First corporate-manslaughter conviction delivers £385,000 penalty

Safety & Health Practitioner (https://www.shponline.co.uk/author/shp/)

The first company to stand trial under the Corporate Manslaughter and Corporate Homicide Act 2007 has been fined £385,000 after being found guilty by the jury at Winchester Crown Court.

The conviction of Cotswold Geotechnical Holdings Ltd came after a two-week trial at the court, where the company answered charges by the Crown Prosecution Service in relation to the death of employee Alexander Wright on 5 September 2008.

In handing down the sentence on 17 February, the judge confirmed the company could pay the fine over a 10-year stretch, with £38,500 due every year of that period. The company does not have to pay any costs.

Mr Wright, 27, had been left working alone in a 3.5m-deep trench to 'finish up' after the managing director of Cotswold Geotechnical Holdings, Peter Eaton (pictured centre), left for the day.

A short time later, the trench collapsed on Mr Wright and buried him. On hearing his cry for help, one of the plot-owners called the emergency services while another ran to the trench where he found Mr Wright buried up to his head. He climbed into the trench and removed some of the soil to enable the junior geologist to breathe, but a further torrent of earth fell into the pit, covering Mr Wright completely. Despite the plot-owner's best efforts to free him, Mr Wright died of asphyxiation.

Peter Eaton had originally been charged with manslaughter by gross negligence, as well as a health and safety offence, in his own capacity but these charges were dropped after a successful application by his defence team last October on the grounds of his poor health. The company also originally faced a separate health and safety offence, but this was dropped by the prosecution in January this year after the judge raised the issue of whether the two different burdens of proof for the two remaining charges might confuse a jury.

In convicting the company on 15 February, the jury found that the company's system of work in digging trial pits was wholly and unnecessarily dangerous. The court heard the company ignored industry guidance, which prohibited entry into excavations more than 1.2 metres deep, by allowing junior employees to enter into and work in unsupported trial pits, typically from 2 to 3.5 metres deep.

Detective Inspector Giulia Marogna, of Gloucestershire Constabulary, who investigated the case with the support of the HSE, described Cotswold Geotechnical Holdings' approach to health and safety as "cavalier", and the way it taught and supervised its junior engineers as "inherently dangerous".

She added: "Every year people are killed and seriously injured following the collapse of an excavation. This case should serve as a reminder to the construction industry that vertical sides of excavations can never be relied upon to stay up without support, no matter how stable the ground may appear to be."

Kevin Bridges (pictured, far right), partner at Pinsent Masons, which represented Cotswold Geotechnical Holdings, said: "The company will, over the coming days, consider all of its options, including any potential grounds of appeal. It remains to be seen whether this case has provided any general assistance in the interpretation of what is the most serious offence that a company can commit, and whether it will give rise to wider problems for the CPS in prosecuting this new and controversial legislation in the future."

On behalf of the company and Peter Eaton, Bridges said they had held Alex Wright "in the highest regard and deeply regret the tragic incident which resulted in the loss of this talented young man".

Paul Verrico, a solicitor-advocate with Eversheds, said the case is unlikely to be a landmark in terms of a test of the new law, but believes the conviction "will doubtless be hailed by both the CPS and the HSE as a success".

He added that the physical stress of the process will not have been lost on those holding senior positions. He said: "It is well documented that the managing director [Peter Eaton] has been very ill, in no small part due to the stress of being charged with manslaughter in his own right and the undoubted impact on his business.

Commenting on the level of the fine, Helen Devery, a partner at Berrymans Lace Mawer LLP, said: "The size of the fine is intended to make a significant impact on any organisation and, while Cotswold Geotechnical Holdings may have had a modest turnover, larger and more profitable organisations, successfully convicted, can expect fines well above the Sentencing Guidelines Council's £500,000 starting point."

Following the jury's verdict, Mr Wright's family revealed their relief that "justice has been done" but stressed that, having visited the trench site, they couldn't believe that "any employer of good integrity or sound intentions would allow or expect any employee to commit themselves to such a danger".