

# Attachment A

1. During the December 11, 2019 Public Safety and Justice Subcommittee Councilmember Nowakowski requested information on the process for selecting the original and current red light camera locations.

**Answer:** The selection of intersections with red light cameras from 2001, 2009 and 2015 to date has been based on multiple factors. Crash data information is obtained by the Street Transportation Department (Streets) from the Arizona Department of Transportation (ADOT). The crash data is analyzed and reviewed jointly between the Streets and Police Departments in a collaborative effort that included: the Police Traffic Bureau, the placement of one camera in each district, the consideration of future capital improvement projects, right of way availability, and access to underground utilities.

Regarding the selection of red light camera locations going forward, staff can provide recommendations to the City Council that account for the factors that have been used to date, and also take into account any other factors recommended by Council members. The decision on the number of cameras and where the cameras are specifically located can be brought to the City Council for a final decision.

Staff recommends regular reviews of the collision data due to red light running with the City Council to evaluate and discuss whether location changes may be warranted to maximize safety.

2. Question: In an electronic communication Councilmember DiCiccio inquired whether extending yellow lights is a good thing or a bad thing and whether extending yellow lights saves lives.

**Answer:** The Street Transportation Department follows the City of Phoenix Traffic Operations Handbook (Rev March 15, 2018) and national standards (Institute of Transportation Engineers – Traffic Engineering Handbook) in the timing of its yellow lights (yellow clearance times). There are no studies that show increasing yellow clearance times outside the established national standards reduces red light running incidents, or red light running crashes (including those involving serious injuries or fatalities). Further, increasing yellow clearance times beyond what national standards recommend could place additional liability on the City, especially if there is a crash involving a serious injury or fatality related to intersection timing. National studies have shown if yellow clearance times are too long, drivers will disregard it and treat it like a green light. Longer yellow clearance times, which could contribute to excessively long signal phase times, could also encourage red-light running.

Other studies have also shown that red light cameras are far more effective in reducing red light violations than adding 1 second to the yellow clearance times. It is important to note that there have been no serious injuries or fatalities at the 12 current red light camera intersections for the movements that are monitored by the red light camera (based on 2016-2018 data).

3. In an electronic communication Councilmember DiCiccio requested information on the number of citations given at each camera intersection and the zip codes from which individuals were receiving and paying traffic citations.

**Answer:** **Exhibit A** is a document provided to councilmembers for the December 11, 2019 Public Safety and Justice Subcommittee. It provides an accounting of the number of citations by intersections where a camera is located broken down by each year the camera was in operation. In addition to Exhibit A we have also provided from the City of Phoenix Courts **Exhibit B**,

provides the number of “findings” paid by violators for each of the intersections where a camera is placed. It also provides the total in fines collected for that location. **Exhibit C** breaks down the findings for each intersection by the zip code the notification of the registered owner was sent to.

4. During the December 11, 2019 Public Safety and Justice Subcommittee Councilmember Nowakowski requested information on the ownership of the equipment (vans and cameras) used for the mobile speed enforcement program.

**Answer:** As documented in **Exhibit D** the 2014 contract with Redflex (section 3.8, 3.9, 3.10, and 3.12), specifies that the vendor is responsible for providing all vans and equipment.

5. In an electronic communication Councilmember DiCiccio requested a complete accounting of all criminal charges brought against Redflex; Redflex Traffic Systems, Inc.; and any employees of Redflex or Redflex Traffic Systems, Inc. relating to their duties at Redflex or Redflex Traffic Systems, Inc., in any jurisdiction inside the United States, to include:
  1. Listing of charges
  2. Nature of the charges
  3. Final or current disposition of the case
  4. Penalties or sanction levied against Redflex or Redflex Traffic Systems, Inc.

**Answer:** **Exhibits E-M** provide a number of documents from the legal research into Redflex pursuant to the request of the councilmember. Additionally, the communications department conducted research into any reporting by the media regarding legal issues Redflex was involved with over the life of Redflex’s contracts with the City. This research is only those pieces of information each department was able to retrieve given the limited amount of time to research the matter.

## Exhibit A

# Phoenix Red Light Intersections Number of citations over 5 years

12th Street @ Camelback E/B

2015 – 2053

2016 – 1274

2017 - 3365

2018 – 3762

2019 – 3171

16th Street @ Jefferson S/B

2015 – 4870

2016 – 800

2017 - 3478

2018 – 2369

2019 – 1174

53rd Ave @ Indian School E/B

2015 – 1943

2016 – 715

2017 - 3169

2018 – 3003

2019 – 1764

24th Street @ Thomas Rd N/B

2015 – 645

2016 – 1290

2017 - 2277

2018 – 2573

2019 – 1768

Central @ McDowell Rd S/B

2015 – 1033

2016 – 1751

2017 - 2397

2018 – 1493  
2019 – 1198

67th Avenue @ McDowell S/B  
2015 – 991  
2016 – 898  
2017 - 1287  
2018 – 2965  
2019 – 1351

35th Avenue @ McDowell S/B  
2015 – 1645  
2016 – 2307  
2017 - 3322  
2018 – 3792  
2019 – 2931

50th Street @ Ray Rd E/B  
2015 – 802  
2016 – 1601  
2017 - 2655  
2018 – 2825  
2019 – 2503

35th Avenue @ Cactus Rd E/B  
2015 – 419  
2016 – 752  
2017 - 1171  
2018 – 1302  
2019 – 1270

Tatum @ Thunderbird Rd N/B  
2015 – 321  
2016 – 441  
2017 - 773  
2018 – 679  
2019 – 863

7th Street @ Bell Rd E/B  
2015 – 470

2016 – 896  
2017 - 2226  
2018 – 1891  
2019 – 3333

35th Avenue @ Glendale E/B

2015 – 484  
2016 – 458  
2017 - 1970  
2018 – 1968  
2019 – 1714

35th Avenue @ Dunlap (Decommissioned)

2015 – 233  
2016 –  
2017 -  
2018 –  
2019 –

7<sup>th</sup> Street @ Union Hills (Decommissioned)

2015 – 14  
2016 –  
2017 -  
2018 –  
2019 –

40<sup>th</sup> Street @ Broadway (Decommissioned)

2015 – 115  
2016 –  
2017 -  
2018 –  
2019 –

7th Street @ McDowell (Decommissioned)

2015 – 996

2016 –

2017 -

2018 –

2019 –

Bell Road @ Cave Creek (Decommissioned)

2015 – 591

2016 –

2017 -

2018 –

40<sup>th</sup> @ Pecos (Decommissioned)

2015 – 433

2016 –

2017 -

2018 –

2019 –

## Exhibit B

	Total Findings	Fines
<b>2015</b>	<b>14,706</b>	<b>\$972,119</b>
<b>RED LIGHT FAILURE TO STOP/REMAIN STOPPED</b>	<b>14,706</b>	<b>\$972,119</b>
12TH ST AND CAMELBACK RD EB	1,603	\$104,923
15TH AVE AND MISSOURI AVE SB	890	\$59,838
16TH ST AND JEFFERSON SB	3,622	\$239,878
35TH AVE AND DUNLAP AVE NB	182	\$11,141
35TH AVE AND MCDOWELL RD SB	1,204	\$79,749
35TH AVENUE AT CACTUS ROAD EB	316	\$20,967
35TH AVENUE AT GLENDALE AVENUE NB	361	\$25,163
40TH ST AND PECOS WB	324	\$23,552
51ST AVE AND VAN BUREN ST WB	197	\$12,104
53RD AVE AND INDIAN SCHOOL RD EB	1,421	\$94,204
67TH AVE AND MCDOWELL RD SB	290	\$18,170
7TH STREET AND BELL ROAD EB	367	\$23,276
BROADWAY RD & 40TH ST WB	81	\$3,974
CAVE CREEK RD & BELL RD EB	469	\$28,149
CENTRAL AVE & MCDOWELL RD NB	786	\$56,657
MCDOWELL RD & 7TH ST SB	801	\$54,579
MCDOWELL RD AND 67TH AVE NB	434	\$25,047
RAY RD AND 50TH ST EB	602	\$41,034
TATUM BLVD AT THUNDERBIRD RD NB	238	\$17,036
THOMAS ROAD AND 24TH STREET NB	506	\$32,093
UNION HILLS DR AND 7TH STREET WB	12	\$582
<b>2016</b>	<b>9,970</b>	<b>\$655,549</b>
<b>RED LIGHT FAILURE TO STOP/REMAIN STOPPED</b>	<b>9,970</b>	<b>\$655,549</b>
12TH ST AND CAMELBACK RD EB	919	\$59,171
16TH ST AND JEFFERSON SB	1,174	\$76,525
35TH AVE AND MCDOWELL RD SB	1,585	\$104,489
35TH AVENUE AT CACTUS ROAD EB	537	\$33,090
35TH AVENUE AT GLENDALE AVENUE NB	329	\$22,116
53RD AVE AND INDIAN SCHOOL RD EB	482	\$29,594
67TH AVE AND MCDOWELL RD SB	602	\$37,300
7TH STREET AND BELL ROAD EB	654	\$41,990
CENTRAL AVE & MCDOWELL RD NB	752	\$54,331
CENTRAL AVE & MCDOWELL RD SB	510	\$33,690
RAY RD AND 50TH ST EB	1,190	\$83,912
TATUM BLVD AT THUNDERBIRD RD NB	317	\$21,847
THOMAS ROAD AND 24TH STREET NB	919	\$57,495
<b>2017</b>	<b>21,259</b>	<b>\$1,320,691</b>
<b>RED LIGHT FAILURE TO STOP/REMAIN STOPPED</b>	<b>21,259</b>	<b>\$1,320,691</b>
12TH ST AND CAMELBACK RD EB	2,602	\$161,294
16TH ST AND JEFFERSON SB	2,469	\$153,333
35TH AVE AND MCDOWELL RD SB	2,459	\$145,973
35TH AVENUE AT CACTUS ROAD EB	922	\$55,776

