

CASE STUDY



Breach of Trust

The crane toppled whilst on a 'private' job.

The second in our series of legislative case studies recounts a cautionary tale from Marsh Plant Hire.

David Foley's use of company equipment for cash jobs was discovered last year. On February 22, 2002 he was sentenced to pay his previous employers £14,000. He was given an eight month custodial sentence, with a minimum of four months to serve.

"I want this case to be known about within the industry", says Geoffrey Marsh, Foley's ex-managing director. "It should serve as a warning to all employers and to those employees who are tempted to do jobs for cash – especially now that contract lifting for private owners, who may be in a position to offer cash inducements, is becoming more common."

Case study

Ex crane driver Foley had worked at Marsh Plant Hire for 16 years and was a well known and respected salesman throughout the crane hire industry. Marsh prides itself on its staff's loyalty, with many employees seeing out their entire working lives (often beyond retirement age) at the company. However, an incident in May last year showed up a gross breach of trust among this close team.

Foley and operator Stuart Tucker had taken a crane out for a ten hour job, knowing that it would take less time. He arranged that the crane should go back to the depot via another, 'off the record' job, at a caravan park. For the purposes of this report the MD of the caravan park will be known as Jones. Jones and Foley arranged that the 35 tonne Liebherr would go there to move log cabins. All was going according to plan, as it undoubtedly had on many other 'moonlight missions' arranged by Foley in the past, until one of the cranes outriggers broke through unstable ground, toppling the crane.

Apart from damaging a car and log cabin, the crane's boom was badly creased in the accident, although fortunately nobody was hurt. Foley was left no choice – he would have to declare where the crane had been that day.

CASE STUDY



Investigation

Foley made a valiant attempt to cover up the facts and make the job seem bona fide, but to no avail. Marsh saw the truth behind the incident and launched an enquiry.

"It is paramount that the first enquiry in such an event is conducted without police involvement", asserts Marsh. "Andy and I interviewed the staff, about 20 people, without any prejudice and gave them all the chance to have their say." Once conclusions had been drawn, the police were called in.

Foley was suspended on May 23 and his accomplice Tucker was dismissed. "Once there is any suspicion of foul play, the employer must not allow that employee to continue work at all", explains Marsh. "The employee has committed a breach of trust and must be suspended for a reasonable time whilst an investigation is carried out." To Marsh's chagrin, the offending pair were soon given jobs at a well known rival crane hire company.



An outrigger crashed through an old cess pit.

It emerged that, probably for his entire term of employment at Marsh Plant Hire, Foley had been moonlighting. "We know that he made an

arrangement with the MD of the caravan park in 1984" says Honeywell. "We have no idea what he did with the money."

In court

In the first court hearing on January 24, Foley, Tucker and Jones pleaded guilty. Jones also pleaded that he was 'of previous good character, had made no personal gain and was now of retirement age'. The judge decreed that he would be fined £1000 or given a 28 day jail sentence. Tucker claimed that he had been drawn into Jones and Foley's deal unwillingly. He had paid some money back and lost his job. He was ordered to pay a paltry £175 compensation to Marsh, as well as a fine of £,1500 or 45 days in prison.

Out of pocket

And the cost to Marsh Plant Hire? A huge £31,000 for the damage to the crane alone. It was off the road for 63 working days, not including Saturdays. According to the recent Cranes & Access Hire Rates Survey, this means a loss of at least £24,000. Then there were the legal fees, as well as probably 16 years of lost revenue, along with the associated maintenance, fuel and man hours for which the company saw no benefit.

But how could this staff disloyalty go unnoticed? "You must inherently trust your staff until there is a very good reason not to", says Geoffrey Marsh. "The larger the firm is, the harder things are to monitor. Each depot operates as a business and the manager must try to attain his workforce's loyalty. The important point is that, if you do discover a gross breach of trust amongst your staff, you must know how to deal with it properly and legally."

"The way ahead is not through satellite navigation equipment to track down machines", believes Honeywell. "You would still face the major problem of quick cash jobs taking place on the site where the crane is supposed to be anyway. Tachographs might help, but the special operators licence for crane drivers now under discussion seems the most positive step. Anyone who transgresses from correct practice will be stripped of their licence, therefore losing the ability to find future work." ■

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