

US Safety Manager Gets 78 Months' Jail for Fraudulent Injury Records



Safety professionals may worry about their personal liability if there's a safety incident in their workplace. For example, when Nova Scotia safety coordinator James Della Valle was convicted of violating the *OHS Act* in 2011, many safety managers, directors and the like worried that that case was the start of a trend of routinely going after safety professionals for safety offences.

That fear hasn't proven to be founded. But safety professionals *are* at risk of liability'and the consequences can be very serious. Just look what happened to a safety manager in the US.

According to the US Attorney's Office for the Eastern District of Tennessee, Walter Cardin was safety manager for the Shaw Group at the Tennessee Valley Authority (TVA)'s Brown's Ferry nuclear site in Athens, AL. The Shaw Group had a contract with the TVA to provide maintenance and modifications to three nuclear facilities and construction for the Brown's Ferry Unit Number 1 reactor restart.

Cardin provided false and misleading information about injuries at the Brown's Ferry site and two other nuclear facilities in Tennessee, underreporting both their number and severity. He intentionally misrepresented or simply lied about how the injuries had occurred and how serious they were.

The evidence presented at trial encompassed over 80 injuries, including broken bones, torn ligaments, hernias, lacerations and shoulder, back, and knee injuries that Cardin didn't properly record. Some workers testified that they were denied or delayed proper medical treatment as a result of this fraud.

The Shaw Group used the false injury rates Cardin generated to collect safety bonuses of more than \$2.5 million from the TVA. (As part of a civil agreement, it paid back twice that amount.)

Cardin was convicted at trial in Nov. 2012 of major fraud. The court recently sentenced him to 78 months in prison followed by two years of supervised release, citing the twin aims of deterrence and retribution.

Cardin testified at trial and did himself more harm than good. The court imposed a more severe sentence after it found that he'd obstructed justice when he testified falsely by denying intentionally misclassifying injuries despite evidence to the contrary in the medical records and from injured workers and denying knowing that safety bonuses were tied to his classifications of the injuries despite emails sent by him that clearly indicated his knowledge of this connection.

The impact of Cardin's fraud went way beyond financial consequences. As US Attorney William C. Killian stated, "The defendant's practices affected the safety of the work environment of nuclear sites. They resulted in employees becoming more reluctant to report injuries, employers failing to address safety issues on the work sites and employees working through medical conditions that created risks of additional injuries to themselves and others."

False reporting of workplace injuries happens in Canada, too.

Example: An Ontario salt mining and processing company submitted false or misleading reports to the workers' comp board about injuries sustained by its workers, including reporting that a worker had "damaged" two fingers when, in fact, they'd been amputated. The company pleaded guilty to knowingly making false or misleading reports to the board that minimized the seriousness of the incidents and failing to report a workplace injury. It was fined \$600,000 [*Canadian Salt Company Ltd.*].