

Essex waste directors sentenced and fined

One director was ordered to pay £50,000 in fines, compensation and legal costs whilst the other faces a 5 year ban as a company director.

By a unanimous verdict, 47 year old Mr Finbar Francis Breslin, formerly of Patent House, London E14 6NU and now of County Donegal, Republic of Ireland, was found guilty in his role as director for causing Prime Biomass Ltd to commit the offence of operating a regulated facility without a permit. Judge Bate said that Mr Breslin had been the front man before passing a sentence of conditional discharge for 2 years and imposing a 5 year director's disqualification order against him.

By a unanimous verdict, 59 year old Mr Mehmet Mustafa of Highlands Road, Bowers Gifford, Basildon, Essex was also found guilty for his part in the same crime and Judge Bate sentenced him to a fine of £4,000, a compensation order of £30,000 to the victim who was left with the abandoned wood waste and he was ordered to pay a contribution towards the prosecution costs in the sum of £16,000.

A third director was acquitted by a majority verdict.

The hearing follows a 5 week trial at the Old Bailey back in October and November 2018. The Environment Agency prosecuted the 3 directors for storing and treating waste wood in excess of the 500 tonne limit allowed by the waste exemption they had registered – causing a substantial dust contamination to neighbouring businesses, a fire risk to the local environment and passing on the costs to the landowner by abandoning the waste.

The Old Bailey heard that the 3 company directors of Prime Biomass Ltd had contracted with a Swedish company to supply recycled waste wood. The basis of the contract was that waste wood would be supplied to the company site in Dover's Corner Industrial Estate, New Road, Rainham, Essex RM13 8QT, treated, and then moved to another location before being exported to Sweden.

In January 2013 Mr Mustafa registered a T6 exemption on behalf of Prime Biomass Ltd – this exemption allows a company to chip, shred, cut or pulverise waste wood and waste plant matter to make it easier to store and transport, or to convert it into a suitable form to use. In this case, Prime Biomass Ltd was allowed to treat or store no more than 500 tonnes of waste wood in any 7 day period at their site.

When Environment Agency officers visited the site in September 2013 Mr Breslin admitted that the site contained 1,200 tonnes of waste wood which was in breach of the T6 exemption. An agreement was made that the company would reduce the waste. By 30 October 2013 some efforts has been made to reduce the waste wood pile.

However, on 2 visits in November 2013 the amount of waste did not appear to have reduced. On subsequent visits Environment Agency officers quantified that the waste had increased again.

Both directors were interviewed under caution. Mr Mustafa suggested that Mr Breslin was principally in control of the site. Mr Breslin in turn told officers that Mr Mustafa managed the site.

By February 2014 Prime Biomass Ltd was in liquidation, the directors had abandoned the site leaving the waste wood in situ.

The waste wood remained until late 2018 when the site and other surrounding land were sold for redevelopment.

Ruth Shaw, case officer from the Environment Agency said:

We visited the site on numerous occasions but the defendants continued to ignore our advice on how to comply with their exemption and run a site within the rules. Further visits to the site revealed an increase in illegal activity with even more waste on site, causing a serious fire risk and dust nuisance to the neighbouring community.

Ruth Shaw added:

Their actions showed blatant disregard for local residents and businesses, and put the environment and local amenity at risk. Waste crime can undermine legitimate businesses, so we work closely with businesses to help them comply with the law.

In cases like this where individuals consistently operate illegally, we have no hesitation in prosecuting them as we want to make sure that waste crime doesn't pay.

In May 2020 the Court of Appeal upheld convictions against Breslin and Mustafa.

Note to editor

A waste exemption is a waste operation that is exempt from needing an environmental permit. Each exemption has limits and conditions that you must meet.

<https://www.gov.uk/guidance/register-your-waste-exemptions-environmental-permits>

The Law

Regulation 12(1) states – A person must not, except under and to the extent authorised by an environmental permit-

(a) operate a regulated facility;

Regulation 38(1) states-

It is an offence for a person to-

- contravene Regulation 12(1)

Regulation 41(1) states – If an offence committed under these Regulations by a body corporate is proved –

- to have been committed with the consent or connivance of an officer; or
- to be attributable to any neglect on the part of an officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.