35TH AVENUE AT GLENDALE AVENUE NB	1,497	\$96,949
53RD AVE AND INDIAN SCHOOL RD EB	2,362	\$139,607
67TH AVE AND MCDOWELL RD SB	971	\$54,569
7TH STREET AND BELL ROAD EB	1,759	\$116,275
CENTRAL AVE & MCDOWELL RD SB	1,844	\$117,705
RAY RD AND 50TH ST EB	2,037	\$136,250
TATUM BLVD AT THUNDERBIRD RD NB	589	\$39,727
THOMAS ROAD AND 24TH STREET NB	1,748	\$103,233
<b>2018</b>	<b>22,499</b>	<b>\$1,443,766</b>
<b>RED LIGHT FAILURE TO STOP/REMAIN STOPPED</b>	<b>22,499</b>	<b>\$1,443,766</b>
12TH ST AND CAMELBACK RD EB	2,986	\$193,386
16TH ST AND JEFFERSON SB	1,798	\$118,971
35TH AVE AND MCDOWELL RD SB	2,871	\$180,730
35TH AVENUE AT CACTUS ROAD EB	1,072	\$67,369
35TH AVENUE AT GLENDALE AVENUE NB	1,568	\$100,254
53RD AVE AND INDIAN SCHOOL RD EB	2,331	\$142,272
67TH AVE AND MCDOWELL RD SB	2,288	\$139,316
7TH STREET AND BELL ROAD EB	1,521	\$101,647
CENTRAL AVE & MCDOWELL RD SB	1,203	\$78,898
RAY RD AND 50TH ST EB	2,287	\$153,201
TATUM BLVD AT THUNDERBIRD RD NB	529	\$36,800
THOMAS ROAD AND 24TH STREET NB	2,045	\$130,921
<b>2019</b>	<b>14,213</b>	<b>\$988,352</b>
<b>RED LIGHT FAILURE TO STOP/REMAIN STOPPED</b>	<b>14,213</b>	<b>\$988,352</b>
12TH ST AND CAMELBACK RD EB	1,992	\$144,041
16TH ST AND JEFFERSON SB	718	\$47,405
35TH AVE AND MCDOWELL RD SB	1,540	\$105,525
35TH AVENUE AT CACTUS ROAD EB	845	\$57,732
35TH AVENUE AT GLENDALE AVENUE NB	1,070	\$72,192
53RD AVE AND INDIAN SCHOOL RD EB	1,060	\$67,489
67TH AVE AND MCDOWELL RD SB	833	\$52,075
7TH STREET AND BELL ROAD EB	1,961	\$145,649
CENTRAL AVE & MCDOWELL RD SB	801	\$58,059
RAY RD AND 50TH ST EB	1,689	\$120,810
TATUM BLVD AT THUNDERBIRD RD NB	551	\$40,340
THOMAS ROAD AND 24TH STREET NB	1,153	\$77,035
<b>Grand Total</b>	<b>82,647</b>	<b>\$5,380,477</b>



# Exhibit C

Findings			
2015			
85001	3	85050	35
85002	3	85051	132
85003	52	85053	67
85004	33	85054	5
85005	3	85060	2
85006	171	85061	2
85007	88	85063	6
85008	210	85064	7
85009	253	85066	8
85010	1	85067	2
85011	3	85068	2
85012	51	85069	5
85013	128	85071	3
85014	137	85074	1
85015	211	85078	1
85016	158	85079	1
85017	203	85080	4
85018	77	85082	5
85019	136	85083	16
85020	85	85085	18
85021	108	85086	7
85022	171	85087	1
85023	66	85253	1
85024	47	85301	2
85026	1	85353	1
85027	46	85358	1
85028	39	Total	5284
85029	115		
85030	1		
85031	185		
85032	163		
85033	320		
85034	21		
85035	184		
85036	7		
85037	166		
85040	239		
85041	321		
85042	292		
85043	146		
85044	138		
85045	39		
85046	2		
85048	126		

**2016**

85001	1	85063	7
85002	1	85066	4
85003	32	85067	1
85004	17	85068	1
85005	2	85069	7
85006	103	85070	1
85007	35	85071	1
85008	151	85074	1
85009	179	85076	3
85011	4	85078	1
85012	33	85079	1
85013	77	85080	2
85014	62	85082	4
85015	64	85083	12
85016	122	85085	20
85017	82	85086	6
85018	49	85087	1
85019	96	85323	1
85020	64	Total	3355
85021	65		
85022	108		
85023	62		
85024	67		
85027	44		
85028	32		
85029	111		
85031	84		
85032	115		
85033	173		
85034	12		
85035	118		
85036	2		
85037	80		
85040	96		
85041	179		
85042	144		
85043	80		
85044	188		
85045	21		
85048	123		
85050	48		
85051	94		
85053	49		
85054	9		
85060	3		

**2017**

80542	1	85060	4
85001	3	85061	3
85002	6	85063	6
85003	72	85064	4
85004	31	85066	8
85005	1	85067	3
85006	160	85068	3
85007	68	85069	3
85008	271	85070	1
85009	297	85071	5
85010	2	85074	1
85011	1	85075	1
85012	54	85076	4
85013	140	85078	2
85014	140	85079	5
85015	170	85080	7
85016	204	85082	4
85017	315	85083	19
85018	81	85085	50
85019	221	85086	24
85020	101	85087	1
85021	154	Total	6732
85022	250		
85023	137		
85024	158		
85027	98		
85028	42		
85029	225		
85031	237		
85032	213		
85033	411		
85034	37		
85035	262		
85036	4		
85037	210		
85040	173		
85041	326		
85042	259		
85043	133		
85044	267		
85045	36		
85048	166		
85050	91		
85051	233		
85053	98		
85054	15		

**2018**

85001	5	85060	3
85002	3	85061	2
85003	54	85063	8
85004	39	85064	3
85005	4	85066	10
85006	169	85067	2
85007	66	85069	5
85008	243	85070	2
85009	355	85071	1
85010	1	85074	2
85011	3	85076	4
85012	66	85079	4
85013	152	85080	9
85014	159	85082	3
85015	214	85083	25
85016	234	85085	27
85017	312	85086	20
85018	109	85087	5
85019	273	85301	2
85020	127	85308	1
85021	160	85353	1
85022	238	Total	7469
85023	137		
85024	126		
85027	93		
85028	58		
85029	207		
85030	1		
85031	229		
85032	225		
85033	559		
85034	44		
85035	472		
85036	5		
85037	284		
85040	184		
85041	338		
85042	256		
85043	189		
85044	258		
85045	41		
85048	160		
85050	86		
85051	256		
85053	118		
85054	18		

2019

85001	4	85061	2
85003	49	85063	3
85004	31	85064	3
85006	113	85066	1
85007	47	85067	2
85008	148	85068	4
85009	247	85069	4
85010	2	85071	2
85011	3	85074	1
85012	43	85076	3
85013	121	85078	1
85014	105	85080	6
85015	128	85082	3
85016	173	85083	16
85017	210	85085	40
85018	83	85086	15
85019	136	85087	2
85020	82	85128	1
85021	103	Total	5131
85022	279		
85023	164		
85024	203		
85027	100		
85028	34		
85029	196		
85031	152		
85032	214		
85033	282		
85034	19		
85035	211		
85036	2		
85037	116		
85040	87		
85041	183		
85042	147		
85043	84		
85044	180		
85045	34		
85046	2		
85048	132		
85050	106		
85051	162		
85053	88		
85054	16		
85060	1		

# Exhibit D



## SECTION IV - SCOPE OF WORK

**CITY OF PHOENIX**  
**Procurement Division**  
**251 W. Washington Street**  
**8th Floor**  
**Phoenix, AZ 85003**  
**Phone: (602) 262-7181**

Enforcement will not be allowed on teacher in-service days when classes are not in session, or for non-academic school functions outside the normal school day.

- 3.5 Photo Speed Enforcement may be conducted at any public, private, parochial or charter schools (elementary, middle or high school) operating in Phoenix or having school crossings operating on a Phoenix public street. Photo Speed Enforcement can be conducted on the portion of any street that is adjacent to a school ground and within 600 feet of the school grounds.
- 3.6 Photo Speed Enforcement may be conducted on any street adjacent to a school during school arrival times (generally 45 minutes prior to the start of school), during the entire school day or during school dismissal times (generally 30 minutes after the dismissal of the last class).
- 3.7 Photo Speed Enforcement may also be conducted at an established school crossing for any elementary or middle school that is not adjacent to the school grounds (15-mph school zone or traffic signal with an adult crossing guard). The enforcement must be conducted at or within 300 feet of the designated school crossing.
- 3.8 The Contractor will provide all related equipment needed to identify and photograph motor vehicles violating the provisions contained in Arizona Revised Statutes, Section 28-701, or ARS 28-797, with eight (8) vehicle digital camera/radar systems being rotated among locations designated by the City. The Contractor shall provide eight (8) photo speed enforcement digital camera/radar vehicles.
- 3.9 Each photo speed enforcement digital camera/radar vehicle shall consist of a new model (2013 model or newer) sport utility vehicle or comparably equipped van type vehicle. Vehicles shall have the following minimum equipment: automatic transmission, air conditioner, heavy duty cooling package, high output alternator, tinted windows (compliant with state regulations), radial tires, dual outside mirrors, power steering, power brakes, power windows, GPS monitoring unit, exterior streaming video and current Arizona registration.
- 3.10 Each vehicle shall have a solid white exterior ready for City of Phoenix applied markings to clearly identify each vehicle as a government vehicle. The City of Phoenix shall be responsible for purchasing and installing markings consistent with City standards and State of Arizona law. In the event that the contract should terminate at any time, the Contractor shall give the City no less than two (2) weeks after the end of the contract for removal of all City property.
- 3.11 Contractor shall provide staff to drive the digital camera/radar vehicle to the deployment location each day. Contractor's photo speed technicians must be prepared to testify in any and all court proceedings arising from the issuance of a photo speed citation in the Phoenix Municipal Court and in any higher court upon appeal. The personnel driving and operating the vehicle must pass a background check upon hire and annually thereafter. The background check is to be at the Contractor expense. All background checks are subject to the approval of the Phoenix Police Department.
- 3.12 Contractor shall be responsible for the all operational costs of the vehicles including fuel, maintenance, repairs and insurance. The contractor is responsible for insuring the vehicle and equipment for property damage caused by fire, collision, theft, and other perils.

## Exhibit E



**City of Phoenix**  
OFFICE OF THE CITY ATTORNEY

December 16, 2019

### MEMORANDUM

To: Ed Zuercher  
City Manager

From: Cris Meyer  
City Attorney

Subject: Redflex Holdings Ltd.

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Pursuant to request, staff conducted electronic research referencing “Redflex”, a publicly traded Australian company.

Westlaw research of all data bases returned “Redflex” in 160 cases. Further review shows that Redflex was a named party (usually a defendant) in approximately 50 cases over the last ten years. Unfortunately, the reported cases do not discuss final outcomes. These cases were in various stages of litigation and address various legal issues such as procedure, standing, pleadings and discovery.

In an unreported Illinois case, *City of Chicago v. Redflex Traffic Systems, Inc.* 15-cv-08271 filed in the United States District Court for the Northern District of Illinois, Eastern Division, Redflex was accused of bribery and making fraudulent and false statements to secure a contract with the City of Chicago. Redflex entered into a \$20 million settlement agreement with the City of Chicago for its alleged violations of Chicago’s Government Ethics Ordinance and its False Claims Ordinance. There were numerous news articles written regarding this case. (Exhibit F). Several top executives were sentenced to prison.

