

07/08/17

Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600

By email: eec.sen@aph.gov.au

Dear Committee Secretary

RE: THE FRAMEWORK SURROUNDING THE PREVENTION, INVESTIGATION AND PROSECUTION OF INDUSTRIAL DEATHS IN AUSTRALIA – REQUEST TO GIVE EVIDENCE AT INQUIRY

Our family was torn apart on the morning of 25th November 2015 after finding out that Gerard was so tragically killed on a Jaxon construction site in Perth. The word being used was an ‘accident’ but we still to this day struggle to call it that. Given what we have heard and read this incident could have been so easily preventable had workplace safety been a real area of priority for both Jaxon and Axedale Ltd Ply.

We accept that the two Axedale employees did not mean to kill anyone on that day but we feel the real issue here is the lack of accountability for both Jaxon and Axedale. We feel that this lack of accountability has come about due to a Health and Safety at Work Act that never was and currently is not fit to protect construction site workers in Western Australia.

Worksafe have told us that Axedale admitted to not using ratchet straps that would of held the concrete panels in place and this is unforgivable as it led to the deaths of my brother Gerard and his friend Joe. Yet something so simple only resulted in a \$160,000 fine. To us we feel that those responsible for making the laws in Western Australia only value my brothers life at \$80,000. Never mind the question of how much a life is worth, we find the fine insulting beyond belief. Is this fine enough to really cause the industry to stop, think and reevaluate their safety priorities?

The maximum this fine could of been was \$400,000, we have been told that an early guilty plea results in a 25% reduction in the total fine amount. Why then were Axedale only charged \$160,000? No one has been able to give us an answer to this- what more must they do?

We have not read the final Worksafe report regarding this incident but already we have serious concerns about the way it was carried out. Mr Kirwin from WorkSafe told me that his investigation was “extensive” yet when pressed by myself he was unaware that Jaxon had blocked CFMEU access to sites in Perth. The CFMEU wanted to visit this site prior to the incident in question but were too busy fighting Jaxon on other sites that they were unable to do so. Jaxon have subsequently been charged by WorkSafe for blocking access to other sites in Perth but we feel had Jaxon worked properly with the CFMEU then there is more of a chance that both Gerard and Joe would be here today.

If the CFMEU are impeded by Jaxon from doing their job- improving construction site safety- and workers die as a result of unsafe working practices, why then are Jaxon not culpable?

The biggest insult for all of us is that Jaxon have not been charged for anything despite it being their site. Despite other serious accidents and near misses on their construction sites and despite the CFMEU being denied access to Jaxon sites because of legitimate safety concerns- Jaxon have gotten away with it. Axedale admitted not to using ratchet straps but they also told Worksafe that Jaxon never told them to do so nor did Jaxon assess their technique for lifting the concrete panels. I do not work in construction but I would of thought that if my company owns a site then I should check their working practice- to me this seems like common sense. Jaxon don't want to do any of this because it slows them down, it costs them money but ultimately it is because the current Health and Safety laws protect them from any accountability. In the United Kingdom Jaxon would of been charged with Industrial Manslaughter, a serious offence that has resulted in construction companies in the United Kingdom taking safety more seriously.

I wrote to Minister Johnson in May 2017 expressing our concerns and highlighted the lack of monetary payouts to affected family members and loved ones. Our family has not received any sort of payout nor has Shelley (Gerard's girlfriend at the time). Gerard and Shelley had been together for 19 months before the accident which we are told discounts Shelley from any sort of workplace payout. This is tough to accept especially considering that Gerard was de facto under Shelley's name in their joint visa application that they filed 9 months before the incident. Both Gerard and Shelley worked multiple jobs and put everything that they had towards the cost of this visa application. Residency status was granted for Shelley 18 months after the incident but due to the painful memories associated with living in Perth without Gerard Shelley decided to return back to the United Kingdom shortly after this so that she could be closer to friends and family.

We would like to give evidence so that the current Health and Safety laws change as quickly as possible so that safety is at the top of everyone's agenda and so that big construction companies in Western Australia are held to account.

No one should ever have to go through what we have gone through and the only good that can come out of this is that it can help bring about real change so that others do not need to suffer.

Having regard to the above, I confirm I would like to give evidence via phone/video link to the Senate Inquiry into the framework surrounding the prevention, investigation and prosecution of industrial deaths in Australia located in **Fremantle on 30 August 2018**.

Please contact me should you require any further information with respect to the above.

Kind Regards

Jon-Paul Bradley