

**IN THE DISTRICT COURT
AT TAURANGA**

**I TE KŌTI-Ā-ROHE
KI TAURANGA MOANA**

**CRI-2022-070-000876
[2023] NZDC 20611**

WORKSAFE NEW ZEALAND
Prosecutor

v

ADDICTION FOODS NZ LIMITED
Defendant

Hearing: 26 May 2023
Appearances: V Veikune for the Prosecutor
E Boshier for the Defendant
Judgment: 25 September 2023

ORAL JUDGMENT OF JUDGE M M MASON

[1] The sentencing hearing for this matter was held on 26 May 2023 where an end point for the fine was set at \$201,250.

[2] The hearing was adjourned to 23 June 2023 and then finally until 17 August 2023 for submissions and supporting documentation regarding the defendant's financial capacity or ability to pay the fine.

[3] It is accepted by the parties that the reduction of any fine is discretionary, that there should be clear evidence of an inability to pay before a fine is reduced and that the Court may look to the shareholder/s of a company to assess whether it would exercise its discretion.

[4] I have received updated submissions from both parties. Of relevance are the affidavits sworn by Mr Jay Shaw dated 25 May 2023 and 16 August 2023. After receiving the financial information provided to him by the defendant he states that the defendant appears to have financial capacity to pay a fine at the level sought by Worksafe. He states that they have the capacity to pay over five years.

[5] I am satisfied that the defendant has had every opportunity to provide financial records to Mr Shaw for review. The defendant has not filed any submissions challenging the statement made by Mr Shaw.

[6] There is no clear evidence of an inability for the defendant to pay a fine.

[7] There are no reductions made to the fine. The fine is \$201,250 and is to be paid over five years.

[8] I confirm the other orders made in my sentencing decision.

[9] What I have previously ordered is:

- (a) Final suppression of victim's name and occupation.
- (b) I have entered the conviction.
- (c) \$710 consequential loss order in favour of the victim.
- (d) \$20,000 reparation order as per the schedule.
- (e) Cost of the legal fees, \$3,671.

Judge MM Mason
District Court Judge | Kaiwhakawā o te Kōti ā-Rohe
Date of authentication | Rā motuhēhēnga: 25/09/2023