

Workplace Health and Safety Undertaking

Workplace Health and Safety Act 1995

Undertaking to the Chief Executive, Department of Employment and Industrial Relations given for the purposes of Section 42 of the *Workplace Health and Safety Act 1995*

by

J & L Schmider Investments Pty Ltd

ABN 37 837 161 284

Background

1. J & L Schmider Investments Pty Ltd (herein after "SEG") is a registered company engaged in steel fabrication and construction. In this field the company caters to the mining industry and engages in 'shut down' work. The company has been operating for over 30 years and currently employs approximately 35 – 40 people in its Mount Isa location. The company also operates in Gladstone at present but this branch is in the process of being shutdown due to a lack of work in the area. The company also engages workers from labour hire companies on demand.

Incident

2. SEG was undertaking a shut down contract on the No 1 Ship Unloader located on the Queensland Alumina Limited (QAL) site. On the 19th of June 2006 an employee hired through a labour hire company was requested to move some oxy bottles required for a job. In undertaking this task the employee used a crane and cage to do this. Whilst attempting to load the oxy bottles into the cage, one of the bottles slipped and fell. The bottle struck a QAL employee, who was part of a separate crew required to fit lubrication lines, and who was located near the area that the SEG crew was working. The QAL employee suffered bodily harm as a result of the oxy bottle striking him.

Acknowledgment

3. It is acknowledged that Workplace Health and Safety Queensland has alleged the Company has contravened provisions of the *Workplace Health and Safety Act 1995*. These allegations are considered very serious and the Company has conducted its own investigations into both the incident itself and the necessary remedial measures required to ensure there is no repetition of the incident.

Alleged contravention

4. On the 19th day of June 2006 at Parsons Point Gladstone in the Magistrates Court district of Gladstone **J & L Schmider Investments Pty Ltd (ACN 009 966 330)** being a person on whom a workplace health and safety obligation prescribed by section 28(1) of the *Workplace Health and Safety Act 1995* is imposed, did fail to discharge the obligation contrary to section 24 of the *Workplace Health and Safety Act 1995*, in that being a person who conducts a business or undertaking the said **J & L Schmider Investments Pty Ltd (ACN 009 966 330)** did fail to ensure the workplace health and safety of other persons was not affected by the conduct of the person's business or undertaking.

Particulars

Other person:	QAL Employee
Business or Undertaking:	Steel fabrication and steel construction work
Workplace:	Parsons Point, Gladstone
Risk:	The risk is the risk of injuries to other persons including the risk of injuries to the left shoulder and arm of QAL employee
Hazard:	The source of the risk emanates from: (a) A falling object, namely a gas bottle; and (b) The system of work for moving and securing objects, namely gas bottles while working at height.

AND IT IS ALLEGED that as a result of the failure to discharge the said workplace health and safety obligation, a QAL employee sustained bodily harm.

Statement of regret

5. SEG sincerely regrets the incident that occurred at Parsons Point, Gladstone on 19 June 2006, and the injury that was caused to a QAL employee

Assurance about future behaviour

6. SEG is committed to future compliance with their obligations under the Workplace Health and Safety Act 1995 and will make every endeavour to ensure the actions that led to the alleged contravention will not be repeated. This will be achieved through an emphasis on:-
 - a) Improved risk management processes;
 - b) Ensuring staff are appropriately trained;
 - c) Ensuring consultative arrangements are implemented.

Post Incident Action

7. Following the incident on 19 June 2006 SEG implemented the following:
 - a. Prior to any job commencing all employees working on the job are required to attend a meeting where the safety advisor reads through the Job Safety and Environmental Analysis (JSEA) to ensure all employees are aware of the safety requirements and are able to raise any specific issues. Previously employees were provided with a copy of the JSEA and required to sign it to indicate that it had been read by the employee.
 - b. On subsequent jobs carried out at height no persons were permitted to work under the job site, even if such work was outside the exclusion zone, if such work was in close proximity to the exclusion zone.
 - c. Have attempted to question employees regarding specific work directions given on the site on the day in question.

Terms of Undertaking

OHS management system audits

8. SEG will engage an independent OHS Consultant to audit the current OHS management system against the requirements of AS/NZ 4801:2001 *Occupational Health and Safety Management System – Specification with guidance for use*. This audit shall be undertaken within three months of signing of the undertaking. A further two audits of the workplace against the above standard shall be undertaken. The first audit will be required within 12 months after the signing of the undertaking. The second audit will be required within 24 months after the signing of the undertaking. The cost of implementing the OHS Management Systems audits within this clause is estimated to be \$ 21,000.00
9. Auditors selected to perform these OHS management system audits will be certified by a certification body accredited by JAS-ANZ to ISO/IEC 17024:2003 General Requirements for bodies operating the certification of persons. Auditors listed on the RABQSA OH&S Auditor Register would meet this standard.

10. Audit reports shall be forwarded by the auditor to the company within 30 days of completion of the site visit. Within 30 days of receipt of the audit report the Company is to forward a copy of the report direct to the Executive Director, Workplace Health and Safety Queensland together with advice on their intended action in addressing each of the report's recommendations.
11. Within six months of receipt of the report SEG will fully implement all recommendations resulting from the OHS management systems audits, unless exempted by the Chief Executive of the Department of Employment and Industrial Relations as being unreasonable.
12. Over three years SEG will install in the boiler maker's workshop located at Mount Isa, Queensland individual fume extraction systems for workers whilst welding. The first extractors will be installed and operational within twelve months of signing the undertaking. A total of 9 extractors will be installed with 3 installed within the first twelve months of signing the undertaking. The estimated cost of this enterprise is \$3,000.00 per extractor.

