

Pozniak Safety Associates

Safety Management System Development

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Training & Education Programs

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Retained Health & Safety Consultant Services

Network of global professionals to access,...

*“Leadership can be
thought of as a capacity to
define oneself to others in
a way that clarifies & ex-
pands a vision of the
Future”*

Edwin Friedman

Some Satisfied Customers:

- **BP—British Petroleum,**
- **BUNGE,**
- **Canada Post,**
- **Crescent Point Energy,**
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- **Hitachi,**
- **IOSH Northern Ireland ,**
- **SaskEnergy,**
- **St. Andrew Goldfields Ltd,**
- **SaskTel,**
- **SGI,**
- **Tirecraft,**
- **Tolko,....**

Things you need to know about the Latest Safety Enforcement Prosecutions – Are they Targeting Safety Managers.

Anyone who practices safety must realize their legal obligations to the client, as well as to ourselves. All of us – whether we are the CRSP, the CSO, or the guy or gal who just hung out their safety person shingle – we need to pay attention to the latest safety enforcement charges and prosecutions under Occupational Health and Safety Legislation.

Most Ministry of Labour / Occupational Health and Safety Legislation outlines the responsibilities of workers, supervisors, employers,.... you know the list of those who have direct responsibility for Health and Safety within the workplace. Now, since this court case, we can be lumped in with employers and supervisors under this legislation and be charged, for failing to fulfill a responsibility that we are not directly outlined with, under this legislation.

We all should know, before these two latest cases within this court system, we could have always been taken to court - sued for not providing a service to the best of our ability, misrepresenting ourselves,... to criminal code violations, if we have showed wanton or reckless disregard for lives of others. The ones discussed here are different as they are under the Ministry of Labour / OH&S Legislation.

Nova Scotia Safety Manager Conviction - 2007. On May 8, 2007, Mr. Dearing stood before a Provincial Court in Sydney Nova Scotia and pled guilty in the capacity of a safety manager on an OH&S charge and was fined \$1,000.00 plus applicable surcharge for a single charge under Nova Scotia’s OH&S Act. It is not the amount that is the concern here, it is the charge. Mr. Dearing was working for an offshore (India based) company Zoom Developers Private Ltd at their Nova Scotia steel firm (Cisco) and that was dismantling, hoisting, and removing from Canada all steel making equipment. The two major issues that came out in court where the following: the comprehensive safety program was really a template program, modified by the Safety Manager unilaterally for use at the Zoom operation and no consultation with the Joint Occupational Health and Safety.



Things you need to know about the latest Safety Enforcement Prosecutions – Are they Targeting Safety Managers—Continued,.....

In September of 2004, during the moving of large and heavy steel beams, one fell and crushed a highly experienced and qualified ironworker, Mr. Marchant. Mr. Dearing was charged with the following after the judge quoted, “while an employee and acting in the capacity of a safety manager on behalf of the employer Zoom Developers Private Ltd”, he was charged with the following.:

1. Failing to take every reasonable precaution in the circumstances to protect the employee’s health and safety.
2. To establish & maintain a written occupational health & safety program in consultation with the committee or representative adapted to the circumstances of the organization.
3. To ensure that the OH&S program included provisions for training & supervision of employees in matters necessary to their health and safety.
4. To ensure that the OH&S program included provisions for hazard identification and reporting.
5. To ensure that the OH&S program included provisions for workplace OH&S monitoring & follow-up & control of identified hazards.
6. To ensure that the OH&S program included provisions for monitoring implementation & effectiveness of the program.

... A template program,... & no consultation with the Joint Occupational Health & Safety,....

Ontario Health and Safety Manager charged – 2008. This health and safety manager is currently facing charges under the Occupational Health and Safety Legislation as well. The Minister of Labour is taking the position that the person knew about the hazard and failed to ensure workers were warned or told not to do the hazardous thing they were doing and is responsible along with other parties charged. The case may settle or go to a trial, to soon to tell.

