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NORTHERN TERRITORY OF AUSTRALIA

LOCAL COURT

No: 22340021 22425375
22340034 22425378

WORK HEALTH AUTHORITY

and

MPRIZA GROUP PTY LTD

WORK HEALTH AUTHORITY

and

NICHOLAS ZIKOS

(Sentence)

JUDGE GEARY

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON 13 NOVEMBER 2024

Transcribed by:
Epiq:

HIS HONOUR: All right, Mr Zikos, this matter has proceeded today by way of plea, first with regard to the corporation and then with regard to yourself. I accept - it seems obvious to me that you're - from the material before me anyway - that you're someone that is going to have to pay the costs of the breaches for both the corporation and yourself.

This is serious offending. Under the relevant Act, you certainly have a duty of care to your work - in your workforce. And on 31 August, it's clear from the facts before me that you weren't - you were putting your workers at risk and yourself with regard to not having a safety harness. If anyone had fallen from that particular roof, that would have been between 2.8 and 3.2 metres.

People don't fall from roofs at a way that - in any way they want to. Any impact would have been very significant indeed and there was certainly a risk. Notwithstanding that and notwithstanding the fact that you were being prosecuted on 28 June this year, you effectively did it again by not using a safety harness.

The fall there would have been 2.8 metres. I described it as "sloppy", but of course ultimately it's more than that, it's effectively unlawful. And I appreciate a small business, time is money, but at the end of the day, you had all the equipment available to you and you just had to comply.

You also should be aware, I'm sure you are now, that people will be watching how you conduct yourself with regard to safety for yourself and your workers. You have a duty of care to your workers; you also have a duty of care to yourself. If you fall off the roof, your wife, she'll bear the brunt of that financially, your child as well. So you need to think about putting safety first always.

I accept that this is an early plea. You don't have any priors and I accept that you are a person of good character. I've read those references. They speak very well of you. They tell me a bit about your background. You are a hardworking businessman. I've got to accept that, at least before the first occasion, it was out of character for you, and you were someone who put safety first, and you didn't have any further breaches.

Mr Aust suggests that it's towards the lower end, at least the first one anyway. I don't accept that. I don't know if it's towards the midrange either, but at the end of the day, if the untoward happened and someone had fallen, that was obviously a significant risk of injury to them.

With regard to your financial status, my reading of the material before me is that you are someone that runs a business that is quite operational. You don't seem to me to be in a difficult financial position. You have a struggling business like many of them in the Northern Territory, but you pay yourself a salary and it's an ongoing business.

There is a need for personal and general deterrence with regard to this. It has been pointed out to me, the materials about the number of deaths that occur in the

workplace. After the convictions you'll have for this, if there was anything further significant - especially involving an injury to one of your workers - you'd be in significant trouble.

And if for no other reason you want to think about your family and think of the consequences for them if you lose everything and being dealt with again for something like this. I take into account the matters that have been put on your behalf, and written submissions from both counsel have been very informative with regard to this.

I note the penalties involved, but given all the circumstances before me, the need for totality, the fact that you are an ongoing business, the fact that you haven't been in trouble before or since that last occasion, I am prepared to deal with it in this way, and I think this is an adequate penalty, given the need for personal and general deterrence for other workplaces, and also it needs to send you a message.

With regard to file ending 0021, you are convicted of counts 3 and 4. On count 3, you are fined \$8000. On count 4, you are fined \$8000. There are levies of \$2000.

With regard to file ending 0034 - when I say "you" dealing with the first matter, that was the corporation, of course. With regard to the matter of you in file ending 0034, I take into account totality again, as I mentioned before. You are convicted of both. On count 3, you are fined \$2000. On count 4, you are fined \$2000. There are levies of \$300.

With regard to the file ending 5375, the Mpriza Group, you are convicted and fined \$8000 with levies of \$1000.

With regard to file ending 5378, that's the prosecution of you personally, you are convicted and fined \$2000 with levies of \$150.

That's a total amount of fines of \$30,000 and there's levies involved.

Anything further counsel?

MR AUST: No, your Honour.

MS CHEONG: No, your Honour.

HIS HONOUR: Thank you. All right, Mr Zikos. I wish you all the best for your business, but you've got to comply with your duty of care, okay. And if you don't comply with your duty of care, it's probably best that your business doesn't run, okay.

Thank you.

ADJOURNED