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**MEDIA RELEASE**

**Landmark Decision and Convictions Handed Down in the Criminal Courts for Failure to Comply with a Lawful Requisition of a Contractor General**

**Kingston; November 24, 2011** – The Office of the Contractor General (OCG) welcomes the decision of Senior Magistrate Judith Pusey which was handed down in the Corporate Area Criminal Courts this morning when she ruled that a failure on the part of the former Chief Executive Officer of the National Works Agency (NWA), Mr. Patrick Wong, to comply with a lawful requisition of a Contractor General, without lawful justification or excuse, was a **“strict liability” offence** under Section 29 (b) (ii) of the Contractor General Act.

The Senior Magistrate found Mr. Wong guilty on two (2) counts under Section 29 (b) (ii). He was required to pay a fine of \$5,000 or to spend 30 days in prison on each count.

The sanction that is prescribed under Section 29 of the Contractor General Act is a fine not exceeding \$5,000 or imprisonment for a term not exceeding 12 months, or both. The OCG has long lobbied the Government for the said sanctions to be substantially increased, but to no avail.

The prosecution of Mr. Wong was undertaken by Acting Senior Deputy Director of Public Prosecutions, Mr. Dirk Harrison. Mr. Harold Brady, noted Attorney-at-Law, represented Mr. Wong.

The Ruling of the Senior Magistrate is regarded, by the OCG, as a very important judicial land-mark precedent and development as the OCG seeks to diligently discharge its mandates under the Contractor General Act to ensure that Government contracts are awarded impartially and on merit and in circumstances that do not involve impropriety or irregularity.

In the past, the OCG has wrestled with the incumbent Director of Public Prosecutions (DPP), Ms. Paula Llewellyn, to proceed with prosecutions under Section 29 of the Contractor General Act.

In her public Ruling of October 8, 2010, regarding the OCG’s referral made to her to prosecute Mr. Colin Campbell for his failure to comply with a lawful requisition of the Contractor General issued to him during the OCG’s Traftura Investigation, the DPP had refused to proceed against Mr. Campbell because, among other things, she was of the considered view that the “matter was a summary offence and one for which the maximum penalty is \$5,000”.



The OCG, by way of letter, which was dated October 14, 2010, had questioned the legitimacy and logic of the DPP's Ruling. In its 2010 Annual Report, which was recently tabled in Parliament, the OCG expressed its grave concerns about the DPP's Ruling and the serious implications that it posed for the work of the OCG in fighting and suppressing corruption in Jamaica. The following comments were made by Contractor General Greg Christie on pages 26-27 of the Report:

"The OCG continues to remain very concerned, regarding the matter, as the Ruling of the DPP inferred that because the prescribed sanctions for the offences were, in her view, *de minimis*, she could not proceed to prosecution despite the fact that the said offences are matters which have been legislated by the Parliament as criminal offences.

To put the implications of the DPP's Ruling into their full perspective, it is instructive to note that the foregoing penalty is the only one which is specified under Section 29 of the Contractor General Act, by the Parliament of Jamaica, for (a) willfully making a false statement to mislead or attempting to mislead a Contractor General, (b) obstructing, hindering or resisting a Contractor General and/or (c) failure to comply with a lawful requirement of a Contractor General.

It must also be emphasized that the said prescribed sanctions form a critical and indispensable plank of the substratum of the OCG's compliance mechanisms.

Consequently, if, as the Learned DPP has inferred, the '*de minimis*' nature of the offences are such that she is not likely to prosecute them, then the obvious question which remains to be answered is what will this portend for the work of the OCG going forward, and its ability to effectively enforce compliance with the provisions of the Contractor General Act in its quest to stamp out corruption, impropriety and irregularity from the Government of Jamaica contract and licence award processes?"

In the instant matter regarding Mr. Wong, the DPP, in a written communication to the OCG, that was dated November 4, 2011, had also expressed her reservations about proceeding with the prosecution. Additionally, the DPP had intimated that the OCG should either revert to the Clerk of Courts to have the matter prosecuted or retain private counsel of the OCG's choice to prosecute the matter.

In resisting the DPP's postures, the OCG, by way of letter, that was dated November 8, 2011, argued not only why it believed that the matter should proceed to prosecution, but also expressed its considered opinion that Mr. Dirk Harrison, the very person who the DPP had previously designated to handle matters that were referred to the DPP by the OCG, should prosecute the matter.

The OCG publicly commends Mr. Harrison for his willingness to proceed with the prosecution of this very important and landmark matter, and for his success in securing the convictions that the OCG had always believed were warranted given the circumstances of the case.

The OCG also wishes to caution public officials and private citizens, regarding the implications of the Senior Magistrate's rulings, to ensure that requisitions of the OCG are diligently and fully complied with.

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