There are two Arizona cases involving Redflex. One, an unpublished opinion, *American Traffic Solutions Inc. v. Redflex Traffic Systems, Inc.*, 2011 WL 772310 (D. Ariz.) filed by one of Redflex’s competitors arguing false advertising by Redflex. However, after a two-week trial a jury found in favor of Redflex. (Exhibit G)

The second is *Gutenkauf v. City of Tempe*, 2011 WL 1672065 (D. Ariz.) filed by a private citizen against the City of Tempe and Redflex. The plaintiff in that case received a red-light ticket and fought it all the way to the Superior Court which dismissed the

charges. Then, the plaintiff filed a Section 1983 case alleging violation of his civil rights against Tempe and Redflex which was dismissed by the District Court. (Exhibit H).

A majority of cases listed in Westlaw concern private citizen actions filed against local municipalities and Redflex challenging red-light running tickets, arguing the constitutionality of the red-light running programs, Redflex's methodology in capturing video and photographic evidence used to cite citizens, and due process rights to provide citizens with hearings on traffic citations. See *Morales v. The Parish of Jefferson and Redflex*, 140 So. 3d 375 (App. 2017) where the Louisiana Court of Appeals determined that there was a question as to whether proper notice was given. (Exhibit I). *Redflex Traffic Systems, Inc. v. Watson*, 2017 WL 4413156 (App. Tx.), *Williams v. Redflex Traffic Systems, City of Knoxville*, 582 F.3d 617 (6<sup>th</sup> Cir.).

In addition to legal research, the Communications Office conducted an extensive investigation and was able to pull several news and media articles on the Chicago bribery case (Exhibit J) and other news articles regarding claims/controversies involving Redflex some of which are set forth as Exhibit K.

Please let me know if you have any questions or more information.



## Exhibit F

### JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Tuesday, December 27, 2016

### **Redflex Traffic Systems Enters into Non-Prosecution Agreement with United States**

The Department of Justice and the United States Attorney's Offices for the Northern District of Illinois and the Southern District of Ohio (collectively, "DOJ") have entered into a non-prosecution agreement with Redflex Traffic Systems Inc., a Phoenix-based automated safety company.

The agreement was announced by Assistant Attorney General Leslie R. Caldwell of the Justice Department's Criminal Division; Zachary T. Fardon, United States Attorney for the Northern District of Illinois; and Benjamin C. Glassman, United States Attorney for the Southern District of Ohio.

The agreement was reached in part due to Redflex's extensive and thorough cooperation over recent years, which is detailed in the agreement. It included cooperation with the successful prosecutions of several individuals, including a high-ranking city of Chicago official and Redflex's prior Chief Executive Officer.

Among the company's obligations under the agreement, which shall continue for two years, Redflex will pay restitution and compensatory damages to the City of Chicago, the amount of which will be determined either by a final judgment or a settlement agreement in Chicago's pending civil lawsuit against Redflex. Redflex will also pay restitution of \$100,000 to the City of Columbus, Ohio.

Further, Redflex agreed to cooperate fully with DOJ and any other law enforcement agency designated by DOJ, including the Australian Federal Police and other Australian law enforcement authorities. As part of that obligation, Redflex must, among other things, provide DOJ, the Australian Federal Police, and other Australian law enforcement authorities, upon request, all non-privileged information, documents, records, or other tangible evidence. Notwithstanding the two-year time period of the agreement, Redflex agreed to cooperate with DOJ, the Australian Federal Police, and other Australian law enforcement authorities until all of their investigations or prosecutions are concluded.

In exchange for Redflex's fulfillment of its obligations under the agreement, DOJ agreed that it will not criminally prosecute Redflex for any of the conduct arising out of investigations in Chicago and Columbus. The agreement does not relate to any potential tax charges.

Redflex Traffic Systems is wholly owned by Redflex Holdings Group of Melbourne, Australia, which owns and operates a network of digital speed and red-light cameras worldwide. The company installs cameras that automatically record and ticket drivers who run red lights. As part of the non-prosecution agreement, Redflex accepted responsibility for its conduct related to the illegal activities of its employees in recent U.S. investigations.

Its former CEO was convicted as part of the probes into bribes paid to elected officials to procure or expand Redflex's contracts with Chicago and Columbus. The investigations also resulted in the convictions of a

Chicago official and a Columbus lobbyist. John Bills, a former Chicago assistant transportation commissioner, was convicted of accepting cash and benefits from Redflex in exchange for expanding the company's business with Chicago. The lobbyist, John Raphael, pleaded guilty to extorting cash from Redflex to pass on to elected officials in Ohio in an effort to obtain red-light camera contracts.

Since the inception of the U.S. investigations, Redflex has initiated substantial additions and changes to its compliance program, policies and procedures. The company agreed in the non-prosecution agreement to revise and address any deficiencies in its compliance code, policies and procedures regarding compliance with applicable anti-bribery and anti-corruption laws. Redflex agreed to adopt new policies to ensure that it maintains a rigorous anti-bribery and anti-corruption compliance code, and to install procedures designed to detect and deter violations of such laws.

During the term of the agreement, Redflex must prepare at least four follow-up reports and periodically submit them to DOJ. If DOJ determines that Redflex has violated any provision of the non-prosecution agreement, Redflex shall be subject to prosecution for any applicable violation of U.S. law, including perjury and obstruction of justice.

The government was represented in the Chicago case by Mr. Fardon and Assistant U.S. Attorneys Laurie Barsella and Timothy Storino of the Northern District of Illinois. The Chicago case was investigated by the FBI's Chicago Field Office, the IRS Criminal Investigation Division, and the City of Chicago's Inspector General's Office.

The government in the Columbus case was represented by Trial Attorney Edward P. Sullivan of the Criminal Division's Public Integrity Section and Assistant U.S. Attorney J. Michael Marous of the Southern District of Ohio. The Columbus case was investigated by the FBI's Cincinnati Field Office, Columbus Resident Agency, the IRS Criminal Investigation Division, and the Ohio Bureau of Criminal Investigation.

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**Topic(s):**

Public Corruption

**Component(s):**

Criminal Division

Criminal - Public Integrity Section

USAO - Illinois, Northern

USAO - Ohio, Southern

**Press Release Number:**

16-1528

*Updated November 18, 2019*

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

<b>CITY OF CHICAGO,</b>	)	
<i>ex rel.</i> <b>AARON ROSENBERG,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>15-cv-08271</b>
	)	
<b>vs.</b>	)	
	)	<b>Judge John J. Tharp, Jr.</b>
<b>REDFLEX TRAFFIC SYSTEMS, INC.,</b>	)	
<b>a Delaware corporation, and REDFLEX</b>	)	
<b>HOLDINGS LIMITED, an Australian company,</b>	)	
	)	
<b>Defendants.</b>	)	

**RELEASE AND SETTLEMENT AGREEMENT**

This Release and Settlement Agreement (“Agreement”) is made and entered into as of this 3rd day of February, 2017 (“Effective Date”), by and between Redflex Traffic Systems, Inc. (“RTSI”) and Redflex Holdings Limited (“RHL”) (collectively, “Redflex” or “Redflex Parties”) and the City of Chicago (“City”), acting through its Department of Transportation (“CDOT”) and its Department of Law (“DOL”) (each individually, a “Party” and collectively, “Parties”).

**RECITALS**

WHEREAS, the City is a home rule unit of government as defined in Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois;

WHEREAS, RTSI is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Arizona, and is registered to do business in the State of Illinois;

WHEREAS, RHL is an Australian company, whose stock is publicly traded in Australia;

WHEREAS, from 2003 through 2013, RTSI entered into three contracts with the City, Contract P.O. Number 3220 (“P.O. 3220”), Contract P.O. Number 16396 (“P.O. 16396”), and Contract P.O. Number 18031 (“P.O. 18031”), as amended from time to time (collectively, the “City Contracts”), in connection with the City’s Digital Automated Red Light Enforcement Program (“DARLEP”);

WHEREAS, the City expressly requires, as a condition of entering into public contracts, that those contracting with it will comply with, among other things, the City’s Government Ethics Ordinance, Chapter 2-156 of the Municipal Code of Chicago (“MCC”) (“Ethics Ordinance”);

WHEREAS, on April 15, 2014, relator, Aaron Rosenberg (“Rosenberg”), RTSI’s former Vice President of Sales and Marketing for North America, filed a complaint (“Complaint”) in the Circuit Court of Cook County entitled *City of Chicago, ex rel. Aaron Rosenberg v. Redflex Traffic Systems, Inc.*, No. 14 L 4211, on behalf of the City under the City’s False Claims Ordinance, MCC, §§ 1-22-010, *et seq.*, against RTSI (“Civil Action”), alleging that it had provided bribes and other benefits to former City employee, John Bills (“Bills”), in connection with the City Contracts, either directly or through Martin O’Malley (“O’Malley”), who he caused to be hired as a RTSI consultant;

WHEREAS, on December 10, 2014, O’Malley entered a voluntary guilty plea to bribery and other offenses in relation to the City Contracts in Case No. 14 CR 135, in the Northern District of Illinois, Eastern Division (“Criminal Action”) and, on September 12, 2016, O’Malley was sentenced to six months in prison;

WHEREAS, on August 20, 2015, Karen Finley (“Finley”), the former Vice President of Operations and later President and CEO of RTSI, and former Director of RHL, entered a voluntary guilty plea to bribery and other offenses in relation to the City Contracts in the Criminal Action, and, on November 10, 2016, Finley was sentenced to 30 months in prison;

WHEREAS, on January 26, 2016, a federal jury convicted Bills of bribery and other offenses in relation to the City Contracts in the Criminal Action, and, on August 29, 2016, Bills was sentenced to ten (10) years in prison;

WHEREAS, on August 26, 2015, the City intervened in the Civil Action;

WHEREAS, on September 21, 2015, RTSI removed the Civil Action to the Northern District of Illinois, Eastern Division, No. 15 CV 08271;

WHEREAS, on December 14, 2015, the City filed its First Amended Complaint (“FAC”) in the Civil Action, adding RHL as a defendant and asserting claims against Redflex under the City’s False Claims Ordinance, MCC, §§1-22-010, *et seq.*, the False Statements Ordinance, MCC, §§1-21-010, *et seq.*, and the Consumer Fraud, Unfair Competition or Deceptive Practices Ordinance, MCC, §§ 2-25-090, as well as claims for breach of contract, civil conspiracy, unjust enrichment, and the payment of kickbacks in connection with the City Contracts in violation of 720 ILCS 5/33E-7 (“Claims”);