In view of these latest two cases,....some of the steps we could consider to minimize the risk of prosecution would be to:

- Know the OH&S legislation and work to fulfill it – be duly diligent ourselves, which includes documentation. So if your legislation states engage the committee or workers, be able to show how you have engaged them.
- Look at company indemnification policies to see if they have assurance they will be supported if assisting the corporation properly and diligently with compliance, they are found with an OH&S prosecution
- Ensure that job descriptions clearly set out the safety manager’s authority roles and responsibilities. If it is only advisory, and not managerial, then this should be stated. Given the authority then this must be clarified so that they have full support to give directives and insist on compliance and improvements.
- Document communications and decisions of those who have more authority than you in the workplace – both those that support and those that have dismissed your directives or advisement.

I am not a lawyer and this is in no way legal advice, but a commentary on information and discussions undertaken around the topic. Seek out a lawyer of legal advice is what you want or need within this topic area. Two Lawyers who are well versed in these areas are Cheryl A. Edwards and Norm Keith.

Submitted by Eldeen Pozniak.

Criminal Code of Canada – 1st Persecution Has Happened:

December 7, 2007, Transpave Inc. of St. Eustache, Quebec, which manufactures concrete blocks and paving stones, pled guilty to a charge of criminal negligence causing death of a 23 year old employee arising from a workplace accident. By this plea, they become the first corporation in Canada to be charged and convicted under the Criminal Code amendments that occurred due to Bill C-45.

On October 11, 2005 Mr. L'Ecuyer was crushed entering a moving area of a machine that stacks blocks or stones in order to clear a jam in the machine, during being a replacement for another employee who was on break (not his normal job). Major issues and findings in the case was:

- The machine was equipped with a light curtain guarding system, which if in working order should have interrupted the power to the equipment, but it was disabled at the time by a simple pen cap. Management knew that the system was disabled but did not take any action to address the situation.
- Equipment / machine training system for new operators was not evaluated or reviewed.
- Inadequate machine safety and hazard awareness training.
- No work procedures implemented that adequately addressed the hazards associated with this task.
- Inspection system was inadequate.

Sentencing hearing for the first corporate conviction took place on February 26, 2008 by His Honour Justice Paul Chevalier with submission made by Crown Prosecutors and defence counsels, evidence from expert engineers and inspectors, and written comments from the family, workplace union representation, the Teamsters and the Quebec Federation of Labour. Sentencing factors discussed included:

- Remedial measures taken by Transpave to prevent recurrence, which cost the corporation ~ \$ 500,000.00 to \$ 700,000.00 to put in equipment that now meets the highest European standards for machine safety.
- No penalty was imposed by the organization or any representative as a result of the offence.
- Fact that no regulatory penalty was imposed on the organization as a result of the offence.
- "Culture of productivity" at the workplace led to ongoing inattention to the inoperable light curtain guard.
- Transpave promptly recognized its guilt by entering the pleas of guilty.
- There was no prior record of a conviction.
- The impact the sentence would have on the economic viability of the organization and continued employment of its employees.



Fine levied was \$ 110,000.00 which within Quebec was is a stiffer fine, but when looking at the fines that have been levied under OH&S MOL in Ontario and Alberta within our history.

We have seen regulatory OH&S investigators repeatedly encourage the police and criminal crown attorneys to prosecute organizations for criminal negligence following tragic workplace accidents, without success. This conviction may signal an opening of the gates to more criminal charges along with Regulatory OH&S Charges.

So some strategic considerations that have been recommended by lawyers in light of Transpave:

- Corporate Senior Officers – including directors must take steps to ensure personal and corporate compliance. The importance of Documented and Specific Hazard and Risk Assessment and training on what is reasonable and practicable is very important at this level.
- Conduct a Due Diligence Review – can you show that workplace hazards have been thoroughly assessed by competent personnel, and as necessary, by expert external resources, and how are they reviewed as the workplace is not static; could you produce a written health and safety management system document and program elements specific for the activity involved in the accident; can you show the supervisors and workers have had thorough and sufficient training; can you show that communication of risk occurs; can you show that you have a system in place that has specific program elements that are necessary. These are the questions that we must ask.

Submitted by Bernard Klein

ON THE INTERNATIONAL FRONT

Corporate Manslaughter in force in the UK from April 6, 2008.

