

## Prosecution Summary of Conviction

### SJK Landscaping Pty Ltd (ACN:660 400 313 )

LEGISLATION:		Work Health and Safety Act 2020				
Charge	Charge Number	Sentenced Date	Regulation	Section	Penalty	Offence Date
1	BU5136/2024	13/03/2025		19(1) 31(1)	\$175,000	28/07/2022

#### BREACH(ES)

Being a person who had a health and safety duty as a person conducting a business or undertaking, namely a duty to ensure, so far as reasonably practicable, the health and safety of workers engaged, or caused to be engaged, by it, while the workers were at work in the business or undertaking, failed to comply with that duty, and the failure caused serious harm to an individual.

#### DETAILS

SJK Landscaping Pty Ltd (trading as SJK Gardening & Maintenance) (**SJK**) conducts a business which offers gardening, maintenance and landscaping services throughout the southwest of the State. Gutter cleaning is part of SJK's business. The gutter cleaning completed by SJK is done using ladders to access the gutters at height. The risk of falling from a height is inherent to this task.

In July 2022, SJK were engaged to clean the gutters of a business. The business premises comprised a single storey brick building with a corrugated iron roof. The gutters of the building surrounded the corrugated iron roof and were approximately 2.9 metres from ground level. A patio made of plastic sheeting covered a brick paved courtyard on the eastern side of the building. The patio roof was approximately 2.5 metres from ground level. As the patio extended from the eastern side of the building some of gutters along that side of the building were inaccessible.

On 27 July 2022, the Director of SJK informed two of its employees that they would be cleaning the gutters of the business the following day. At approximately 6.30am on 28 July 2022, the Director of SJK sent a message to one of the employees on the Messenger app with instructions for the gutter cleaning work. The instructions included:

*Gutter cleaning – do it manually – be safe. Do it together, 'Employee 2' (the other employee) can go on top and you use the ladder and move along?*

The employees arrived at the business at approximately 6.50am. Employee 1 saw the message shortly after arriving at the business. It was cold and damp when the two employees arrived. There was condensation on the roof. As a result of the conditions and Employee 2's inexperience, Employee 1 decided to clean the gutters himself, and directed Employee 2 to complete the other tasks that the Director had instructed them to complete.

Employee 1 began cleaning the gutters using the following method:

- leaning a ladder against the building;
- climbing the ladder until he could see and reach inside the gutters;
- removing leaf litter from inside the gutters within reach;

- dropping that litter to the ground below for himself or Employee 2 to collect;
- climbing back down the ladder;
- moving the ladder along the perimeter of the building so that a different section of the gutter would be accessible; and
- repeating the steps above as required.

Using the above method, Employee 1 was unable to access a portion of the gutter that intersected the corrugated iron roof and the patio roof. To access that portion of the gutter, Employee 1 decided to climb up to and then walk across the patio roof.

Employee 1 placed the ladder against the flat roof and climbed the ladder. He planned to only step on the beams supporting the patio roof, which he thought could take his weight. At approximately 8.00 am, Employee 1 climbed from the ladder to on top of the flat roof. As he walked across the patio roof towards the gutter the roof collapsed under his weight and he fell through it.

Employee 2 heard a loud bang and went to Employee 1's position to check on him. Employee 2 found Employee 1 lying motionless on his back on the ground, with his head and neck leaning against an air-conditioning unit in the brick paved courtyard.

As a result of the incident, Employee 1 suffered a skull fracture and multiple spinal fractures resulting in a damaged spinal cord with paraplegia from the waist down. He was airlifted to Royal Perth Hospital on the day of the incident and was discharged on 23 December 2022.

The Director and by extension, SJK, knew that the carrying out of gutter cleaning gave rise to the risk or hazard of falling from a height, including by falling through the plastic sheets which formed part of the flat roof.

There were four reasonably practicable measures available to SJK which it could have taken to ensure the health and safety of its employees, namely:

- Provision of equipment or tools which would have allowed the gutters to be cleaned without having to climb on the flat roof. The equipment and tools include an industrial gutter vacuum, a portable leaf blower, or a telescopic rake or gutter cleaning tool. Providing any one of these would have provided access to the gutters without having to climb on top of the flat roof.
- Provision of adequate information and instructions to its employees regarding the task of cleaning gutters, including information regarding the risk presented by the plastic sheets on the patio roof and specific instructions about how the gutters adjacent to the flat roof were to be accessed.
- Provision of adequate training to its employees regarding gutter cleaning or working at heights generally. Such training would have allowed the employees to adequately identify and control the risk of falling through a surface such as the plastic sheets.
- Establish, maintain and enforce a safe system of work regarding gutter cleaning or working at heights generally through the use of documented risk assessments, policies, or standard operating procedures. Such documents would have allowed the employees to adequately identify the risk or hazard of falling from a height and steps to control this risk prior to the commencement of their work.

SJK's failures as outlined above contravened its duty under section 19(1) of the Work Health and Safety Act and thereby caused serious harm to a worker.

<b>OUTCOME</b>	Pleaded guilty – convicted and fined
<b>FINE</b>	\$175,000
<b>COSTS</b>	\$6000
<b>COURT</b>	Magistrates Court of Western Australia – Bunbury