WHEREAS, on August 8, 2016, the Court granted Redflex’s Rule 12(b)(1) Motion to Dismiss Rosenberg from the Action for lack of jurisdiction, finding that his complaint was based upon publicly disclosed information and that he was not an original source of the information in the complaint (“August 8th Ruling”);

WHEREAS, on December 23, 2016, RTSI entered into a Non-Prosecution Agreement (“NPA”) with the United States Department of Justice (“DOJ”), pursuant to which DOJ agreed not to prosecute Redflex for any of RTSI’s activities in seeking, obtaining, and executing the City Contracts, and RTSI agreed to certain factual statements set forth in the NPA, and to certain obligations under the NPA;

WHEREAS, DOJ entered into the NPA based, in part, on RTSI's (1) acceptance of responsibility for the conduct described in the NPA relating to the City Contracts; (2) extensive, thorough, timely, and voluntary cooperation with DOJ; and (3) early and extensive remedial efforts in response to the DOJ investigations, including, among other things, creating a director of compliance position, implementing anti-bribery and anti-corruption policies and procedures, and instituting anti-bribery and anti-corruption trainings;

WHEREAS, the NPA provides, among other things, that RTSI agrees to pay as restitution and compensatory damages to the City the amount of any final judgment that may be issued in favor of the City, or that RTSI and the City may agree to in a settlement agreement, in the Civil Action;

WHEREAS, the Parties wish to settle, compromise and resolve all claims which were raised or could have been raised in the Civil Action, based upon the facts asserted therein; and

WHEREAS, the Parties acknowledge and agree that this Agreement is made to resolve these issues expeditiously and to avoid the cost and uncertainty of the outcome of litigation;

NOW, THEREFORE, in consideration of the covenants set forth below and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties mutually warrant and agree as follows:

### **AGREEMENT**

1. **Recitals.** The recitals set forth above constitute material and integral parts of this Agreement and are incorporated herein by reference.

2. **Definitions.** All terms not specifically defined herein have the meanings set forth in the City Contracts. All references to Dollars in this Agreement are references to U.S. Dollars.

3. **Settlement Payments.** In consideration of this Agreement and the actions taken pursuant hereto, the Redflex Parties, jointly and severally, will pay restitution and compensatory damages to the City in the total sum of Twenty Million Dollars (\$20,000,000) ("Total Settlement Payment," with each such payment sometimes referred to as a "Settlement Payment") as follows:

- a. Five Million Dollars (\$5,000,000) to be paid within 45 calendar days from the Effective Date of this Agreement;
- b. Five Million Dollars (\$5,000,000) to be paid on or before December 31, 2017;
- c. One Million Dollars (\$1,000,000) to be paid on or before December 31, 2018;
- d. One Million Dollars (\$1,000,000) to be paid on or before December 31, 2019;
- e. One Million Five Hundred Thousand Dollars (\$1,500,000) to be paid on or before December 31, 2020;

- f. One Million Five Hundred Thousand Dollars (\$1,500,000) to be paid on or before December 31, 2021;
- g. Two Million Five Hundred Thousand Dollars (\$2,500,000) to be paid on or before December 31, 2022;
- h. Two Million Five Hundred Thousand Dollars (\$2,500,000) to be paid on or before December 31, 2023;
- i. Each Settlement Payment must be paid by certified or cashier's check or wire transfer, payable to: The City of Chicago, and each check or wire shall bear the words: *City of Chicago v. Redflex Traffic Systems, Inc., et al.*, No. 15 CV 08271;
- j. If a Settlement Payment is made by: (a) check, each check must be delivered to the City's Corporation Counsel at 121 N. LaSalle St., Suite 600, Chicago, IL 60602, on or before the due date; or (b) wire transfer, such Settlement Payment shall be made in clear funds on or before the due date pursuant to banking instructions provided to Redflex by the City, from time to time, after the execution of this Agreement, but before a Settlement Payment is due to be made.
- k. Each Settlement Payment shall become a debt immediately due and payable to the City on the date that said Settlement Payment is due pursuant to subparagraphs 3(a)-(h), *supra*.
- l. Subject to the deferral provisions of Paragraph 5, the Redflex Parties' failure to deliver to the City any Settlement Payment on or before the date that Settlement Payment becomes due and payable under subparagraphs 3(a)-(h), *supra*, constitutes a material breach of this Agreement ("Breach"). If a Breach of this Agreement occurs, the City has given written notice of the Breach to the Redflex Parties, and the Breach has continued uncured for a period of ten (10) days after the notice of Breach (such event being an "Event of Default"), any remaining balance of the \$20,000,000 due under this Agreement that has not yet been paid to the City by the Redflex Parties will become immediately due and payable to the City, and the City reserves the right to bring suit to enforce the provisions of this Agreement and to recover the entire amount that has come due or will become due under this Agreement, and to take any other actions authorized by law.
- m. The City's acceptance of any Settlement Payment hereunder which is not timely or is less than the full amount due and payable at the time of such Settlement Payment shall not constitute a waiver of the City's right to pursue any available remedies at that time or at any subsequent time or nullify any prior pursuit of any such remedy, or in any way or manner prejudice, impair, diminish or restrict any right, power or remedy available to the City, without its express written consent.

4. Acceleration of Settlement Payments because of a Transaction.
- a. Full Repayment. In the event of a Transaction (as defined below), the schedule for the Settlement Payments specified in Paragraph 3 will be accelerated such that the balance of the unpaid Total Settlement Payment shall become immediately due and payable to the City upon the closing of such Transaction. In this Paragraph 4 “Transaction” means any of the following: (i) any transaction or series of related transactions which have the effect either directly or indirectly of transferring more than 50% of the then issued share capital of RTSI or RHL, as applicable, to another Person (as defined below) or group of Persons acting in concert; (ii) the sale of substantially all of the assets of RTSI or RHL to another Person or group of Persons acting in concert; or (iii) any payment by RHL of a cash dividend to equity investors in excess of the greater of: (a) its franking credits; or (b) 5% of RHL’s market capitalization at the time such dividend is declared. For the avoidance of doubt, “Transaction” excludes the issuance of shares or other securities by RHL or any of its Affiliates (“New Securities”) even if such issuance of New Securities results in the purchaser or purchasers of such New Securities owning more than 50% of RHL, stock splits or consolidations of RHL, stock dividends to RHL shareholders or the payment of dividends, whether by cash or stock, to or from Affiliates of Redflex or any internal restructuring by, or involving, Redflex or any of its Affiliates. In this Agreement, “Person” means an individual or natural person, corporation, trust, partnership, limited partnership, limited liability company, joint venture, joint stock company, unincorporated organization, firm, estate, governmental authority or any agency or political subdivision thereof, or other entity, but does not include RHL or any of its Affiliates; and “Affiliate” means any person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the first entity.
- b. Partial Repayment. In the event of a closing of a sale of assets to another Person or group of Persons acting in concert that exceeds 20% of RHL’s Net Tangible Assets (measured by subtracting “Intangible Assets and Goodwill” from “Net Assets”) as set out in the most recently completed financial release disclosed to the Australian Securities Exchange by RHL (a “Substantial Asset Sale”), the Settlement Payments (as adjusted pursuant to Paragraph 4(c)) specified in Paragraph 3 will be accelerated as follows, up to a total amount equal to 75% of the net cash proceeds generated from the Substantial Asset Sale: first to repay any Settlement Payments deferred pursuant to Paragraph 5, below; and then to make the latest scheduled Settlement Payments pursuant to Paragraph 3, above (i.e., first to 3(h), then to 3(g), and so on).
- c. The amount payable with respect to any Settlement Payment that is accelerated pursuant to Paragraph 4(a) or 4(b) will be calculated as the net present value of the originally scheduled Settlement Payments, using a discount rate of 15%; provided, however, the accelerated payment of any Settlement Payment deferred pursuant to Paragraph 5, below, shall be paid in full and not reduced to net present value.



- d. The Redflex Parties shall provide written notice to the City within 3 days of the closing of any Transaction that may fall within Paragraphs 4(a) or 4(b).

5. Partial Deferral of Settlement Payment. At any time following the timely payment of the Settlement Payment that is due on December 31, 2019, and assuming no Event of Default exists or has existed (that has not been cured), the Redflex Parties shall have the right to defer (“Right of Deferral”) payment of the portion of any Settlement Payment in excess of One Million Dollars (\$1,000,000) (such amount in excess of \$1,000,000 being the “Deferred Amount”) for any Settlement Payment that is due on or before December 31 following any fiscal year ending on June 30 in which the audited consolidated EBITDA of RHL for that fiscal year is less than U.S. \$15,000,000. The cumulative Deferred Amounts (if any) will be due in full on or before December 31, 2024 (the “2024 Payment”), except that the 2024 Payment is also subject to the Right of Deferral as of December 31, 2024, and again on December 31, 2025, as set forth in this Section 5, provided, however, that the Total Settlement Amount must be paid in full by December 31, 2026. For the avoidance of doubt, if the Right of Deferral were exercised in every year, this would result in annual Settlement Payments of \$1,000,000 each beginning December 31, 2018 and ending with a Settlement Payment of \$2,000,000 (the final balance of the Total Settlement Amount) on December 31 2026. Notwithstanding anything contained herein to the contrary, the Right of Deferral in respect of a Settlement Payment shall not be operative if RHL has paid cash dividends to shareholders in either the fiscal year ending on June 30 of the calendar year in which the relevant Settlement Payment was due pursuant to Paragraph 3, or in the remainder of that calendar year. The Redflex Parties shall provide written notice to the City, 30 days in advance of any due date, if they are entitled to, and intend to exercise, their Right of Deferral.

6. City Waiver and Release. In consideration of this Agreement, and the monies paid pursuant to this Agreement, the City, on behalf of itself, and its current and former officers, agents, officials, employees, representatives, predecessors, successors, attorneys and assigns, hereby releases, acquits and discharges RTSI, RHL, and each of their respective former and current subsidiaries, affiliates, predecessors, successors, officers, directors, shareholders, employees, agents, attorneys, consultants, insurers, and representatives, (collectively, the “Redflex Released Parties”), from any and all claims, debts, demands, suits, rights, causes of action, accounts, bonds, covenants, guarantees, contracts, agreements, damages, indemnities, liabilities and obligations of every kind, nature or description, in law or in equity, relating in any way to (a) the Claims or the Civil Action, including, without limitation, any and all claims which were asserted or could have been asserted against the Redflex Released Parties in the Civil Action, or (b) the City Contracts, including, without limitation, Redflex’s charges, billing or invoicing for services provided to the City thereunder; provided, however, that it is expressly understood and agreed by the Parties that: (1) this Waiver and Release is not intended as a release, discharge, accord or satisfaction of any claim by the City against any person other than the Redflex Released Parties; (2) the City is not releasing, waiving, or discharging any contractual obligations, if any, that Redflex may have under the City Contracts to repair, replace or service red light cameras provided to the City; (3) the City is not releasing, waiving, or discharging any claims it has or may have against the Redflex Released Parties, whether based on contribution or indemnity (express, contractual or implied), or based on contract, tort, statute, ordinance, or any other theory, as a result of any claims by third parties that are based on the



conduct of the Redflex Released Parties or that relate in any way to the City Contracts, unless the third party's claim is known to the City as of the Effective Date; (4) the City is not releasing, waiving, or discharging any claims it has or may have against any of the criminal defendants in the Criminal Action based on the restitution that was ordered against them in the Criminal Action; and (5) this Waiver and Release is not intended to release, waive or discharge any obligations of the Redflex Parties under the terms of this Agreement.

