



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

OFFICE OF THE CONTRACTOR-GENERAL
PIOJ Building
16 Oxford Road
P.O. Box 540
KINGSTON 5
JAMAICA, W.I.

No. :

TELEPHONE No.:876-929-8560/6466
FAX No. : 876-929-2476
E-mail: gchristie@ocg.gov.jm

April 18, 2010

The Editor
The Sunday Herald
17 Norwood Avenue
Kingston 5

Dear Editor:

Re: April 18, 2010 Sunday Herald Article entitled "Discord increases between OCG and DPP"

Your Senior Staff Reporter, Mr. Durant Pate, has, today, by his highly questionable and dishonest actions, inflicted a grave injury and disservice upon the Office of the Contractor General (OCG), himself, his profession, the Sunday Herald newspaper and, most importantly, the readers of the Sunday Herald.

In his article, which is entitled "*Discord increases between OCG and DPP*", which appears on the front page of today's edition of the Sunday Herald newspaper, Mr. Pate, obviously aided and abetted by the Sunday Herald, 'went to sea' in his quest to secure another attention-grabbing headline and to sacrifice the inconvenient truth on his altar of expediency, sensationalism and self-seeking glorification.

As you are very much aware, Mr. Pate, on Wednesday, April 14, 2010, at 1:32 PM, wrote to me, via email, seeking answers to 10 questions regarding the Office of the Contractor General's (OCG's) Statutory Report of Investigation into the Divestment of Air Jamaica's London Heathrow Slots and the Referral which was made therein regarding the former Minister of Finance, Dr. Omar Davies.

The Report, which was formally submitted by me to the Parliament of Jamaica, the Director of Public Prosecutions (DPP), the Commissioner of Police, and other state authorities on March 31, 2009, was the subject of a Public Ruling of the DPP, issued on October 30, 2009, to the effect that the Referral regarding Dr. Davis should be further investigated by the police.

Given Mr. Pate's suggestive line of questioning, the OCG was concerned that he might have already come to the factually incorrect conclusion (a) that the OCG had been unreasonably resisting a request from the DPP to provide a witness statement in the matter, (b) that the matter was being unduly and unjustifiably delayed by the OCG, (c) that the OCG may have acted improperly in seeking independent legal advice from an external attorney, (d) that the OCG had, in so doing, improperly and unjustifiably bypassed the Solicitor General's Office, and (e) that the procurement by the OCG of the external attorney may have been executed in violation of applicable Government of Jamaica Procurement Procedures.



Consequently, and to ensure that every urgent effort was taken to apprise Mr. Pate of the material facts regarding the issues which he had raised, upon my receipt of his email query on Wednesday afternoon, I devoted the next two to three hours of my time in preparation of a detailed response to him in which I assiduously sought to address all of the questions and the issues that he had raised in his email enquiry.

Indeed, in an effort to substantiate my responses to Mr. Pate with hard documentary evidence, I took the unusual step of publicly disclosing, in my written email response to him, which was dispatched at 6:01 PM the same evening, scanned copies of no less than 6 exhibits of supporting and evidentiary official OCG internal and external correspondence on the matter, inclusive of OCG letters to the police and the DPP.

However, despite my best efforts to furnish Mr. Pate with documented and credible answers to his questions, a careful reading of his article today will disclose that Mr. Pate was not prepared to be disturbed by the truth, nor by the facts, as his mind was apparently already made up.

Among his most egregious misrepresentations are the following two:

(1) Mr. Pate has asserted in his article *"that the DPP has been waiting since last October (2009) for a formal statement from the Contractor General, as complainant, as the basis of a criminal investigation"* and that *"the OCG has stalled the police request"*.

The truth, however, is that the DPP and the police have had the OCG's Report since March 31, 2009 and the first time that the OCG was ever approached by the police, acting on the specific directions of the DPP given on October 30, 2009, was on February 19, 2010, almost one year after.

Between February 19, 2010, when the police first approached the OCG, and April 13, 2010, when the OCG's completed draft witness statement was formally conveyed to the police, following the OCG's formal consultations with independent counsel, the matter was one which was unquestionably addressed by the OCG with utmost urgency.

Mr. Pate was provided with documented evidence regarding all of the foregoing. However, both he and the Sunday Herald chose to go to print with a story (a) which Mr. Pate must have known was either patently false, misleading or questionable in several particulars, (b) which Mr. Pate knows he is unable to credibly substantiate in certain particulars and (c) which Mr. Pate knows runs counter to the documented evidence which was provided to him by the OCG.

(2) Mr. Pate has further asserted in his article that *"the OCG's decision to seek legal advice from the private bar seems out of line with traditional practice where public bodies rely on the Solicitor General as the Government's primary legal advisor for advice"*.

The truth, however, is that the OCG is not a part of the Central Government, nor does it fall under the Executive arm of the State. The OCG is, instead, an Independent Commission of the Parliament of Jamaica which has wide powers of subpoena, investigation and enquiry over the contract award and licensing activities of all Public Bodies and Public Officers, inclusive of the Ministry of Justice, the Attorney General and the Solicitor General - all of whom are themselves represented and guided by the legal advice of the Attorney General/Solicitor General.



It is for this plain, simple and clearly non-contentious reason – and one which has been conceded by the Attorney General's Office itself – that the OCG, cannot, as a matter of law, be properly represented by the Attorney General/Solicitor General in any legal matter, since to do so would, among other things, give rise to highly questionable conflicts of interest and significant adverse issues of law.

All of the foregoing was communicated by the OCG to Mr. Pate. However, and quite curiously, absolutely none of it has found its way into his article.

Mr. Pate has, instead, deliberately chosen to convey the unfair, false and highly misleading suggestion that the OCG has acted improperly and without just cause in hiring an external attorney and, by doing so, has "*contradicted its own position last year when it castigated John Lynch and executive director of Jamaica Vacations, Lionel Reid, for retaining private law firm DunnCox*".

The OCG remains at a loss as to what could have motivated Mr. Pate to skirt the truth as well as the ethical codes of his profession in the manner that he has done today. He has not only unjustly discredited, in the public's eyes, the actions of the OCG but, more seriously, he has imputed improper conduct to the OCG.

This is not the first occasion on which Mr. Pate has sought to savage, bend, adulterate or suppress the veracity of documented information that he has received from the OCG. It is also not the first occasion on which the OCG has had cause to write to him about his unethical and unbecoming professional malpractices.

When Mr. Pate wrote to the OCG on Wednesday to seek answers to his 10 questions, a deliberate decision was taken by the leadership of the OCG to forward to the members of the Media Fraternity, a copy of the OCG's response to him. A decision was also taken by the OCG on Thursday morning last to publish both Mr. Pate's enquiries to the OCG, and the OCG's response to Mr. Pate, on the OCG's official website for all to see. (Ref. http://www.ocg.gov.jm/ocg/20100414_ocg_response.php).

For those who might have questioned the reasons why the OCG felt it necessary to take this course of action, Mr. Pate has, today, cogently provided the reasons.

The OCG regards Mr. Pate's conduct to be highly unethical and reprehensible and will, as a first step, by way of copy of this letter, bring this matter to the formal attention of the President of the Press Association of Jamaica and the members of the Media Fraternity.

Respectfully,

Greg Christie (Signed)

Greg Christie
Contractor General

Copy: Mr. Byron Buckley, President of the Press Association of Jamaica
Members of the Media Fraternity