict of interest, or is contrary to any other provision of the Port’s Code of Ethics for Employees.*

2012

Feb.-April At times in February, March and/or April, 2012, Mr. Yoshitani talks with several executive officers and directors of Expeditors International of Washington, Inc. (“Expeditors”) regarding serving on the Expeditors’ Board of Directors (“Expeditors’ Board”).

April Sometime in April, Mr. Yoshitani tells the Port’s General Counsel, Craig Watson, that he is considering serving on the Expeditors’ Board. Mr. Yoshitani asks Mr. Watson to determine whether any conflict of interest or other legal issue would be presented. Mr. Watson researches and analyzes the issues over the course of several days, concluding that there would be no violation of State law, that there would be no actual or apparent conflict of interest presented and that the Port’s

Employee Ethics and Conflict of Interest Policy would not be violated. Mr. Watson has a conversation with Mr. Yoshitani, in which he states his opinion.

- May On May 2, Mr. Yoshitani meets with several executive officers and directors of Expeditors. He is asked to serve on the Expeditors' Board. Mr. Yoshitani tells Expeditors that he is willing to serve as a director.
- May On May 4, Mr. Yoshitani sends an email to the five Port commissioners and a few Port staff,¹ copying Mr. Watson, stating he had accepted an invitation to join the Expeditors' Board, that he had reviewed the possibility of conflicts with Mr. Watson, and that nothing would change with his ongoing role as CEO of the Port. (Email attached) Commissioners Bill Bryant, Tom Albro and John Creighton recalled being informed by Mr. Yoshitani in conversations around the time of the email that Mr. Yoshitani had been asked and intended to serve on the Expeditors' Board.²
- May Julie Thomas, Assistant to the Port CEO, sends an email on May 4 at 1:44 pm on behalf of Mr. Yoshitani to Noelle Figueira, Executive Assistant to R. Jordan Gates, President and Chief Operating Officer of Expeditors and Expeditors' Board member, requesting phone numbers of Expeditors' Board members. (Ms. Thomas forwarded the response to Mr. Yoshitani.)
- May On May 7, Vickie Rawlins, Port Workplace Responsibility Officer, asks Mr. Watson to have Mr. Yoshitani complete the Port's Conflict of Interest Disclosure form.
- May Mr. Yoshitani completes the Port's Conflict of Interest Disclosure Form. On May 21, he answers the form's questions and writes:
- I have joined the board of directors of Expeditors International. Expeditors is a company specializing in seaborne [sic] cargo logistics. It has no contractual relationship with the Port of Seattle and as a member of the board I do not anticipate any circumstance that would lead to a conflict or perceived conflict with my role [sic] as Port of Seattle CEO. I [sic] any such circumstance does arise that I would recuse myself from participation in that matter on behalf of Expeditors Intl.*
- June-Aug. Mr. Yoshitani communicates with Expeditors' officers/board members and staff about the steps to become an Expeditors' Board member. Mr. Yoshitani uses his Port email address for some of these communications. Mr. Watson has

¹ There is no reason to believe the email was not received by all recipients. It is not clear who contemporaneously reviewed the email.

² Mr. Yoshitani does not recall the dates he spoke with any of the commissioners about Expeditors, except that he recalls sending the May 4 email.

conversations with the General Counsel of Expeditors, including a discussion of the August 9 public announcement.

- August Ms. Thomas sends email on August 1 at 2:17 pm to Ms. Figueira providing Mr. Yoshitani's home and cell phone numbers.
- August At an August 6 meeting of the Expeditors' Board, Mr. Yoshitani is elected to serve through May 2013 on the Expeditors' Board and is appointed to the Expeditors' Board's Compensation Committee, Nominating Committee and Corporate Governance Committee. Mr. Yoshitani attends the meeting, taking a day of Paid Time Off from the Port.
- August On August 9, Expeditors issues a press release announcing Mr. Yoshitani's election as an independent Director of the Expeditors' Board, effective August 6, 2012. A draft is sent to Mr. Yoshitani, copy to Ms. Thomas, for review. An article appears in the Seattle Times on August 10 regarding Mr. Yoshitani's election to the Expeditors' Board. Commissioners Gael Tarleton and Rob Holland recall being informed by Mr. Yoshitani on August 10 that Mr. Yoshitani is serving on the Expeditors' Board.
- August On August 28, a written opinion is provided by Mr. Watson to Kurt Beckett, Port Chief of Staff, concluding that Mr. Yoshitani has fulfilled his obligations under contract, statute and policy.
- August On August 29, a communication to Port employees is posted on the Port's web site about issues raised by the Expeditors' issue.
- September At Mr. Watson's request, a legal analysis is submitted on September 10 by outside counsel, Timothy G. Leyh and Katherine Kennedy of Calfo Harrigan Leyh & Eakes LLP. It concludes that there is no ethical prohibition to preclude Mr. Yoshitani from sitting on the Expeditors' Board.
- September The Commission meets on September 11 in a special meeting and adopts a motion to hire independent counsel and ethics experts to (1) provide an independent review of the finding of no actual, potential or apparent conflict of interest, (2) provide a timeline of pertinent events, and (3) review and provide guidance with respect to the Port's ethics policies on conflict of interest. A temporary committee composed of Commissioners Tom Albro and Rob Holland is appointed to represent the Commission in these tasks.

From: Yoshitani, Tay
Sent: Friday, May 04, 2012 1:14 PM
To: z-POS-Commission
Cc: Watson, Craig
Subject: Fm Tay

Commissioners,

As you'll recall, I had asked that a provision be included in my contract that permitted me to join corporate boards, as long as there are no conflicts of interest. I want to let you know that after reviewing any possibility of conflicts with Craig Watson, I have accepted an invitation to join the Board of Directors for Expeditors International. Although they are a Fortune 500 Company, Expeditors maintains a fairly low profile in the community. There will be some sort of official filing with the SEC, but I doubt that any public announcements will be forthcoming. As for me, I would like to keep a low profile as well and hope that the Commission will accommodate this desire.

All of their board meetings are right here in Seattle and I will, of course, be taking personal time off to attend them. In short order, I will become very knowledgeable about "3rd party logistics providers" and hope that this will be beneficial to the POS. As far as I'm concerned, nothing changes with my on-going role as CEO of the Port. If you have any questions about my additional new role, please give me a call.

Tay