7. Redflex Waiver and Release. In consideration of, and in exchange for, the City's Waiver and Release in Paragraph 6, *supra*, RTSI and RHL, on behalf of themselves, and each of their respective former and current subsidiaries, affiliates, predecessors, successors in interest, officers, directors, employees, agents, attorneys, and representatives, hereby release and discharge the City, and its current or former officers, agents, officials, employees, attorneys, representatives, and consultants ("City Released Parties"), from all claims, debts, demands, suits, rights, causes of action, accounts, bonds, covenants, guarantees, contracts, agreements, damages, indemnities, liabilities, obligations and any and all claims of every kind, nature or description, in law or in equity, relating in any way to (a) the Claims or the Civil Action, including, without limitation, any and all claims, which were asserted or could have been asserted against the City in the Civil Action, or (b) the City Contracts; provided, however, that it is expressly understood and agreed by the Parties that: (1) this Waiver and Release is not intended as a release, discharge, accord or satisfaction of any claim by the Redflex Parties against any person other than the City Released Parties; (2) the Redflex Parties are not releasing, waiving, or discharging any claims they have or may have against the City Released Parties, whether based on contribution or indemnity (express, contractual or implied), or based on contract, tort, statute, ordinance, or any other theory, as a result of any claims by third parties that are based on the conduct of the City Released Parties or that relate in any way to the City Contracts, unless the third party's claim is known to the Redflex Parties as of the Effective Date; and (3) this Waiver and Release is not intended to release, waive or discharge any obligations of the City under the terms of this Agreement.

8. Dismissal of Action. Within 5 business days of the Effective Date, the City shall submit to the Court for entry an Agreed Order dismissing the Civil Action in its entirety, with prejudice, with each Party therein to bear its own legal costs, expenses and attorneys' fees, and will promptly, upon entry, deliver a copy of the entered final Agreed Order to counsel for the Redflex Parties.

9. Redflex Cooperation and Participation. In the event that Rosenberg files an appeal from the August 8<sup>th</sup> Ruling which dismissed him from the Civil Action for lack of jurisdiction, the City and Redflex agree to defend the August 8<sup>th</sup> Ruling on appeal. The Parties agree that Rosenberg has no basis to challenge the adequacy of the settlement or receive any award or judgment in the Civil Action. However, in the event that Rosenberg becomes entitled to any recovery in the Civil Action, the City agrees that it will pay any such recovery in the Civil Action to Rosenberg, but only as a percentage of the Total Settlement Payment, as adjudicated by the court. Redflex will be liable for any award to Rosenberg of expenses, costs, and attorneys' fees entered by the court.

10. Notice of Delivery of NPA Reports. The Redflex Parties agree that they will send a notice to the City within five days of delivering to DOJ each report required under the NPA, advising that they have complied with the periodic reporting requirement, including the date each report was delivered.

11. Nature of the Payment. The Redflex Parties agree and acknowledge that their monetary obligations to the City under this Agreement constitute a debt for money obtained by false pretenses, false representations, or actual fraud, and that consequently those obligations are not dischargeable in bankruptcy pursuant to Sections 1141(d)(6)(A) and 523(a)(2)(A) of the Bankruptcy Code. The Redflex Parties agree not to oppose any action or proceeding brought in connection with any bankruptcy or other insolvency proceeding to establish the non-dischargeability of their obligations to the City under this Agreement.

12. Complete Defense. If either Party sues the other Party for the purpose of asserting a claim that has been waived or released under this Agreement, then this Agreement shall be and constitute a complete defense and bar to such a claim, and the Party being sued shall be entitled to receive a declaratory judgment and/or an injunction against such lawsuit.

13. Notices. All notices, requests, demands and other communications to be given under or by reason of this Agreement shall be in writing and delivered by an internationally recognized overnight courier service to the addresses set forth below or to such other addresses as may be specified in writing from time to time by a Party to the other Parties. All such notices, demands, requests and other communications shall be deemed given upon receipt.

To the Redflex Parties:

Michael R. Finn, President and CEO of Redflex Traffic Systems, Inc.  
5651 West Talavi Boulevard, Suite 200  
Glendale, AZ 85306-1844

And to:

Company Secretary  
Redflex Holdings Limited  
31 Market Street  
SOUTH MELBOURNE VIC 3205  
AUSTRALIA

To the City:

The Corporation Counsel, City of Chicago Law Department  
121 North LaSalle Street, Suite 600  
Chicago, IL 60602

14. Entire Agreement. This Agreement sets forth the entire agreement between the Parties solely with respect to the settlement of the Claims and fully supersedes any and all prior agreements or understandings between the Parties hereto pertaining to these Claims.

15. Parties Relied Solely on Their Own Judgment and Investigation. The Parties acknowledge and expressly represent and warrant that they have relied solely upon their own

judgment, together with advice of counsel, when deciding whether to enter into this Agreement. Each Party further agrees, acknowledges and expressly warrants that no information, statement, promise, representation, warranty, condition, inducement, or agreement of any kind, whether oral or written, made by or on behalf of any other Party shall be, or has been, relied upon by it in entering into this Agreement unless specifically contained and incorporated herein.

16. Joint Participation. The Parties warrant and represent that they have each knowingly and voluntarily entered into this Agreement following consultation with their respective legal counsel, and participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

17. Advice of Counsel. Each of the Parties hereto represents and warrants that it has had the advice of counsel concerning the terms and conditions of this Agreement and in entering into it. In entering into this Agreement, each Party represents that it has relied upon the advice of its attorney, who is the attorney of its choice, and that the terms of this Agreement have been interpreted and explained by its attorney, and that these terms are fully understood and voluntarily accepted by the Parties.

18. Binding Nature of Agreement. The terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the Parties hereto, and their respective successors, administrators, executors, beneficiaries, and/or assigns.

19. Controlling Law. This Agreement shall be construed in accordance with, and its validity and effect, including any claims of breach of any of the terms hereof, shall be governed by, the laws of the State of Illinois, without regard to Illinois law regarding choice of law.

20. Venue. The venue of any action commenced for the purposes of interpretation, implementation, and/or enforcement of the terms and conditions of this Agreement shall be the United States District Court for the Northern District of Illinois, Eastern Division, and the Redflex Parties consent to jurisdiction in this venue.

21. Attorneys' Fees. Each Party shall be responsible for its own attorneys' fees, costs and expenses related to the negotiation, drafting and execution of this Agreement and all issues relating to the Claims and the Civil Action.

22. No Third Party Rights. Except as the extent of the releases provided to the Redflex Released Parties and the City Released Parties pursuant to Paragraphs 6 and 7 of this Agreement, nothing in this Agreement is intended or shall be interpreted to confer any rights, privileges or rights of action of any kind upon any person not a party to this Agreement, or to effectuate a release by the Parties of any claims or causes of action that either Party has or may have against any person not a Party to this Agreement.

23. Modification. This Agreement may not be altered, amended, changed, terminated, or modified in any material respect without the express, written consent of each of

the Parties hereto. No waiver by any Party hereto of any breach or default hereunder shall be deemed a waiver of any other or subsequent breach or default.

24. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same agreement. Facsimile and electronically transmitted copies of signed counterparts of this Agreement shall be deemed to be authentic and valid.

25. Authority. Each Party hereto represents and warrants that its undersigned officer has full authority and capacity to execute this Agreement on that Party's behalf.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be signed as of the day and year first above written.

**Redflex Traffic Systems, Inc.**

**Redflex Holdings Limited**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**The City of Chicago**

**Stephen R. Patton, Corporation Counsel  
City of Chicago Department of Law**

**City of Chicago  
Department of Transportation**

By:  \_\_\_\_\_

By: \_\_\_\_\_

Rebekah Scheinfeld  
Commissioner

Stephen R. Patton  
Corporation Counsel

Date: 2/3/2017


Date: \_\_\_\_\_

one and the same agreement. Facsimile and electronically transmitted copies of signed counterparts of this Agreement shall be deemed to be authentic and valid.

25. Authority. Each Party hereto represents and warrants that its undersigned officer has full authority and capacity to execute this Agreement on that Party's behalf.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be signed as of the day and year first above written.

**Redflex Traffic Systems, Inc.**

By:   
Title: President/CEO  
Date: 2-3-17

**Redflex Holdings Limited**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The City of Chicago**

**City of Chicago  
Department of Transportation**

By: \_\_\_\_\_  
Rebekah Scheinfeld  
Commissioner  
Date: \_\_\_\_\_

**Stephen R. Patton, Corporation Counsel  
City of Chicago Department of Law**

By: \_\_\_\_\_  
Stephen R. Patton  
Corporation Counsel  
Date: \_\_\_\_\_

one and the same agreement. Facsimile and electronically transmitted copies of signed counterparts of this Agreement shall be deemed to be authentic and valid.

25. Authority. Each Party hereto represents and warrants that its undersigned officer has full authority and capacity to execute this Agreement on that Party's behalf.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed as of the day and year first above written.

**Redflex Traffic Systems, Inc.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Redflex Holdings Limited**

By: Alan Gray

Title: Chairman

Date: 2/3/2017

**The City of Chicago**

**City of Chicago  
Department of Transportation**

By: \_\_\_\_\_

Rebekah Scheinfeld  
Commissioner

Date: \_\_\_\_\_

**Stephen R. Patton, Corporation Counsel  
City of Chicago Department of Law**

By: Stephen R. Patton

Stephen R. Patton  
Corporation Counsel

Date: 2/3/17



# Exhibit G

American Traffic Solutions, Inc. v. Redflex Traffic Systems, Inc., Not Reported in...

2011 WL 772310

Only the Westlaw citation is currently available.  
United States District Court, D. Arizona.

AMERICAN TRAFFIC SOLUTIONS, INC.,  
Plaintiff,  
v.

