Court Refuses to Dismiss Safety Charges Against Bankrupt Company



The MOL charged a company with various safety violations for two separate safety incidents, one which involved a fatality. While the proceedings on these charges were pending, the company filed for bankruptcy. So the company asked the court to dismiss the OHS proceedings, arguing that if it was convicted, the only remedy available against it would be monetary (such as a fine) and it was insolvent. Plus, it couldn't afford to defend itself against the safety charges. The court noted that the company hadn't been convicted yet and so possible fines weren't an issue at that point. And it had a choice whether to defend itself against the safety charges. In addition, the MOL wasn't acting as a creditor because it's actions were regulatory or prosecutorial in nature. So the court refused to dismiss the OHS proceedings [*Terrace Bay Pulp Inc. (Re)*, [2013] ONSC 5111 (CanLII), Aug. 9, 2013].