Benefits to Workers

13. SEG recognises that the potential for its workers to suffer hand injuries resulting from manual handling are great. SEG currently provides training directed to this issue and ensures all of its workers receive first aid training from St John's Ambulance. SEG will engage the services of a suitably qualified consultant to deliver manual handling training. Suitability of SEG's existing manual handling training will be reviewed. This will benefit the workers by preventing injuries that could potentially end a workers employment in the industry. The estimated cost of this enterprise is \$5,000.00. This initiative will be fully implemented within 12 months of the undertaking being accepted. It is expected that 40 SEG employees would attend the training session.

Benefits to relevant industry

14. SEG will write an article to be published in the Australia Health Promotion Journal of Australia. The intention is to share SEG's experience with other persons in the industry to ensure that all companies are aware of the risks to workers and can implement appropriate strategies in the future. The strategies would include an outline of SEG's response to the incident. A draft of the article will be provided to the Executive Director Workplace Health and Safety Queensland prior to publication. The draft article will be supplied within 6 months of acceptance of the undertaking with the intention that the article be published within 6 months of the draft being approved. No cost allocated.

Benefits to the general community

15. SEG will donate \$6,000.00 worth of appropriate equipment to the Mount Isa local ambulance service, within 3 months of the undertaking being accepted.

Other terms

16. SEG will deliver information (through open access to the full Enforceable Undertaking document, newsletters and/or notices) to its Workplace Health and Safety Committee and/or Workplace Health and Safety Representatives and/or staff setting out the details of the terms of the Enforceable Undertaking.

Compliance with Terms of the Undertaking

17. SEG acknowledges that the Department will conduct a series of audits to ensure SEG's compliance with the terms of this undertaking. The following compliance audit schedule is agreed:-

First compliance audit is to be conducted six months after signing the undertaking;

Second compliance audit is to be conducted eighteen months after signing the undertaking;

Third (final) compliance audit is to be conducted thirty months after signing the undertaking.

18. SEG acknowledges its responsibility to cooperate with the Department's Compliance Auditor and will ensure relevant material (evidence of compliance) will be available. SEG understands that the cost of these compliance audits will be met by SEG, and is detailed at Clause 20 (iii).
19. SEG acknowledges that the Department may initiate additional compliance audits as considered necessary, at the Department's expense.

Costs

20. The following costs shall be payable to the Department:

- (i) Investigation costs in the amount of \$987.00 (NINE HUNDRED AND EIGHTY SEVEN DOLLARS), representing the reasonable investigation costs arising out of the incident.
- (ii) Consideration costs of \$800.00 (EIGHT HUNDRED DOLLARS).
- (iii) Compliance Auditing and Regulatory Monitoring costs of \$2,136.00 (TWO THOUSAND ONE HUNDRED AND THIRTY SIX DOLLARS) representing costs to the Department in monitoring and auditing of compliance with the terms of this undertaking.
- (iv) Costs of \$600.00 (SIX HUNDRED DOLLARS) being the costs to the Department in publishing the Notice of Acceptance.”

21. The total amount of \$4,523.00 (FOUR THOUSAND FIVE HUNDRED AND TWENTY THREE DOLLARS) will be due for payment 30 days after receipt of the Department's invoice.

22. EU Cost Summary Table:-

Total Value of Workplace Benefits	\$53,000.00
Total Value of Industry Benefits	Not Costed
Total Value of Community Benefits	\$6,000.00
DEIR Recoverable Costs	\$4,523.00
Sub Total	\$63,523.00
Sub Total rounded down to the nearest \$1,000.00	\$63,000.00
Minimum Agreed Spend	\$63,000.00

23. The estimated value of this undertaking including departmental costs is \$63,523.00. SEG is committed to investing a minimum of \$63,000.00 on this undertaking which will significantly enhance the company's safety systems and provide benefits to industry and the community. Accordingly, if the 'actual' total expenditure associated with delivery of the undertaking is less than \$63,000.00, the cost difference will be spent as follows:

1. An additional donation of equipment to Queensland Ambulance Service, Mount Isa and/or
2. Additional extractors in the Mount Isa Workshop.

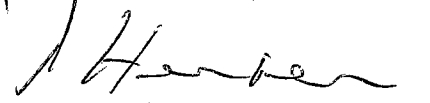
23. This undertaking will be deemed to be formally concluded when the Chief Executive confirms in writing that the undertaking has been satisfactorily executed.

THE MINIMUM EXPENDITURE UNDER THE TERMS OF THIS UNDERTAKING IS \$63,000.00

Dated at [REDACTED] this [REDACTED] day of [REDACTED] 2009.

J.P (Sep) Schmider
General Manager

ACCEPTED BY THE CHIEF EXECUTIVE, DEPARTMENT OF EMPLOYMENT AND INDUSTRIAL RELATIONS PURSUANT TO SECTION 42E OF THE *WORKPLACE HEALTH AND SAFETY ACT 1995*



Peter Henneken
Director-General, Department of Employment and Industrial Relations

Dated at *BROSBANE* this *20th* day of *Feb* 2009.