Under the Corporate Manslaughter and Corporate Homicide Act 2007 in the U.K. companies face unlimited fines and other penalties if found guilty of corporate manslaughter. In the past in the UK, for a successful conviction, the prosecution must prove that a director or Senior management – “controlling Mind” is guilty of manslaughter and they have been difficult to prove. With this new law, organizations will be guilty of corporate manslaughter if there are gross failures in the management of health and safety that results in death. They are looking for a substantial part of the failure to be at the level of senior management. Within this new specific British Law, an individual cannot be prosecuted for the new offence, but they can still be prosecuted for the existing offence of gross negligence manslaughter culpable homicide for health and safety offences that they have had for a while. An example of this would be the two businessmen that were sentenced to 9 and 12 months imprisonment respectively in July 2007 following the death of a 28 year old man in a concrete manufacturing machine. Their employer was also found guilty of manslaughter and ordered to pay a \$75,000 GBP fine (\$150,000 CND). The Sentencing Advisory Panel is currently consulting on the levels of fines and types of penalties, but there is not set limit at the this time.

If you are interested in reading more about this you can access information at Corporate Manslaughter and Corp. Homicide Act 2007: www.opsi.gov.uk/acts/acts2007/20070019.htm and “A guide to the Corporate Manslaughter and Corporate Homicide Act 2007” – www.justice.gov.uk/docs/manslaughterhomicideact07.pdf.

SPEAKING ON HEALTH AND SAFETY AROUND THE WORLD.

IOSH 08 Conference was held this year in Telford, UK again—March 2008.



Eldeen Pozniak spoke at the conference at a round table discussion – an international perspective on migrant workers, with Mike Thompson – President of ASSE and HSSE Advisor with BP; Jakka Takala – Director of European Agency for Safety and Health at Work; and Alwai Shudder – Director of the Bahrain Center for Occupational Health and Safety.

Here is Eldeen Pozniak with Ray Hurst—President of IOSH, Mike Thompson—President of ASSE and Harry Ho—Singapore.



XVIII World Congress on Safety and Health at Work
June 29 – July 2, 2008
COEX Convention Center, Seoul, Korea



World Congress on Safety & Health at Work

The XVIII World Congress on Safety and Health at Work is being held June 29—July 2, 2008 at the COEX Convention Center in Seoul Korea. It is a unique opportunity for decision makers, safety & health professionals, employers' and worker representatives to learn from each other and exchange information with peers from around the world. Pozniak Safety Associates Inc. will be there – Eldeen Pozniak will be presenting on July 1, 2008. For more information the web site is www.safety2008korea.org.



EH&S AWARDS in DUBIA, UAE

Eldeen Pozniak was a special VIP guest at the first ever awards for Environment Health and Safety in Dubai, UAE. The awards ceremonies were held in the Emirate Tower Hotel. Here are the Award Winners.

Pozniak Safety Associates Participates at World Oil & Gas Sector Conference—Getenergy.

Bernie Klein represented us at this London, UK conference this year in March. Major world training and safety providers were represented at this function.

Gailene Klein assisted Bernie with visitors to our booth.



SPEAKING ON HEALTH AND SAFETY AROUND THE WORLD.

Addressing the Safety Professionals at the EH&S department for the World Dubai Projects in Dubai, UAE. Eldeen had the pleasure discussing issues of professional development and the appropriate hazard, risk and control implementation as key components of what we do with this group of safety professionals.



Western Canadian Tour with “Unique Leading Edge Workshops”

We were excited to announce that Pozniak Safety Associates Inc. is joining forces with The Safety Solutions Group from Australia to provide innovative workshops across Canada. The first set of Workshops and speaking engagements start right away. One of SSG’s Director’s, Paul Pascoe, (some of you may remember Paul from his presentation at the CSSE 2007 PDC in Victoria) and Eldeen Pozniak have agreed to a working relationship that will bring quality, engaging, informative, and entertaining speaking engagements and 1 and 2 day workshops to Canada.

