



To Mr Tristan Gilchrist

**Foreign and Commonwealth Office**

**By email**

**November 28 2006**

**To be forwarded by post**

**Reference: Afghanistan security contract to provide security services to the British Government in Kabul and various other locations across Afghanistan, including Kandahar and Helmand Province.**

Dear Mr Gilchrist,

Mrs Jean Mc Bride had asked that we submit a more detailed letter to you on Monday to outline her concerns regarding Tim Spicer in relation to the murder of her son and in respect of Spicer's activities in Papua New Guinea, Sierra Leone and Iraq. Apologies for the one-day delay.

I understand from a press report (Sunday Times, 29.10.2006 *Proofrock-Mercenary Gunning For Afghan Deal.*) that Aegis Defence Services is one of the six companies invited to submit a tender for the above contract.

**We are working on the assumption that Aegis Defence Services is on the list of companies invited by the FCO to submit tenders for the above contract. Please advise if this is incorrect.**

As we noted in our email dated Friday November 24 Mrs Mc Bride's son Peter was murdered by two members of the British Army in Belfast in 1992. Two soldiers, Mark Wright and James Fisher, were convicted of the murder of Peter Mc Bride and their convictions were upheld on appeal.

Mrs Mc Bride has requested that you urgently review your decision to include Aegis Defence Services on the list of companies **invited to submit tenders** for this or any other Government contract involving the use of private security/mercenary companies in conflict zones throughout the world.

Mrs Mc Bride has also requested that you ensure that Aegis Defence Services not be **awarded this or any other** Government contract involving the use of private security/mercenary companies in conflict zones throughout the world.

**If the Foreign and Commonwealth Office or any other government department allows Aegis Defence Services to remain on the list of companies invited to submit tenders for this or any other Government contract involving the use of private security/mercenary companies in conflict zones throughout the world and/or if Aegis Defence Services is awarded the contract to provide security services to the British Government in Kabul and various other locations across Afghanistan, including Kandahar and Helmand Province then Mrs Jean Mc Bride will seek legal opinion with a**

**view to judicially reviewing any decision to allow Aegis Defence Services to remain on the list and/or be awarded said contract.**

Mrs Mc Bride has asked that we explain her concerns in respect of the CEO of Aegis Defence Services, Lt Col Tim Spicer, a former officer in the Scots Guards Regiment of the British Army and then commanding officer of Wright and Fisher when Peter Mc Bride was murdered. He is the former CEO of Sandline International. We noted on Friday that;

- his actions both as an officer in the British Army and as CEO of Sandline International are relevant in judging his record of integrity and business ethics.
  - his activities and actions in the British Army, as CEO of Sandline International and as CEO of Aegis Defence Services are relevant to the nature of the Afghan security contract and to his inclusion on any FCO list of companies invited to submit tenders,
  - the information in relation to Spicer's actions in Ireland, Sierra Leone, Papua New Guinea and Iraq raises serious doubts about the FCO decision to consider awarding any contract to Aegis Defence Services,
  - the FCO has a responsibility to ensure that the Afghan contract is not awarded to a company whose CEO has justified a human rights abuse, the murder of Peter Mc Bride, by soldiers under his command.
- 1) Firstly we presume you agree that any allegations against Lt Col Tim Spicer have an obvious and pertinent bearing on Aegis Defence Services given his pivotal role in the company.

LT Col Tim Spicer opposed the arrest of the two men convicted of the murder of Peter Mc Bride and opposed their being charged with any offence whatsoever. In a sworn affidavit and in his autobiography Spicer stated,

“They should never have been charged with murder, let alone convicted of it.”

(Extract from Spicer autobiography)

In his sworn affidavit and again in his autobiography Spicer has sought to portray an entirely fictitious and untruthful version of the events preceding, during and following the actual murder. It is essential to point out that the version of events as described by Spicer, which constituted the defence offered by the soldiers, has been totally rejected by the courts and described as a ‘concoction of lies’ by the trial judge. The original judgement has been upheld in subsequent appeals.

