



Any reply or subsequent reference to this communication should be addressed to the Contractor-General and the following reference quoted:-

No. :

TELEPHONE No.:876-929-8560/6466

FAX No. : 876-929-2476

E-mail: communications@ocg.gov.jm

OFFICE OF THE CONTRACTOR-GENERAL

PIOJ Building

16 Oxford Road

P.O. BOX 540

KINGSTON 5

JAMAICA, W.I

MEDIA RELEASE

OCG Refers Danville Walker for Criminal Prosecution for Obstructing the OCG's Scrap Metal Investigation and for Failing to Provide Requisitioned Information

Kingston; December 15, 2011 – The Office of the Contractor General (OCG) has today formally referred the former Commissioner of Customs, the Hon. Danville Walker, OJ, to the Director of Public Prosecutions (DPP), for criminal prosecution for obstructing the OCG's Investigation into the Jamaica Customs Department's (JCD's) alleged illegal exports of scrap metal in violation of a standing Cabinet/Ministerial Order, and without first securing the requisite Government licenses or authorizations.

Mr. Walker has also been formally referred to the DPP for prosecution for his failure to comply with a lawful requirement of a Contractor General.

Section 29 (b) of the Contractor General Act expressly provides that "any person who, without lawful justification or excuse, obstructs, hinders or resists a Contractor General in the execution of his functions, or who fails to comply with a lawful requirement of a Contractor General, commits a criminal offence under this Act".

A Contractor General is expressly empowered by Sections 15 (1) (e) and (f) of the Contractor General Act to conduct an Investigation into "the circumstances of the grant, issue, use, suspension or revocation of any prescribed (Government) licence", and "the practice and procedures relating to the grant, issue, suspension or revocation of prescribed licences".

Additionally, Section 18 (1) of the Contractor General Act provides that "... a Contractor General may at any time require any officer or member of a public body **or any other person** who, in his opinion, is able to give any assistance in relation to the investigation of any matter pursuant to this Act, to furnish such information and produce any document or thing in connection with such matter as may be in the possession or under the control of that officer, member or other person".

It is also important to note that Section 18 (3) of the Act expressly states that "**For the purposes of an investigation under this Act, a Contractor General shall have the same powers as a Judge of the Supreme Court** in respect of the attendance and examination of witnesses and the production of documents".

Having regard to the circumstances of the matter, and the recent Contractor General Act landmark decision that was handed down by the Corporate Area Criminal Courts in the **Patrick Wong Case**, the OCG is confident that its Referrals herein to the Office of the DPP are well founded.



Mr. Walker was issued with a formal written OCG Requisition, dated November 18, 2011, which required him to provide to the OCG, by no later than 3:00 PM on December 2, 2011, sworn and comprehensive written answers to a series of specific questions which were posed to him by the OCG.

However, despite receiving two additional extensions in time to 12:00 Noon on December 9 and to 11.00 AM today, December 15, 2011, to comply with the OCG's November 18 Requisition, and despite his receipt of four (4) OCG letters which formally cautioned or warned him of the potential for criminal prosecution – the last two (2) to which he has not responded – Mr. Walker has, notwithstanding, failed and/or refused to comply with any or all of the OCG's lawful requirements of him.

In his first written response to the OCG, which was dated November 29, 2011, Mr. Walker, through his attorneys, questioned, among other things, whether the OCG had the authority under the Contractor General Act to conduct its Investigation.

In his second and final letter of response to the OCG, which was dated November 30, 2011 and directed to the OCG through his attorneys, Mr. Walker, although he appeared to have then implicitly accepted the OCG's lawful authority to conduct its Investigation, nonetheless proceeded to openly demonstrate his contempt and disregard for the OCG when he advised that "... **we will not be frightened by your deadline of December 9, 2011**". **If it is convenient for us, we will comply, and if not we will use our options in law to protect our Client from any further abuse from your office**".

While the OCG will not comment upon the current status of its Investigation, nor the substance or gravity of the information and evidence that it has so far unearthed as a consequence of same, it is nevertheless instructive to note that of the more than 16 persons who have so far been formally requisitioned in writing by the OCG, or who have been formally interviewed by the OCG to provide sworn evidence to assist it in its Investigation, Mr. Walker remains, to date, (a) the only Respondent who has obstructed the OCG, (b) the only Respondent who has failed or refused to comply with the OCG's lawful requirements of him, and (c) the only Respondent who has refused to formally accept the OCG's lawful authority to conduct its Investigation into a matter in respect of which, ironically, he, Mr. Walker, was the lawful and responsible Government Accountable Officer.

