



December 31, 2020

Open Letter from POAA President Tony Sherman

Never have we been caught in such upheaval. Due to Covid, many of us altered the manner in which we operate. Due to a lack of consistency in our supply chain, most of us are struggling to serve accounts with insufficient quantities of Consigned Products. We are facing an unfair mandate to increase weekly expenses and decrease our profitability to cover costs for our multi-billion dollar exclusive supplier. For these and additional reasons below, the current state of our small businesses is concerning.

As you should be aware, courageous owners from California, Illinois, Massachusetts, Ohio and Pennsylvania filed class action lawsuits alleging that they were misclassified as independent contractors because PF has actually been treating owners as its employees. The issues in the current class action cases impact owners in all states, but PF denies any wrongdoing and is vigorously defending its policies and practices in the five employment misclassification class actions. Due to the pandemic, there has been limited activity in the federal courts and there is nothing new to report about the proposed settlement of the class actions in California, Illinois and Massachusetts. POAA will continue to monitor activity in all of the five class actions, as well as any new litigation against PF, and promptly share new information through our app, website and newsletters.

IT IS VITALLY IMPORTANT for all owners to be aware that PF is still seeking to obtain current and future rights to club store accounts to compete for sales within exclusive geographic territories. NO EXISTING CONSIGNMENT CONTRACT grants PF the right to erode an owner's exclusive geographical territory. For those POAA members who are working under a Blue consignment contract executed in or after 2001, please hire legal representation immediately if PF attempts to force a sale of your club store accounts. For POAA members who pay annual dues, please direct your attorney to contact [POAA](#) for information about club store cases that have already been filed. This will reduce the learning curve for the attorney, which in turn will reduce your legal fees.

Owners are challenged in operating their business by not receiving adequate nor consistent amounts of Consigned Products. Yet, while all owners have had key items capped and completely cut from their weekly DSD orders, countless consumers are still receiving those Consigned Products because PF is selling directly and rolling them into its own accounts through central warehouse distribution. Also,



TONY SHERMAN
POAA President
tony.sherman@teampoaa.org



POAA
PO Box 316
Lake Zurich, IL 60047

online retailers such as Amazon, Target and Walmart are still selling products, oftentimes via same day delivery. PF is also direct shipping pallets of products to DSD accounts and assessing pallet fees to owners rather than passing along the orders to owners who are ready and willing to deliver the pallet quantities for full commissions if only PF would provide them with a steady stream of the products. With many of these direct shipped pallets going into DSD accounts which cannot handle pallet quantities, owners are forced to buy back the excess product, which requires additional labor and resources that further reduce compensation beyond PF's pallet charges. If DSD accounts really order pallets directly from PF, pallet fees should be assessed to those accounts that placed the orders - not PF's Independent Distributor Partners.

Currently several owners from across the country are operating their businesses while taking part in the Campbell Snacks new mobile equipment program. PF announced its intention not only to force owners to procure the new equipment only from its designated partner within the next two years, but also to force owners to pay PF weekly technology fees to cover its costs for its new technology infrastructure. POAA has documentation provided by PF that spells out why consumer-grade tablets are not the best equipment to use in the field for DSD when it required owners to buy Intermec equipment just a few years ago. Again, no existing consignment contract includes a provision that grants PF the right to mandate that Consignees must purchase equipment, cellular service, maintenance and support for their independent small businesses from PF and its big business partners. POAA leaders are seeking to have PF share the technical specifications for the hardware required to operate its software so that owners can shop for the equipment and technical services that make the most sense for their businesses. It is also important for owners to know that POAA has strategic partners that can provide equipment maintenance and support services for a fraction of the cost that PF plans to charge. POAA would also like to thank those members who have taken it upon themselves to test this new equipment during what normally is our busiest time of the year. Should you be one of the owners testing the new equipment, please share your experiences at: tablet@teampoaa.org

POAA has worked hard to provide timely updates and business suggestions via our social networks, mobile app, Zoom meetings and weekly newsletters. This has opened communications resulting in owners taking a stronger stand with PF personnel in the operation of their independent businesses. I ask that you share these tools with other owners, and let them know that **our next Zoom get together will be Tuesday, Jan 12 at 7:00 pm EST.**



TONY SHERMAN
POAA President
tony.sherman@teampoaa.org



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It is important to know that each of the items listed above shows that PF is still attempting to exert greater control over your business to reduce its costs and YOUR COMMISSIONS. POAA leaders have been working closely with the Fox/Rothschild law firm, other experts and experienced owners to put Campbells Snacks and PF executives on notice that owners will not voluntarily accept its continued overreach of its rights to erode our exclusive rights under the consignment contracts. PF is seeking to alter your business, and everyone reading this should at least acknowledge that each of us is stronger when united with others who too are Bakery and/or Biscuit distributors. For an individual to take legal action against a multi-billion dollar subsidiary of a publicly traded company would be ridiculously expensive and time consuming effort. However, supporting POAA will minimize your expenses while uniting you with similarly situated members nationwide. There are three ways for you to support POAA: 1) use POAA's sample letters to write your own letter on your letterhead and mail them to PF executives at PF's corporate headquarters; 2) share with POAA your letters and the responses from PF executives; and 3) pay the \$200 (\$100 for those in business less than 3 years) annual dues (or donate more if you are able) so POAA can continue to improve its work on behalf of all owners. For anyone who has hired an attorney, our annual dues are less than what you would be charged for a single letter.

POAA is committed to developing, enhancing and maintaining profitability and equity for every PF business owner. At no time has the need for POAA been greater. I am hopeful that this condensed overview will encourage you to become involved in our amazing association.

Success.

TONY SHERMAN
President-POAA
tony.sherman@teampoaa.org