**REDFLEX** TRAFFIC SYSTEMS, INC., et al.,  
Defendants.

No. CV-08-02051-PHX-FJM.

|  
Feb. 28, 2011.

## Attorneys and Law Firms

Michael D. Myers, Randy J. McClanahan, Robert H. Espey, II, McClanahan Myers Espey Llp, Houston, TX, for Plaintiff.

Jeffrey E. Walsh, Frank Garrett Long, Robert A. Mandel, Stacey Faith Gottlieb, Greenberg Traurig LLP, Phoenix, AZ, for Defendants.

## ORDER

FREDERICK J. MARTONE, District Judge.

\*1 The court has before it defendant **Redflex** Traffic Systems, Inc.'s amended motion for attorneys' fees and non-taxable costs (doc. 346), plaintiff American Traffic Solutions, Inc.'s response (doc. 350), and defendant's reply (doc. 353). We also have before us the parties' motions for review of the taxation of costs (docs. 347 & 348).

### I

The parties compete for contracts to provide photographic traffic enforcement services to governmental entities.

Until August 2008, defendant did so with radar units that required, but lacked, certification by the Federal Communications Commission ("FCC"). In its proposals to governmental entities, defendant emphasized its compliance with applicable laws. Plaintiff alleged that these statements, along with statements defendant made in contracts, at trade shows, and through press releases, constituted false advertising under the Lanham Act, 15 U.S.C. § 1125(a)(1)(B). It also alleged claims for tortious interference with a business expectancy and unjust enrichment. We granted summary judgment to defendant on plaintiff's claims regarding about two dozen governmental entities because plaintiff lacked either prudential standing or evidence of advertising (doc. 253). In May 2010, we held a two-week jury trial on plaintiff's remaining claims regarding about a dozen governmental entities. At the close of plaintiff's case, we denied defendant's motion for judgment as a matter of law while noting that plaintiff's case was weak at a every point. The jury returned a defense verdict.

### II

Defendant moves for an award of \$3,055,770.11 in attorneys' fees and \$679,511.41 in non-taxable costs representing 12,439 hours of work. Under the Lanham Act, "[t]he court in exceptional cases may award reasonable attorney fees to the prevailing party." 15 U.S.C. § 1117(a). A case is exceptional if it is "groundless, unreasonable, vexatious, or pursued in bad faith." *Stephen W. Boney, Inc. v. Boney Servs., Inc.*, 127 F.3d 821, 827 (9th Cir.1997).

First, defendant contends that plaintiff's case was groundless and unreasonable. Defendant asserts that plaintiff lacked support for a number of its claims because it either did not compete for the contract, it was not a viable candidate to win the contract, or the contract did not involve radar units. Defendant also asserts that plaintiff lacked evidence that the governmental entities were actually deceived by its statements, something it mistakenly suggests we required. Moreover, defendant argues that plaintiff's Chief Executive Officer was not concerned about defendant's compliance statements, defendant's proposals did not contain false statements, and plaintiff failed to put on a case for damages. According to defendant, plaintiff presented a moving target with respect to its claims and its experts, which drove up defendant's litigation costs. Finally, defendant

contends that plaintiff unreasonably waited until closing argument to drop claims regarding two governmental entities.

\*2 In response, plaintiff contends that a significant portion of its case had merit because it survived motions for summary judgment and judgment as a matter of law. It also contends that the remainder of its case was colorable because the Lanham Act's application in the government procurement context was unsettled. In addition, plaintiff asserts that defendant's contentions are disingenuous because defendant is currently pursuing similar Lanham Act claims against plaintiff based, in part, on statements plaintiff allegedly made in its proposals concerning the American-made nature of its systems and its success in obtaining contracts. *See* No. CV-09-2702-PHX-SRB. Finally, plaintiff suggests that a discretionary award of attorneys' fees is not warranted given our prior statements about the parties' excessive approach to motion practice.

The Lanham Act is a complex statute with a broad scope and low thresholds for liability. Unfortunately, this makes it susceptible to creative legal theories based on less than compelling facts. This is particularly true where, as here, a plaintiff can raise a genuine issue with respect to intentional deception and rely on a presumption of deception. *See William H. Morris Co. v. Group W, Inc.*, 66 F.3d 255, 258 (9th Cir.1995) (holding that deliberately false or misleading statements are presumptively deceptive). As the jury verdict shows, however, creative legal theories are not necessarily persuasive legal theories. While plaintiff presented evidence that defendant knew that its radar units lacked FCC certification at the same time that it was touting its legal compliance, defendant presented evidence that FCC certification did not matter to the governmental entities.

Nevertheless, our inquiry is not whether plaintiff's case was strong or successful, but whether it was groundless or unreasonable. Defendant raises significant issues with plaintiff's case. Plaintiff's decision to put on an executive instead of its expert to discuss damages showed little faith in its theory of damages. Defendant also raises unpersuasive issues, such as the testimony of plaintiff's CEO and the contention that defendant's statements were not false. Ultimately, we conclude that plaintiff's case was not groundless or unreasonable because, despite its weaknesses, it "raised debatable issues of law and fact." *Stephen W. Boney, Inc.*, 127 F.3d at 827.

Second, defendant contends that plaintiff's case was vexatious and pursued in bad faith. Defendant faults plaintiff for publicizing defendant's use of uncertified radar units, raising various state court and administrative

challenges, and pursuing claims against two of defendant's executives. It also notes that plaintiff retained experienced counsel on a contingency basis to pursue this action, which would seem to cut against the presence of bad faith. Moreover, the parties offer declarations by their general counsel detailing competing versions of a conversation between them about the likelihood of plaintiff's claims surviving summary judgment.

\*3 As we have noted before, the parties' approach to this action has been needlessly contentious (doc. 199). This is no doubt due, in part, to the related nature of their origins and their current status as the principal competitors in their industry. We are not persuaded, however, that plaintiff has litigated vexatiously or for an improper purpose. Because defendant has not shown that this case is exceptional within the meaning of 15 U.S.C. § 1117(a), we deny its motion for attorneys' fees and non-taxable costs.

### III

Both parties seek our review of the Clerk's taxation of costs. The Clerk taxed costs in favor of defendant in the amount of \$73,125.60 (doc. 340). We address each party's motion in turn.

#### A

Plaintiff first objects to the taxation of \$2,226.98 for service on an expert. In December 2009, the parties expended considerable time and money to schedule an expert's deposition. We granted plaintiff's motion to quash a notice of deposition and directed the parties to work together (doc. 102). We reduce the service costs by the amount charged to keep the expert under surveillance, \$1,638.75, which was unreasonable.

Second, plaintiff objects to the taxation of \$23,667.72 for electronic and video-based deposition costs on the basis that they are never taxable. We reject the objection because such costs are taxable when they are "necessarily obtained for use in the case." *Goldberg v. Pac. Indem. Co.*, No. CV-05-2670-PHX-JAT, 2009 WL 1804861, at \*1 (D.Ariz. June 24, 2009).



Third, plaintiff objects to the taxation of \$26,676.56 for printing fees because defendant failed to show that they were not merely for the convenience of counsel. We cannot evaluate this objection because plaintiff does not refer to any specific costs. However, we note that the Clerk disallowed a significant portion of the claimed fees on this basis. Plaintiff also directs our attention to a typographical error for Invoice # 49647. *Taxation Order* at 7. Accounting for the Clerk's allowances, we agree that the correct amount is \$1,247.39 instead of \$3,528.89.

Fourth, plaintiff objects to the taxation of \$3,762.13 for witness fees because the fees exceed federal subsistence rates. Aside from one witness's hotel bill, however, plaintiff does not direct our attention to any specific costs. We agree that \$534.44 is excessive for a two-night stay in Phoenix in May, and we reduce the costs awarded by the same amount. Accordingly, we grant in part and deny in part plaintiff's motion for review and reduce the taxation of costs by \$4,454.69.

## B

Defendant first objects to the Clerk's disallowance of costs for color copies. It contends that it should, at least, receive the cost for black and white copies in lieu of the full cost for color copies. Defendant does not direct our attention to any specific portion of the *Taxation Order*. It appears that the Clerk disallowed costs for color copies as well as black and white copies because they were for the convenience of counsel. *Taxation Order* at 11. We reject the objection.

\*4 Second, defendant objects to the Clerk's disallowance of PACER expenses. We reject the objection because

PACER expenses are not taxable costs. *RD Legal Funding, LLC v. Erwin & Balingit, LLP*, No. 08-CV-597-L, 2011 WL 90222, at \*5 (S.D.Cal. Jan.10, 2011).

Third, defendant objects to the Clerk's disallowance of trial transcript costs. We reject the objection because defendant does not assert that its request conforms with our Local Rule for trial transcript costs. *LRCiv 54.1(e)(2)*.

Fourth, defendant objects to the Clerk's disallowance of trial presentation costs. In this case, defendant efficiently presented a large amount of evidence to the jury. We allow the \$1,228.90 charge for its trial presentation. Defendant also represents that the remainder of the same invoice went toward the preparation of trial exhibits, which the Clerk did not mention when he disallowed the invoice as trial presentation costs. Including the above amount, we allow the entire \$21,582.55 invoice. Accordingly, we grant in part and deny in part defendant's motion for review and increase the taxation of costs by \$21,582.55.

**IT IS THEREFORE ORDERED DENYING** defendant's amended motion for attorneys' fees and non-taxable costs (doc. 346).

**IT IS FURTHER ORDERED GRANTING IN PART** and **DENYING IN PART** the parties' motions for review of the taxation of costs (docs. 347 & 348). The clerk shall tax costs to defendant in the amended amount of \$90,253.46.

## All Citations

Not Reported in F.Supp.2d, 2011 WL 772310

# Exhibit H

Gutenkauf v. City of Tempe, Not Reported in F.Supp.2d (2011)

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2011 WL 1672065

Only the Westlaw citation is currently available.  
United States District Court, D. Arizona.

Daniel Arthur GUTENKAUF, Plaintiff,  
v.  
The CITY OF TEMPE, et. al., Defendants.

No. CV-10-02129-PHX-FJM.

|  
May 4, 2011.

## Attorneys and Law Firms

Daniel Arthur Gutenkauf, Tempe, AZ, pro se.

Catherine Mary Bowman, Clarence Edward Matherson, Jr., Andrew Bryce Ching, Tempe City Attorneys Office, Tempe, AZ, Fred Monroe Zeder, Mark Philip Bookholder, Terrence E. Harrison, Office of the Attorney General, Nicole Maroulakos Goodwin, Michael Shawn Catlett, Quarles & Brady LLP, Phoenix, AZ, Joe Denton Dobbins, Jr., Law Offices of J.D. Dobbins PLLC, Mesa, AZ, for Defendant.

