



Storage Equipment Firm and Directors Face Manslaughter Charges

TC BRIEF | September 2011

A company that manufactures storage products will appear in court this month to answer corporate manslaughter and health and safety charges after a worker died from injuries sustained in a fall. Lion Steel Equipment Ltd, which is based in Hyde, Greater Manchester, has been summoned to appear before Tameside magistrates.

As well as being charged with corporate manslaughter, the company is also charged under sections 2 and 33 of the HSWA for failing to ensure the safety at work of its employees. Three of the firm's directors have each been charged with manslaughter by gross negligence. Lion Steel has been supplying businesses with storage equipment, including shelving, cupboards and cabinets, for more than 50 years.

What are a Director's Responsibilities?

The duties of a director have been established through statutes, regulations and case law and can be broken down into the following areas:

➤ Duty of Care and Skill

This is a common law duty that requires Directors to act with 'the care an ordinary man would take in the same circumstances on his own behalf' and with the skill expected from someone with his 'particular knowledge and experience'. Where duties are delegated the Director is responsible for ensuring that the person to whom the duties are delegated is sufficiently experienced, reliable and honest.

➤ Fiduciary Duty

Directors must act honestly, in good faith and in the best interest of the company and must ensure that he does not have any conflict of interest.

➤ Statutory Duty

There are many statutes that affect the conduct of Directors and Officers including the Companies Act

1985, Insolvency Act 1986, Financial Services Act 1986, Environmental Protection Act 1990, Health and Safety at Work Act 1974, to name but a few.

How Can Claims Arise?

If a Director is perceived to have failed in any of his duties then a claim could come from any one of a number of third parties including:

- Shareholders
- Creditors
- Government and Regulatory bodies
- Employees
- Auditors
- Liquidators
- Customers
- Suppliers

How can you protect yourself?

In a claim situation the Director's personal assets are at risk. Directors cannot rely on the company indemnifying them. Often such an indemnity from the company will be in contravention of the Companies Act. Regardless of the stipulations of the Companies Act in the event of insolvency there will be no prospect of the company indemnifying the Directors and Officers.

The Directors and Officers Liability Insurance Policy will pay on behalf of the Director his legal costs and expenses and any civil damages awarded against him.

What is Directors and Officers Liability Insurance?

Directors and Officers Liability Insurance cover protects companies' directors, officers and senior managers against claims arising from their decisions and actions taken whilst managing their business.

For further information please contact your Account Executive or gareth.cotty@thomas-carroll.co.uk