Edmonton, AB:

Royal Glenora Club —Bookings through—Raeleigne.Duzsik@edmonton.ca or info@pozniaksafety.com

Speaking Engagement: **April 31, 2008**—NAOSH event

Workshops—1 day: **May 1, 2008**—Let Me Entertain You—the Key to Designing & Presenting Effective & Entertaining Safety Presentations

May 2, 2008 —Risk Maker—Risk Taker: A Manager’s Guide to Risk;

Vancouver, BC:

Hyatt Regency Vancouver—Bookings through The Pacific Safety Centre—www.pacificsafetycenter.com

Speaking Engagement: **May 7, 2008**— Western Safety Conference Session

Workshop—2 day: **May 8 –9, 2008**—Let Me Entertain You—the Key to Designing & Presenting Effective & Entertaining Safety Presentations

Saskatoon, SK:

Western Development Museum—Booking through Pozniak Safety Associates Inc— info@pozniaksafety.com

Workshop —1 day: **May 13, 2008**—Let Me Entertain You—the Key to Designing & Presenting Effective & Entertaining Safety Presentations

“What do you get from these interactive workshops you do not get with others”, you may ask?

- Two days full of engaging information that you really can use back at your workplace,
- A participants hand-book packed with detailed information;
- Various tools/checklists / forms / and clear actions to take back to your own organization;
- A CD with electronic versions of the participant hand-book/handouts and the PowerPoint presentation for you to facilitate your own session when you get back.

Registration for Workshops: Contact the Pozniak Safety Associates Inc. Office

Phone: (306) 373-1444 Fax: (306) 373-1503

Email: info@pozniaksafety.com or eldeen@shaw.ca

The Passion, Knowledge and Skill,... Never mind the sense of humor of these two,... will make the workshops entertaining and informative.

Paul Pascoe of Professional Safety Solutions (Australia)

Paul is a highly skilled provider of health and safety training, OHS consultancy services and presenter at international level. He has built a successful career on his knowledge and experience spanning over 25 years in this field and has provided these services to business, industry and government in Australia, Canada, South East Asia, China and India.



Paul is a:

- Chartered Professional Member of the Safety Institute of Australia
- International Member of the American Society of Safety Engineers.
- Member Canadian Society Safety Engineering

Eldeen E. Pozniak of Pozniak Safety Associates Inc. (Canada)

Eldeen, is another safety professional who operates OHS consultancy services and presents at international levels. She has spend her career learning and sharing her knowledge and experience to business, industry and government in Canada, UK, Ireland, US, UAE, and Bahrain.



Eldeen is a:

- Canadian Register Safety Professional (CRSP),
- Certified Health and Safety Consultant (CHSC),
- Certified Health and Safety Management System Auditor (CHSMSA)
- Member and President of the Canadian Society of Safety Engineering
- International Member of the American Society of Safety Engineers
- Member of many safety associations and safety related boards—such as Saskatchewan Safety Council and Minerva.

Other Workshops Available Include:

These seminars, speaking sessions and workshops can also be booked for your company or area specific, just contact the Pozniak Safety Associates Inc. office at info@pozniaksafety.com or **306-373-1444**

- ***Let Me Entertain You:*** The Key to Designing & Delivering Effective Safety Presentations (1 day workshops)
 - ***Risk Maker*** – Risk Taker (1 day workshop)
 - ***Preventing Disaster:*** Lessons from Longford (1 & 2 day workshops)
 - ***Safety, Culture and Risk:*** Creating a Mindful Organization (1 & 2 day workshops)
 - We also have a range of presentations for your next conference.
-

FLU SHOTS—NEED TO THINK ABOUT THEM NOW.

We often do not think about the Flu in the Spring, but we need to if we are arranging Flu clinics in the fall. Nobody wants to get a shot if they don't have to, but in terms of flu, prevention is the best medicine. And the flu doesn't play favorites - anyone can get it, affecting all aspects of our life - family, community and work. Over the course of a normal flu season, one in ten adults and one in three children will catch influenza. Even if you develop a mild case of the flu, you can spread it to your family, friends, and co-workers.

The flu strain changes each year and you need to get this year's version of the flu shot to be protected again. We order our vaccine by the end of June for delivery in the Fall to ensure we have adequate stock to meet the needs of our clients.

To arrange for a worksite Flu Immunization Clinic, call us at 306-373-1444 - our bookings are filling up already.

