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Disqualification of a Director for failing to pay health and safety fines imposed on a Company

Summary

“Directors who fail to adhere to health and safety regulations to protect their employees and then fail to pay the fine can expect to face the consequences of a period of disqualification.”

Background

Allen and Hunt Construction Engineers specialises in manufacturing and building steel-framed structures.

In July 2014, a worker was carrying out repairs on a farm building in Buxton. He was using two homemade crawling boards to replace fibreboard roofing panels when he fell 6m, sustaining serious injuries to his head, hip and lungs.

The worker was one of two men working to replace roofing panels. His colleague was under the roof in a basket that had been attached to a telehandler. When the incident occurred he had to climb down the boom of the machine to help his colleague, as there were no separate controls to operate the basket.

The Health and Safety Executive (HSE) found that there were not sufficient platforms or coverings for the roof to protect workers from the fall. The risk assessment and method statement, which would have described how the workers should perform the works was in the office but was also found to be not specific to the job.

The company pleaded guilty to breaching the Working at Height Regulations. It was fined £267,000 plus £7,750 costs at Derby Magistrates' Court in November 2016.

Current prosecution

One month after the prosecution in 2016, Allen and Hunt Construction Engineers Limited went into liquidation. Michael Allen, the Director, told investigators that the business closed down because it could not afford to pay the fine imposed by Derby Magistrates Court.

The Insolvency Service found that, after the accident in July 2014, a new company was incorporated in October 2014. The focus of the new company was to carry out the fabrication services whilst the installation side of the business was wound down. The Insolvency Service said that had the fabrication contracts remained within the original company, there would have been sufficient funds to pay the fine.

Michael Allen offered a disqualification undertaking leading to him being banned from promoting, forming or managing a company for 6 years without the permission of the court as of 27 June 2018.

Conclusion

Michael Allen failed to ensure that the Company complied with its obligations under the Health and safety at Work Act. The result of which was an incident where an employee sustained serious and life changing injuries. This shows how seriously a Director must take their duties in regard to health and

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safety. Additionally, attempting to deceive the Court and the Insolvency Service will obviously have serious consequences; in this instance prohibition from acting as a director for 6 years.

Sources

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Anne Davies, Partner - anne.davies@gunnercooke.com 0203 713 1043

Helen Price, Paralegal – helen.price@gunnercooke.com 0203 713 1044

gunnercooke LLP

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