## ORDER

FREDERICK J. MARTONE, District Judge.

\*1 The court has before it the AAA defendants'<sup>1</sup> motion to dismiss (doc. 43), plaintiff's response (doc. 54), and the AAA defendants' reply (doc. 55). We also have before us the State defendants'<sup>2</sup> motion to dismiss (doc. 57), plaintiff's response (doc. 83), and the State defendants' reply (doc. 86). In addition we have before us, the Redflex Traffic Systems defendants'<sup>3</sup> motion to dismiss (doc. 79), plaintiff's response (doc. 88), and the Redflex defendants' reply (doc. 93). And finally, we have the City of Tempe defendants'<sup>4</sup> motion to dismiss (doc. 87), plaintiff's response (doc. 95), and the City defendants' reply (doc. 97).

## I. Background

This action arises out of a speeding ticket issued to plaintiff via a photo radar camera. Plaintiff is the registered owner of the vehicle. Plaintiff did not respond to the ticket. Thereafter, defendant Casey Arnett served plaintiff with process. Plaintiff requested a hearing to contest the ticket. Plaintiff argued that the ticket was issued without verification that he was the driver and not his identical twin brother. The Tempe City court found plaintiff responsible for the traffic ticket and assessed him \$171.00, plus \$26 for the service of process costs. Plaintiff appealed. The Superior Court of Arizona in Maricopa County reversed and dismissed the charges against plaintiff. The City of Tempe refunded plaintiff's payment in full. Plaintiff thereafter filed a notice of claim with the City pursuant to A.R. S. § 12-821.01. Plaintiff offered to settle his claim against the City for \$699.00. The City accepted. However, after the City twice attempted to send plaintiff a check, plaintiff refused to sign a release and returned the check.

Plaintiff's abusive 93 page first amended complaint ("FAC") asserts various § 1983 causes of action against police officers, judges, the State, the City, and all the companies and respective officers involved in photo radar traffic enforcement. Plaintiff claims violations of his rights under the Fourth, Sixth, and Fourteenth Amendments. In addition, plaintiff asserts conspiracy and RICO violations. Plaintiff also seeks injunctive and declaratory relief that Redflex is required to obtain a private investigator's license, and that all City defendants with "non-conforming loyalty oaths" be denied compensation and their offices deemed "vacant." FAC ¶¶ 383-400.

## II. Pleading, Standing, and Case or Controversy

Plaintiff's 93 page complaint violates Rule 8(a), Fed.R.Civ.P., which requires a "short and plain statement of the claim showing that the pleader is entitled to relief." Nevertheless, the State defendants argue that we should dismiss plaintiff's complaint for lack of standing. Plaintiff successfully appealed a finding of responsibility under A.R.S. § 28-701(A), was refunded his money, and voluntarily chose to forego the City's acceptance of his offer. He has suffered no harm. There no longer is a case or controversy under Article III.

\*2 Moreover, plaintiff lacks standing to seek declaratory

or injunctive relief. Plaintiff seeks a declaration that **Redflex** is acting as a private investigator and must obtain a private investigator's license. Plaintiff also asks for an injunction disqualifying **Redflex** as a private investigator. Standing requires an actual and particularized injury in fact, a causal connection between the injury and the conduct complained of, and a likelihood that a favorable decision will redress the injury. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561–62, 112 S.Ct. 2130, 2136, 119 L.Ed.2d 351 (1992). Plaintiff alleges no causal connection between his injury, the fees and costs in defending his civil traffic citation, and **Redflex's** failure to obtain a private investigator's license. Moreover, a declaration that **Redflex** is required to be licensed would not redress plaintiff's injury. See *Bell v. Redflex Sys. Inc.*, 374 Fed. Appx. 518, 520–22 (5th Cir.2010) (dismissing a similar claim for lack of standing).

Plaintiff similarly lacks standing to seek a declaration that the City defendants' loyalty oaths do not comply with Arizona law. Plaintiff does not allege any particularized injury resulting from the alleged non-conforming oaths, nor could plaintiff's injury be redressed through a declaratory judgment.

Even if plaintiff had standing and even if there was a case or controversy, plaintiff fails to state claims upon which relief may be granted.

### III. Section 1983

To state a claim under § 1983, plaintiff must allege facts showing that (1) the defendant was acting under color of state law and (2) the defendant's conduct deprived him of a federal constitutional right. *Long v. Cnty. of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir.2006). We address each alleged deprivation of a constitutional right in turn.

#### A. Fourth Amendment

Plaintiff claims that his Fourth Amendment rights were violated when he was served with a falsely certified traffic ticket. Plaintiff argues that he was seized without probable cause because defendants did not compare the image of the driver on the ticket to the picture on his driver's license before issuing the ticket, serving process, and haling him into court. Defendants argue that the mere issuance or service of a traffic citation is not a seizure under the Fourth Amendment.

Putting aside the issue of whether all defendants were acting under color of state law, plaintiff did not suffer a Fourth Amendment violation. A traffic citation is not a seizure under the Fourth Amendment. *Karam v. City of Burbank*, 352 F.3d 1188, 1194 (9th Cir.2003); see also *Williams v. Chai-Hsu Lu*, 335 F.3d 807, 809 (8th Cir.2003); *McNeill v. Town of Paradise Valley*, 44 Fed. Appx. 871, \*1 (9th Cir.2002) (upholding a grant of summary judgment against the town of Paradise Valley because "sending a traffic citation to the registered owner of a vehicle based on the photo radar system is not a seizure"). Likewise, the issuance of a summons to appear in court is not a seizure. See *Burg v. Gosselin*, 591 F.3d 95, 98 (2d Cir.2010).

\*3 Although unclear, plaintiff also seems to raise a § 1983 claim for malicious prosecution. A claim for malicious prosecution requires a showing that defendants prosecuted plaintiff with malice, without probable cause, and for the purpose of denying plaintiff equal protection or another specific constitutional right. *Awabdy v. City of Adelanto*, 368 F.3d 1062, 1069 (9th Cir.2004). Plaintiff's claim fails for a number of reasons. First, defendants did not violate plaintiff's Fourth Amendment rights and therefore could not have maliciously prosecuted him with such an intent. Second, while plaintiff may use the word "malice," the FAC merely pleads facts "consistent with [ ] defendant[s]' liability [and] ... stops short of the line between plausibility and possibility" sufficient to entitle plaintiff to relief. *Iqbal v. Ashcroft*, 556 U.S. 662, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009). Plaintiff does not plead any facts demonstrating motive, such as personal hatred or ill will. Plaintiff was not deprived of any rights under the Fourth Amendment.

#### B. Sixth Amendment

Plaintiff alleges a deprivation of his Sixth Amendment rights because the officer that signed his ticket did not appear at his hearing and instead another officer appeared. The City defendants argue that plaintiff's Sixth Amendment rights were never implicated because he was prosecuted for a civil, not a criminal violation.

The Sixth Amendment only applies in the criminal context. Plaintiff was cited for a violation of A.R.S. § 28-701, a civil traffic violation. See *State v. Poli*, 161 Ariz. 151, 152, 776 P.2d 1077, 1078 (Ct.App.1989) (finding that a violation of A.R.S. § 28-701(A) is treated as a civil matter). Plaintiff's assertion that the violation results in a criminal penalty is without merit. Arizona law

imposes a maximum civil penalty of \$250.00 for a civil traffic violation. See A.R.S. §§ 28–121(B), 28–701, 28–1598. If the penalty is not paid, the only repercussion is the suspension of driving privileges. A.R.S. § 28–1601(A). Section 28–701 is not so punitive that it has become criminal. See *Hudson v. United States*, 522 U.S. 93, 99–100, 118 S.Ct. 488, 493, 139 L.Ed.2d 450 (1997). Even if it were criminal, the use of a witness without first hand knowledge would result in the exclusion of evidence, not a § 1983 claim. Plaintiff’s alleged Sixth Amendment violation is not cognizable.

### C. Due Process

Plaintiff claims that nearly all of the defendants violated his due process rights by participating in some way in the civil traffic matter. Defendants move to dismiss because plaintiff was provided with a meaningful post deprivation remedy.

Due Process requires that an individual be given notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Fuentes v. Shevin*, 407 U.S. 67, 80, 92 S.Ct. 1983, 1994, 32 L.Ed.2d 556 (1972). “[A]n unauthorized intentional deprivation of property by a state employee does not constitute a violation of the procedural requirements of the Due Process Clause of the Fourteenth Amendment if a meaningful post-deprivation remedy for the loss is available.” *Hudson v. Palmer*, 468 U.S. 517, 533, 104 S.Ct. 3194, 3204, 82 L.Ed.2d 393 (1984). Plaintiff received a notice in the mail, had a hearing to contest the ticket, and successfully appealed to the Superior Court which reversed. Additionally, plaintiff filed a notice of claim against the City and its employees. The City agreed to settle for the requested amount, but plaintiff failed to accept it. Plaintiff received all the process he was due. His alleged deprivations do not in any way support a § 1983 cause of action. See e.g., *Vasquez v. City of Hamtramck*, 757 F.2d 771, 772 (6th Cir.1985).

\*4 Plaintiff asserts violations of substantive due process. Plaintiff claims that the City and the State defendants acted pursuant to a custom of “deliberate indifference” in issuing traffic tickets based only on a gender match. The defendants argue that none of plaintiff’s substantive due process rights were implicated.

“Substantive due process forbids the government from depriving a person of life, liberty, or property in such a way that shocks the conscience or interferes with the rights implicit in the concept of ordered liberty.” *Corales*

*v. Bennett*, 567 F.3d 554, 568 (9th Cir.2009). Plaintiff has no substantive due process right to be free from prosecution without probable cause. *Awabdy*, 368 F.3d at 1069 (internal citations omitted). Similarly, plaintiff has no constitutional right to be free from erroneously issued traffic tickets. Moreover, defendants’ actions were not capricious nor do they “shock the conscience” of the court. These claims are frivolous.

Finally, plaintiff asserts that the **Redflex** defendants and Officer Colombe violated A.R.S. § 28–1561(A) and thereby violated the due process clause. “State law can create a right that the Due Process clause will protect only if the state law contains (1) substantive predicates governing official decision-making, and (2) explicitly mandatory language specifying the outcome that must be reached if the substantive predicates have been met.” *James v. Rowlands*, 606 F.3d 646, 656 (9th Cir.2010). A.R.S. § 28–1561 merely requires that a certification of “reasonable grounds” be included with a civil traffic complaint. It does not create any substantive predicates or mandate any outcomes. Section 28–1561 does not create a due process right entitling plaintiff to relief.

Having found no violations of plaintiff’s constitutional rights, plaintiff fails to state a cause of action under § 1983.<sup>5</sup> Absent any underlying deprivations of constitutional rights, plaintiff’s § 1983 conspiracy claim also fails.