Guardsmen Wright and Fisher remained in the British armed forces even while they were in jail serving life sentences. This is contrary to army regulations and reflects the bizarre nature of this entire case. Upon early release from jail a British Army Board held a hearing to determine if the Guardsmen should be retained in the British Army. The Army Board decided that Guardsmen Wright and Fisher should be retained. According to Queen's Regulation 9.402 (an internal army regulation) soldiers who receive a custodial sentence must be dismissed from the armed forces unless there are ‘exceptional’ circumstances justifying their

retention.<sup>1</sup> Lawyers for the family of the murder victim launched an unprecedented legal action to have this decision overturned.

The decision of the first Army Board was overturned in the High Court in Belfast.

(One of the members of the first Army Board, the decision of which was found to be unlawful, is now a non-executive director with Aegis Defence Services. The fact that this person, retired General Sir Roger Wheeler, ruled that murderers could remain serving soldiers raises serious questions about his understanding of international law regarding the use of lethal force or indeed his understanding of internal army regulations. In the context of the Afghan contract this is relevant.)

A second Army Board was set up which again sought to ignore the ruling of the courts and allow retention of the soldiers. In 2003 a Belfast court ruled that the reasons offered as 'exceptional' by the second Army Board and which sought to justify retention of the soldiers were not in fact 'exceptional.'

Lt Col Tim Spicer has made untruthful and deeply hurtful interventions based on the premise that the two guardsmen under his command should never even have been charged or convicted. Lt Col Tim Spicer seeks to argue that to shoot an unarmed teenager in broad daylight did not constitute murder. He seeks to justify this by offering a discredited and fabricated version of the events that unfolded on the morning of September 4 1992. The court held, contrary to Spicer's contention, that the soldiers were aware that Peter Mc Bride was unarmed and posed no threat. It is not legally possible to defame the dead and as such his statements cannot be challenged in court. They do however raise the most serious questions about his suitability in the context of such an important security contract in Afghanistan or elsewhere.

In addition we refer you also to the transcript of evidence from a UK parliamentary hearing in June 2002 at which Spicer gave evidence. A member of the Foreign Affairs Committee of the House of Commons, Mr David Chidgey MP asked,

*'... how can you, wearing both your hats, your previous career and this one<sup>2[1]</sup>, be sure that the personnel you are employing and deploying literally in the front line behave in the way they behaved when they were trained by you and operated under the Armed Forces Act?'*

*(Lt Colonel Spicer)* It would be my responsibility to ensure that our own vetting process, not a registration or Government licence vetting process, although that would help, and the type of people we employ, the database of employees, sorted that out. We are very careful to make sure that we are not employing those who might react adversely and carry out those breaches of the Geneva Convention... I would answer that by saying that if there were the situation which exists now where it is my responsibility to ensure that the people I employ behave properly

---

<sup>1</sup> Over 2000 soldiers have been dismissed, usually for minor offences, under QR 9.402 in the ten year period corresponding with this case. No soldier convicted of murder has ever been retained in the British Army except for two other individuals who were also convicted of the murder of Catholic civilians in the North of Ireland. (Source-British Ministry of Defence)

<sup>2</sup> a reference to his career in the British Army and as someone involved in private security/mercenary companies.

and within the law of armed conflict, I am confident that those I employ would not carry out those breaches.

*(Mr Chidgey MP) Do you feel you can do that without the sanctions you would have had as a serving officer to enforce upon your men the sanctions available under the Armed Forces Act? In any circumstances?*

*(Lt Colonel Spicer) In the majority of the circumstances. In the same way I would say, putting my previous experience hat on, yes, of course you have the luxury of the Armed Forces Act, the law of the country, etcetera, but you cannot guarantee it 100 per cent. Something could go wrong.*

*(Mr Chidgey MP) But at least you have the opportunity of an example under the Act for those who do transgress to encourage the others.*

*(Lt Colonel Spicer) Yes.*

In another context the above comments might prove comforting. (1) An experienced former officer in the British Army reassures parliamentarians that it is his responsibility to employ only those who would behave as those under his command behaved while in the regular army. (2) He goes on to emphasise that he would ensure that his employees stayed within the law of armed conflict. (3) Pressed on how he would do this without the legal sanction available to him in the British Army he admits that the legal constraints imposed on serving soldiers provided for some degree of adherence to the law which is not available in the privatised world of guns for hire. (4) He then agrees that punishing those who break the law acts as a form of deterrence to others.