Pozniak Safety Associates Inc. welcomes the addition of Jonathan Nichol as an associate. In our quest to always meet the needs of our clients with quality services we are happy to announce the addition of Jonathan Nichol to our staff as an associate and provider of services. Jonathan has many years experience in safety training in Alberta and Saskatchewan and delivers a quality product and service.

His specialties lie in specialty quality training programs such as Enform endorsed H2S Alive, Fall Protection (OSSA – Oil Sands Safety Association), Detection and Control of Flammable Substances, High Angle Rescue, Ground Disturbance, Overhead Crane Training, Bobcat, Skid Steer Loader and GLG Lift Training. Jonathan is also knowledgeable and qualified to consult and train in Confined Space Entry and Rescue, First Aid, WHMIS and TDG.

His experience and knowledge and unique combination of skills are a welcome asset to Pozniak Safety Associates Inc. and our clients.

Your Say: Last newsletter I asked for your thoughts, suggestions, article submissions and this is one that we got. You have something to say, send it into our office for the next newsletter

The 21 Century Utility: The US Utility industry has stood still in time with safety taking a back seat to tradition. The US Utility industry has yet to require fall protection at highest above 6 feet, in fact, free climbing is alive and well and practiced every day. Falls from heights in excess of 20 feet are common place and result in life altering injuries. One US Utility in the Pacific Northwest had 5 falls in a 12 month period with three of those falls resulting in life altering injuries, injuries that prevented the Line Worker's from returning to the Trade.

The US Regulators have been slow in recognizing the true danger of the practice of free climbing and as of 2008 there are no plans to change this practice from an official standpoint. If change is going to happen in this industry it is going to take a culture shift, a shift that needs to start with the Apprentice, the future of the Utility, the next generation of Line Workers.

Training the Apprentice with 21 century safety in mind is the path to culture shift. The use of fall protection equipment like Buckingham's Bucksqueez is the cutting edge in fall protection safety and will allow the Line Worker to achieve 100% tie off. The Bucksqueez is one of many such fall protection devices that will pave the way for the US Utility Industry and provide the conduit to the future for an Industry rooted in tradition.

Submitted by Kimberly Murphy-West

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We're on the Web
www.pozniaksafety.com

Pozniak Safety Associates Inc. specializes in assisting corporations, industry & government to create viable & sustainable business through client specific & value added Occupational Health & Safety Management Systems and Business Support.

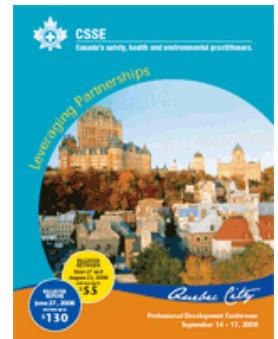
No matter what safety & health challenges you & your company face, whether one time only advice or a full range of services, **Pozniak Safety Associates Inc.**, is ready to work in **partnership** with you to **assess your needs, evaluate options, develop solutions & assist you** to fulfill your companies vision and objectives.

CONFERENCES: WHERE ARE YOU GETTING YOUR PROFESSIONAL DEVELOPMENT

CSSE 2008—September 14-17, 2008 in Quebec City, Quebec

This is a great conference to go to in Canada. Wonderful engaging and informative speakers and great networking opportunities. The conference theme is “Leveraging Partnerships” and the national conference committee has put together a program that captures this concept. The sessions will challenge your thinking and provide practical insight into emerging issues, allowing you to transfer your knowledge to the management system and program initiatives in your own organization. You even get maintenance points for attending.

The Preliminary Brochure is Now Available on the web site— **www.csse.org** . Remember if you register early there is a conference price discount,... and if you're a CSSE member there are further cost savings.



Conference Invitation Letter—If you require a letter from the CSSE president to assist with your planning and travel arrangements,... Or conference attendance justification, you can now download one from the web site as well.

We hope to see you there!

ASSE 2008—June 9 -12, 2008—Las Vegas

The American Society of Safety Engineers has an annual Professional Development Conference. This year their conference is at the Hilton in Las Vegas, Nevada.

More information on the conference can be reviewed on their web site www.asse.com

