

MEMORANDUM – CHARGING RECOMMENDATIONS

TO: Mark Richardson, Prosecuting Attorney, Cole County
FROM: Darrell Moore, Deputy Attorney General, Criminal Division
DATE: June 12, 2018
RE: HELP, Inc. matter – Charging Recommendations

We understand that you are making final charging decisions in this matter. As prosecutors appointed to assist your office under § 27.030, RSMo, we write to advise you of our own charging recommendations, based on our independent review of the evidence. Both the evidence and the public interest support filing criminal charges against the following three individuals. In each case, evidence both supports a finding of probable cause and establishes a readily provable case.

(1) Scott Marion, former Director of MoDOT's Motor Carrier Services.

Recommended charge: Knowing disclosure of confidential information obtained in the course of his employment with the intent to result in financial gain to himself or another person, in violation of § 105.452, RSMo (class B misdemeanor). The evidence indicates that Scott Marion, acting in his official capacity, shared confidential information obtained in the course of his state employment with agents of HELP, Inc. The purpose of these disclosures was evidently to benefit HELP, Inc. financially. These disclosures occurred in a series of emails between 2015 and 2017. Most recently, on June 25, July 6, and July 7, 2017, Marion emailed to Karen Rasmussen, the CEO of HELP, Inc., an internal Weigh-In-Motion risk assessment that he had prepared in advance of an important meeting among state legislators, HELP, Inc., its competitor Drivewyze, and members of MoDOT. This information was not shared with any other vendors. Marion was ultimately discharged from MoDOT upon release of the Auditor's report about the same conduct.

(2) Jan Skouby, former Director of MoDOT's Motor Carrier Services.

Recommended charge: Conflict of interest in violation of § 105.454, RSMo (class B misdemeanor). The evidence indicates that Jan Skouby, acting in her official capacity, took an active role in the administration and regulation of HELP, Inc.'s business for the State of Missouri from March 2011 through October 2013. In this capacity, she exercised influence on Missouri's commercial vehicle preclearance and bypass system in a manner favorable to HELP, Inc. and unfavorable to HELP, Inc.'s competitor Drivewyze. Following her active role in eliminating the possibility of a state contract for Drivewyze, Skouby retired from MoDOT in October 2013. She was then hired by HELP, Inc. in May 2014 and accepted compensation for that work, and she continues to work for HELP, Inc. to this day. In working for HELP, Inc., she continues work on matters relating to HELP, Inc.'s activities in Missouri with respect to which she was directly concerned and personally participated during her employment with the State, including lobbying MSHP and MoDOT officials regarding HELP, Inc.'s and Drivewyze's business within the State of Missouri.

- (3) **Bret Johnson, former Colonel of the Missouri State Highway Patrol.** Recommended charge: Conflict of interest in violation of § 105.454, RSMo (class B misdemeanor). The evidence indicates that Colonel Johnson, acting in his official capacity, took an active role in the administration and regulation of the activities of HELP, Inc., in Missouri, between 2013 and 2016. In a series of emails, Johnson indicated that he exercised regulatory authority and served as an internal “cheerleader” for HELP, Inc. within the Highway Patrol, and he actively opposed efforts by Drivewyze to compete with HELP, Inc. for Missouri business. Following his active role in eliminating the possibility of a state contract for Drivewyze, Col. Johnson retired from the Highway Patrol on Feb. 1, 2017. He promptly formed a consulting firm effective March 1, 2017. In that same month, he accepted HELP, Inc. as a client and began receiving compensation for lobbying services. He did not terminate his business relationship with HELP, Inc. until shortly before the Auditor’s report criticizing his activity was released. In working for HELP, Inc., he lobbied on matters relating to HELP, Inc.’s activities in Missouri with respect to which he was directly concerned during his employment with the State.

The public interest overwhelmingly favors the investigation and prosecution of crimes of public corruption. Missourians are entitled to clean, transparent, ethical government, free from graft and conflicts of interest. Failing to prosecute readily provable violations of Missouri’s public-corruption laws would embolden other offenders and undermine the State’s compelling interest in clean government. For these reasons, we strongly recommend the filing of criminal charges against these three individuals.

For your convenience, we have prepared drafts of proposed probable-cause statements for each of these individuals that summarize the evidence against them in more detail. These probable-cause statements are attached to this memo.