Included among the several senior Public and Private Sector Officials who have so far been formally and similarly requisitioned by the OCG but who, unlike Mr. Walker, have fully complied with the OCG's requirements of them are Dr. the Hon. Christopher Tufton, MP, Minister in the Ministry of Industry, Investment and Commerce (MIIC); Ambassador Douglas Saunders, the Cabinet Secretary; Mr. Reginald Budhan, the Permanent Secretary in the MIIC; Mrs. Sancia Bennett-Templer, President, Jamaica Promotions Corporation (JAMPRO); Mr. Anthony Hylton, MP, Opposition Spokesperson on Industry; Mr. Douglas Webster, Trade Administrator; Mr. Trevor Riley, General Manager of the Shipping Association of Jamaica; and Mr. Roger Hinds, the President of the Shipping Association of Jamaica.

In addition, the OCG has executed unannounced visits to the JCD and JAMPRO, where it has conducted extensive interviews with certain Government officials and employees, and taken into custody several pertinent documents and files. In all of the referenced instances, the OCG has received the full cooperation of all of the persons with whom it has interfaced.



The Contractor General, Greg Christie, has also received the personal assurances of Dr. Wesley Hughes, the Financial Secretary, and Mr. Devon Rowe, the Acting Commissioner of Customs, that they will fully cooperate with the OCG in any and all aspects of its ongoing Investigation.

However, the refusal and/or failure of Mr. Walker to cooperate with the OCG's Investigation, and to comply with its lawful Requisition, have now seriously obstructed and impeded the progress of the Investigation which was formally announced and commenced by the OCG on November 4, 2011.

The OCG is very concerned by the un-submissive and seemingly defiant and arrogant stance that has been taken by Mr. Walker who, in his capacity as the Commissioner of Customs at the time that the subject alleged illicit exports of scrap metal were made, was the JCD's Principal and most senior Accountable Officer. Very serious and grave allegations, which have national implications, have been made and they must be addressed.

The OCG is also acutely aware that the Prime Minister, the Hon. Andrew Holness, had publicly stated that he is 'awaiting' "the Contractor General's Report" to determine what executive decisions or actions he will take as regards the allegation of the illegal exports of scrap metal from the island by the JCD during Mr. Walker's tenure as the Commissioner of Customs. The Prime Minister's statement was made on November 23, 2011, in response to the following question that was posed to him by Mr. Garfield Burford in an interview which was conducted on the CVM-TV's 'Direct' current affairs programme:

"Danville Walker – He breached, by his own confession, a Cabinet Instruction, about the export of scrap metal. He essentially authorized certain exports. The Contractor General is looking into it. Are you going to take any action against him?"

In the same interview, the Prime Minister also gave the following public undertaking:

"There are some that are information issues. And that's worrying for me. If the Agencies that have the authority to request information, they are asking for it and (are) not getting it, that is usually something, as a Minister, you have to pay attention to. **So the provision of information is something that we will be enforcing ...**"

In its penultimate Letter of Warning to Mr. Walker, which was dated December 2, 2011 and copied to the Prime Minister, the OCG was constrained to convey to Mr. Walker's attorneys, its considered opinion that the conduct of Mr. Walker "constitutes an affront to the judicial authority of the Commission of the Contractor General of Jamaica and suggests that he is of the belief that he is above the law".

The OCG was also moved to advise Mr. Walker that "the OCG, as a Quasi-Judicial (Anti-Corruption) Authority, will not hesitate to take the requisite steps to ensure that its statutory mandates are properly and judicially enforced, and that its authority is respected and its requisitions fulfilled".

This OCG Media Release is being issued pursuant to the discretionary powers that are reserved to a Contractor General by Section 24 (1) (b) of the Contractor General Act.

-END-

Contact: The Communications Department, Office of the Contractor General of Jamaica
C/o Craig Beresford, Senior Director of Monitoring Operations, Corporate Communications and Special Projects
E-mail: communications@ocg.gov.jm. Tel: 876-929-8560; Direct: 876-926-0034; Mobile: 876-564-1806