### **How should we understand his responses to a parliamentary committee in the context of the Mc Bride case?**

#### **(1) It is his responsibility to employ only those who would behave as those under his command behaved while in the regular army.**

If employees of Aegis behave in the same way as soldiers under his command did while in the Scots Guards Regiment in Belfast then this might pose a potential danger to Afghan civilians. Tim Spicer does not accept that to shoot an unarmed 18 year old boy in the back constitutes murder. The prosecution service, the police and the judiciary all came to the conclusion that a murder had been committed. There is for instance every reason to believe that Spicer would employ Guardsmen Wright and Fisher who, despite their convictions, did no wrong according to Spicer.

#### **(2) He goes on to emphasise that he would ensure that his employees stayed within the law of armed conflict.**

If employees of Aegis are expected to respect the law of armed conflict because Tim Spicer intends to ensure that they do then you have another serious problem on your hands. Spicer has shown total disdain for the law in respect of the murder of Peter Mc Bride.

#### **(3) Pressed on how he would do this without the legal sanction available to him in the British Army he admits that the legal constraints imposed on serving soldiers provided for some degree of adherence to the law which is not available in the privatised world of guns for hire.**

Where the legal process governing the use of force was unequivocal, as in Belfast, Spicer sought to frustrate that same legal process. Where the legal process governing the use of force is less unclear, and where the possibility of carrying

out a prompt and adequate investigation is difficult as is the case with a British based private company, contracted by the FCO and working in Afghanistan, there are grounds for serious concerns regarding the compliance of Aegis employees with international laws on the use of force. Spicer's admission that even fewer safeguards exist in the privatised world of guns for hire is further evidence of the potential for human abuses to be committed.

**(4) He agrees that punishing those who break the law acts as a form of deterrence to others.**

It follows that the opposite is also true. On the one occasion where soldiers under his command were accused of and then convicted of murder Spicer sought to excuse and condone the actions of his men and frustrate the due process. British soldiers who observed the aftermath of the Mc Bride case, far from being deterred, will have understood that the command structure of the British army will go to considerable lengths to help them literally get away with murder.

Within hours of the murder of Peter Mc Bride Lt Col Tim Spicer was of the view that the soldiers who committed the murder should be sent straight back out on patrol in Belfast. This was contrary to army regulations and would have thwarted the police investigation. In his affidavit he justifies this proposed reaction by stating that it was similar to getting back on a horse having fallen off. The Mc Bride family and the wider community do not regard the murder of an 18 year father of two young children as comparable to falling off a horse.

We also refer you to further evidence from the UK parliamentary hearing on the subject of Private Military Companies. The committee discussed the possibility of issuing licences to such companies. The question and answer we wish to direct you to is referenced at 136 below. Mr Bill Oler MP asked Dr Denis Mc Shane MP, Parliamentary Under-Secretary of State at the Foreign and Commonwealth Office,

*136. Using the same scenario to which you just referred, would you then say that the official who licenses the private military company would be deemed to be responsible for any human rights violations that that company may well commit at a later stage?*

*(Dr MacShane) I think that we are getting into seriously hypothetical waters. I think that the company itself or the individuals within the company would accept responsibility. In this country, we do not follow the doctrine of, "we were only obeying orders". People who do bad things have to accept responsibility at whatever level decisions are made for having done bad things.'*

It should be noted that Tim Spicer did not accept responsibility, as in 'command responsibility' as commanding officer for the murder of Peter Mc Bride. Furthermore, when questioned by the parliamentarians in relation to the Papua New Guinea fiasco Spicer denied any wrongdoing whatsoever on his part.

