

## Senate Democratic Policy Committee Hearing

### “Abuses in Private Security and Reconstruction Contracting in Iraq: Ensuring Accountability, Protecting Whistleblowers”

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Honored Members of the Senate:

I want to thank the Committee for its tenacious effort over the past four years to bring the truth to the American People about the Bush Administration’s mismanagement of the War in Iraq. Clearly, the war has gone terribly wrong, and the American People are entitled to know why.

Today’s subject is the mistreatment of Iraqi contracting whistleblowers. Contracting whistleblowers have a unique place in our legal system. Thanks to the wisdom of President Lincoln, whistleblowers who witness fraud by contractors are deputized as “Private Attorneys General.” They are authorized to bring lawsuits in federal court against companies who cheat the Government, the taxpayers and the troops. Under the False Claims Act, the Attorney General is supposed to join with whistleblowers to prosecute and punish war profiteers.

The sad truth is that the Bush Administration has not even tried to do this. On the contrary, it has done all it could to prevent this.

The Civil War was the original inspiration for the False Claims Act. The War in Iraq has lasted longer than the Civil War. Yet the Administration has not actively litigated one single case of fraud, or even breach of contract, against any contractor in Iraq. Iraqis have looked on in disbelief, and then in anger, as one botched Iraq reconstruction job after another has been paid in full, and they see that this Administration won’t even protect our own troops from cheating and overcharging. Many Americans feel the same anger.

According to an upcoming article in *Vanity Fair* magazine, whistleblowers have filed dozens upon dozens of lawsuits, trying to prod the Bush Administration into fighting contractor fraud in Iraq. For years, the Administration’s response was to obtain one court order after another, barring the whistleblowers and their attorneys from even discussing these cases – in other words, preventing them from telling the truth to the American People about the War in Iraq. Indeed, the Justice Department went so far as to convene a grand jury to investigate whistleblowers and their attorneys for supposed violation of these orders.

To their credit, the federal courts were unwilling to go along with this pretense forever. Thanks to our independent judiciary, a dozen whistleblower cases now have been unsealed. The Bush Administration has refused to join in every one of them.

Five of those cases remain in litigation, and I am the whistleblowers' attorney in all five. In every one of those cases, the Bush Administration has taken no action to punish the war profiteers, or recover the money stolen from the taxpayers.

The False Claims Act also gives the federal government the authority to bring lawsuits to protect contractor whistleblowers who lose their jobs. The Bush Administration has never brought such an action -- not even once.

More recently, we have seen a pattern emerge that is, if anything, even worse than before. The Bush Administration is now "settling" cases of fraud for pennies on the dollar, ending any chance of bringing these war profiteers to justice. The grand total of what the Bush Administration says it has recovered through "settlements" in such whistleblower cases, after over four years, is \$14 million – less than what it spends on the War in Iraq every 30 minutes. In another case, the Bush Administration required Halliburton to pay back only one-quarter of what an official audit by the Defense Contract Audit Agency found that Halliburton owed, leaving Halliburton with a fraudulent profit of \$150 million.

It should be noted that the Defense Department itself has been vigorous in its efforts to protect its troops from war profiteering. It has debarred dozens of contractors from future government contracts. The problem has been that the Bush Administration Justice Department won't do anything to recover the stolen money, much less punish the wrongdoers.

During the entire period of the war, the person within the Bush Administration responsible for deciding what to do about the staggering number of whistleblower complaints pinpointing fraud in Iraq has been the Assistant Attorney General of the Civil Division, Peter Keisler. The Senate should note that Peter Keisler is a founder of the arch-conservative Federalist Society. Since joining the Justice Department, Keisler not only has stifled Iraq whistleblower cases, but also reduced tobacco company settlement payments from \$130 billion to only \$10 billion, defended the Bush Administration's wiretapping program, and led the Bush Administration's efforts to deny habeas corpus rights to Guantanamo Bay detainees. President Bush has nominated Keisler three times to federal circuit courts, without success so far. Keisler had announced his resignation, effective yesterday, but instead, President Bush elevated him to Acting Attorney General.

Hence it seems likely to continue that whistleblower cases against corrupt war profiteers in Iraq will go nowhere – and that they would be seen or heard by no one. One day, there will be a head of the Justice Department who will permit its career civil servants to protect whistleblowers, fight war profiteers and dispense justice. Until then, I urge the Senate to exercise its own Constitutional authority and try, with the power at its command, to set things straight. Thank you.