**In considering awarding a private security/mercenary contract to Aegis Defence Services did the Foreign and Commonwealth Office, or any other Government department, consider the findings of the official Government report (the Legg Report) into the Sandline/Sierra Leone scandal?**

[Sandline violated a UN arms embargo and British law in an affair that caused a political crisis in Britain and was described as,

'...not only embarrassing but I would say quite damaging to the government at the time.'

(Dennis Mc Shane, MP, Parliamentary Under-Secretary of State, Foreign and Commonwealth Office)

The fiasco involved the purchase of arms from Bulgaria and the use of South African mercenaries, Russian helicopters and Russian pilots, and led to official British Government inquiries and the drafting of guidelines on contacts between government officials and private military /mercenary companies. Sandline was apparently to be paid by Rakesh Saxena, an individual whom the Thai authorities were seeking to extradite. As the scandal unfolded Spicer's home and business premises in Britain were searched by the authorities.]

According to a UN Special Rapporteur, Mr Enrique Bernales Ballesteros, *“Hinga Norman, a chief of the Mende Tribe, and educated in the United Kingdom, has set up a 20,000 strong paramilitary force called Kamajor with the aim of stamping out the rebellion. This paramilitary force is also reported to be committing gross violations of human rights with the acquiescence of the Government and after training and advice from Sandline International mercenaries. The Special Rapporteur has been informed of appalling acts of cruelty committed by mercenaries on captured rebels and on civilians suspected of collaborating with the insurgents.”*<sup>3[2]</sup>

**In considering awarding a private security/mercenary contract to Aegis Defence Services did the Foreign and Commonwealth Office, or any other Government department assess the findings of the two Commissions of Inquiry set up by the government of Papua New Guinea into the involvement of Sandline International in mercenary activity in that country?**

[Spicer was arrested in Papua New Guinea in 1997 after it emerged that Sandline was involved in a plan to bring arms and mercenaries into the country. Riots followed and the government collapsed. The intervention of Sandline in Papua New Guinea involved a force of South African mercenaries, employees of Sandline, who planned to massacre their local guides. The involvement of Sandline, which cost the impoverished nation \$18 million dollars, was opposed by the Australian and New Zealand Governments and the British Government. Large arms shipments were imported by Sandline from a Lebanese registered company, based in Belarus and imported through a Bulgarian air freight company.

**In considering awarding a private security/mercenary contract to Aegis Defence Services did the Foreign and Commonwealth Office, or any other Government department assess the information provided by the Independent Commission Against Corruption in Hong Kong to the second inquiry set up by the government of Papua New Guinea into the Sandline affair? This revealed that the company of which Spicer was CEO had bribed public officials in Papua New Guinea.**

Spicer offered inaccurate statements to journalists, judges and parliamentarians about the precise nature of Sandline, who had set it up and its links to other companies involved in mercenary activities and in particular about his relationship

---

<sup>3</sup> <http://www.ohchr.org/english/issues/mercenaries/annual.htm>. Report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self determination ,submitted by Mr. Enrique Bernales Ballesteros (Peru), Special Rapporteur,pursuant to Commission resolution 1998/6, 12.

to a Mr Anthony Buckingham who had accompanied him to Papua New Guinea. (In 1995 Buckingham also travelled to Baghdad in meet the Iraqi Oil Minister Safa Hadi Jawad. No UK or US national attended this meeting, where the Iraqi Government sought potential investment partners, other than Buckingham.)

**In considering awarding a private security/mercenary contract to Aegis Defence Services did the Foreign and Commonwealth Office, or any other Government department consider the circumstances surrounding the so-called ‘Trophy video’?**

In March of 2006 a video surfaced of an Aegis employee, believed to be a South African national, firing indiscriminately at Iraqi civilians in vehicles. Aegis conducted an internal investigation, which found no wrongdoing on the company’s part. It is entirely unacceptable that a private security/mercenary company should be allowed to investigate serious allegations of human rights abuses directed at its own employees. This was followed by a Pentagon investigation, which also found no wrongdoing. These documents have never been released to the public.

- a) Mrs Mc Bride urges the Foreign and Commonwealth Office to investigate allegations that a South African national was involved and that this individual may have been ‘ghosted’ out of Iraq while still on the Aegis payroll in order to thwart any investigation.
- b) Did those who conducted the Aegis investigation take evidence from all of those present in the SUV from where the shootings occurred ?
- c) Did those who conducted the Pentagon investigation take evidence from all of those present in the SUV from where the shootings occurred ?
- d) Did those who conducted the Pentagon investigation take evidence from any of those fired upon or indeed from any Iraqi civilians ?
- e) Did those who conducted the Aegis investigation take evidence from any of those fired upon or indeed from any Iraqi civilians ?

- **In considering awarding a private security/mercenary contract to Aegis Defence Services did the Foreign and Commonwealth Office, or any other Government department consider the report by the Special Inspector General for Iraq Reconstruction.**

He issued a report on April 20, 2005 stating “Aegis did not fully comply with all the requirements in five areas of the contract. Specifically, Aegis did not provide sufficient documentation to show that all of its employees that were issued weapons were qualified to use those weapons or that its Iraqi employees were properly vetted to ensure they did not pose an internal security threat. Also, Aegis was not fully performing several specific responsibilities required by the contract in the areas of personal security detail qualifications, regional operations centers, and security escorts and movement control. Further, we identified deficiencies in the monitoring of the contract by the PCO.<sup>4[3]</sup>

<sup>4</sup> United States. Special Inspector General for Iraq Reconstruction. Compliance with Contract No. W911 S0-04-C-003 Awarded to Aegis Defence Services Limited. Audit Report Number 05-005. April, 20, 2005, i.

As a result, there is no assurance that Aegis is providing the best possible safety and security for government and reconstruction contractor personal and facilities.”

US Senators Clinton, Kennedy, Kerry and Dodd have voiced their alarm over the awarding of the contract in a letter to then Secretary of Defence, Donald Rumsfeld following an intervention by Mrs Mc Bride. Senator Barack Obama has also expressed concern at the Aegis contract.

- At the time the contract was awarded former British Army Brigadier General James Ellery was a senior advisor to the Provisional Coalition Authority (CPA) according to Aegis. Soon after the contract was awarded Ellery left this post and took up a position with Aegis managing the RSSS contract in Iraq. He is now on the board of directors of Aegis.<sup>5[4]</sup> It is legitimate to ask for clarification on a number of points since it would appear that the individual who took charge of the contract on the ground had been in a senior advisory post to the CPA when the decision was made to award the contract. Was Brigadier General James Ellery still serving in the UK armed forces while a senior advisor to the Coalition Provisional Authority ? Did he attend any meetings at which the proposed contract was discussed or was he involved in any official capacity in discussions regarding the contract while a senior advisor to the Coalition Provisional Authority ?

### **The FCO has designated November ‘FCO Business Responsibility Month’.**

The FCO website poses the following question,

What is Corporate Citizenship?

The FCO response to its own question is,

“... in essence, a [company](#) pursuing this approach does three key things:

1. It recognises that its activities have a **wider impact on the society** in which it operates; and that developments in society in turn impact on its ability to pursue its [business](#) successfully;
2. In response, it **actively manages the economic, social, environmental and human rights impact** of its activities across the world, basing these on principles which reflect international values, reaping benefits both for its own operations and reputation, as well as for the communities in which it operates; and
3. It seeks to achieve these benefits by **working closely with other groups and organisations** - local communities, [civil society](#), other business and home and host governments

---

<sup>5</sup> See Aegis website (last visited 27.11.2006)

**Mrs Mc Bride is strongly of the view that the Foreign and Commonwealth Office should take the lead in demonstrating Business Responsibility. In this case the FCO should desist from doing business with a company whose CEO seeks to justify the murder of her unarmed teenage son. Furthermore the FCO should desist from doing business with a company whose CEO has in the past been involved in activities described as “quite damaging to the government at the time.” (Dennis Mc Shane, MP, Parliamentary Under-Secretary of State, Foreign and Commonwealth Office)**

Should the FCO wish to have a copy of the trial transcript from the Peter Mc Bride murder trial, the affidavit of Lt Col Tim Spicer or any other relevant documents please advise.

On behalf of Jean Mc Bride

November 28 2006