### IV. Immunity

Even if we found that plaintiff’s constitutional rights were violated, we would still dismiss his FAC against many of the defendants on the basis of immunity. Judge Barsetti, Judge Arkfeld, defendant Gallego, and defendant Rodriguez are entitled to judicial immunity. See *Stemp v. Sparkman*, 435 U.S. 349, 355, 361, 98 S.Ct. 1099, 1107, 55 L.Ed.2d 331 (1978); *Acevedo v. Pima Cnty. Adult Prob. Dep’t.*, 142 Ariz. 319, 321, 690 P.2d 38, 40 (1967); *Moore v. Brewster*, 96 F.3d 1240, 1244 (9th Cir.1996) (court administrators entitled to judicial immunity); *Cleavinger v. Saxner*, 474 U.S. 193, 200, 106 S.Ct. 496, 500, 88 L.Ed.2d 507 (1985) (witnesses entitled to judicial immunity). Defendants Hallman, Arredondo, Woods, Navarro, Shekerjian, Ellis, and Mitchell are entitled to legislative immunity since all alleged actions were taken during official council meetings. See *Bogan v. Scott-Harris*, 523 U.S. 44, 49, 118 S.Ct. 966, 970, 140 L.Ed.2d 79 (1998).

As for the rest of the City and the State defendants,

qualified immunity would shield them from liability because their “conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727, 2738, 73 L.Ed.2d 396 (1982).

## V. RICO

\*5 Plaintiff’s second cause of action arises under the Racketeer Influenced and Corrupt Organizations Act (“RICO”). Plaintiff alleges that defendants committed mail fraud, wire fraud, and extortion in violation of 18 U.S.C. § 1962(c). In addition, plaintiff claims that nearly all the defendants engaged in a RICO conspiracy. Defendants move to dismiss on the basis that plaintiff cannot articulate two or more predicate acts. Absent an underlying RICO violation, plaintiff’s conspiracy claim also fails.

To state a claim under § 1962(c), plaintiff must allege (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity.” *Sanford v. Memberworks, Inc.*, 625 F.3d 550, 557 (9th Cir.2010). Racketeering activity includes the predicate acts of mail fraud, wire fraud, and extortion.

We first note that plaintiff’s RICO claims against the City, the State, and their employees acting in their official capacity fail because governmental entities are incapable of forming a malicious intent. *Lancaster Cmty. Hosp. v. Antelope Valley Hosp.*, 940 F.2d 397, 404 (9th Cir.1991). We therefore only consider the claims against the employees in their individual capacities and the **Redflex** defendants.

Plaintiff claims that the **Redflex** defendants and Officer Colombe engaged in mail fraud by mailing him a traffic citation that lacked identification information and contained a false certification. Plaintiff also claims that defendants Gallego and Barsetti are guilty of aiding and abetting. Defendants argue that the traffic citation does not contain false information and even if it did, the claim must be dismissed for lack of specificity.

Plaintiff contends that Officer Colombe’s certification is false.<sup>6</sup> Officer Colombe stated that he was “reasonably certain” that plaintiff was the driver. Plaintiff never denied that he was the driver and even if a positive identification had been made, Officer Colombe would have been reasonably certain that plaintiff was driving because he and his brother are identical twins. Plaintiff

makes no showing that the traffic ticket contained false information.

Plaintiff’s claim for wire fraud also fails. Plaintiff alleges wire fraud on the basis of the **Redflex** defendants’ having posted a facial image of someone driving plaintiff’s van on the website photonotice.com. The image is not a false representation and does not contain any statement representing that the driver was positively identified. Furthermore, plaintiff’s pleading that the “predicate act of Wire Fraud, committed some time around October 22, 2009 by an unknown **REDFLEX** employee”, FAC ¶ 284, is insufficient under Rule 9(b)’s particularity requirement. See *Sanford*, 625 F.3d at 558.

Even if plaintiff did establish the predicate act of mail fraud or wire fraud, he cannot satisfy RICO’s proximate cause requirement. See *Hemi Group, LLC v. City of New York*, — U.S. —, 13 S.Ct. 983, 989, 37 L.Ed. 837 (2010). Even if the **Redflex** defendants had checked plaintiff’s license photo before mailing the ticket and posting the image, that check would not have prevented plaintiff from receiving the citation because he and his identical twin brother look alike. Moreover, the forms served on plaintiff included a section allowing him to identify the actual driver to avoid liability. Had plaintiff simply identified his brother at that point, he would have avoided any purported RICO injury.

\*6 Finally, plaintiff alleges that the State and the City defendants conspired to commit extortion in violation of 18 U.S.C. § 1951(b) (2) and A.R.S. § 13–1804, and that the **Redflex** defendants aided and abetted them. The predicate act of extortion cannot be based on the “efforts of Government employees to get property for the exclusive benefit of the Government.” *Wilkie v. Robbins*, 551 U.S. 537, 563–64, 127 S.Ct. 2588, 2605–06, 168 L.Ed.2d 389 (2007). That is exactly what defendants were doing. The State and the City defendants simply were enforcing traffic laws to obtain remuneration for the exclusive benefit of the government. Those defendants cannot be guilty of extortion. Nor can the **Redflex** defendants be guilty of aiding and abetting them.

Without a substantive RICO claim, the conspiracy claim fails as well. See *Howard v. Am. Online Inc.*, 208 F.3d 741, 751 (9th Cir.2000). We dismiss the RICO cause of action in its entirety.

## VI. Conclusion

A little bit of knowledge can sometimes be worse than



none at all. Plaintiff's pro se filings demonstrate some exposure to the legal process. But they also demonstrate a fundamental failure to appreciate that the administration of justice promotes fairness, not abuse. This is not plaintiff's first § 1983 action against scores of public officials. See *Gutenkauf v. Maricopa Cnty.*, No. 99-15425, 1999 WL 1080146 (9th Cir.1999).

Plaintiff received his full measure of justice when he obtained the reversal he sought and the City agreed to pay him the sum he demanded. Not content with this, he made a mountain out of a mole hill and caused great harm to the public by filing frivolous litigation and forcing public entities and officials to spend scarce resources on legal fees.

Because plaintiff's complaint cannot be cured by amendment, it is **ORDERED GRANTING** all

defendants' motions to dismiss with prejudice (docs. 43, 57, 79, and 87). The clerk shall enter final judgment in favor of all defendants and against plaintiff.

We urge plaintiff to seek the advice of a lawyer before any new filings. If he does not have one, he may wish to contact the Lawyer Referral Service of the Maricopa County Bar Association at 602-257-4434.

DATED this 3rd day of May, 2011.

#### All Citations

Not Reported in F.Supp.2d, 2011 WL 1672065

#### Footnotes

- 1 The AAA defendants are: AAA Photo Safety, Inc., David Pickron, Stephanie Pickron, and Casey Arnett.
- 2 The State defendants are: Terry and Monica Goddard, Roger and Valerie Vanderpool, and John and Ruth Halikowski.
- 3 The **Redflex** defendants are: **Redflex** Traffic Systems, Inc. ("**Redflex**"), Graham Davie, Karen and Tim Finely, Bill Harper, Matthew DeGraw, and their respective spouses.
- 4 The City defendants are: the City of Tempe, Tempe City Council, Hugh Hallman, Susan Hallman, Joel Navarro, Mark W. Mitchell, Debra Mitchell, P. Ben Arrendondo, Ruthann Albrighton-Arredondo, Shana Ellis, and unknown Ellis Richard Antonio, Onnie Shekerjian, Brian Hart Shekerjian, Corey D. Woods, Jan Hort, Gerald J. Hort, Charlie Meyer, Deborah W. Meyer, Thomas Ryff, Rose Ann Ryff, Noah Johnson, Jennifer Johnson, Aaron Colombe, Susan Colombe, Bianca Gallego, Kerby Rapp, Lillian Rapp, Shelly Seyler, Lorraine C. Arkfeld, Mary Jo Barsetti, David E. Nerland, Nancy Rodriguez, David J. McAllister, Jacqueline McAllister, and Michael Greene.
- 5 We note that many of plaintiff's claims against individual defendants, such as Pickron, Goddard, and Vanderpool, rely on theories of improper training and supervision. Even if we assume that these defendants have supervisory roles, a fact which would not bare out under analysis, they could not be liable. Absent any underlying constitutional violations, the claims for supervisory liability fail as well.
- 6 We may consider the contents of the traffic citation (ex. M) and a print out of photonotice.com (ex. V) because they are attached as exhibits to the FAC. See *Knievel v. ESPN*, 393 F.3d 1068, 1076 (9th Cir.2005).

# Exhibit I

Morales v. Parish of Jefferson, 140 So.3d 375 (2014)

13-486 (La.App. 5 Cir. 4/30/14)

140 So.3d 375  
Court of Appeal of Louisiana,  
Fifth Circuit.

Timothy G. MORALES, et al

v.

The PARISH OF JEFFERSON and **Redflex**  
Traffic Systems, Inc.

Earl J. Falgoust and Kathy McMenamin  
Individually and on behalf of all others Similarly  
Situated

v.

The Parish of Jefferson and **Redflex** Traffic  
Systems, Inc.

Nos. 13-CA-486, 13-CA-487, 13-C-500.

April 30, 2014.

Rehearing Denied May 21, 2014.

## Synopsis

**Background:** In consolidated cases, motorists brought class action for damages and declaratory judgment against parish and traffic enforcement company, alleging parish ordinance for automated enforcement of traffic signals was unconstitutional. After initial grant of defendants' exception of res judicata was reversed on appeal, 54 So.3d 669, the 24th Judicial District Court, Parish of Jefferson, No. 673-195, Henry G. Sullivan, Jr., J., granted summary judgment to parish and company. Motorists appealed.

**Holdings:** The Court of Appeal, Fredericka Homberg Wicker, J., held that:

[1] ordinance had a non-punitive purpose, as would support finding that ordinance was civil in nature and thus not subject to statute regulating collection of criminal fines and forfeitures;

[2] ordinance was not preempted by Louisiana Highway Regulatory Act (LHRA);

[3] ordinance did not conflict with LHRA; but

[4] genuine issue of material fact as to whether ordinance gave alleged violators sufficient notice of proceedings against them, so as to satisfy due process, precluded

summary judgment; and

[5] motorists were not afforded sufficient time for discovery prior to grant of summary judgment.

Reversed and remanded.

West Headnotes (19)

### [1] Action

🔑 Operation and effect

Judgment

🔑 Construction and operation

Summary judgment granted to traffic light enforcement company as against motorists in one class action by motorists did not act against motorist plaintiffs in other class action, with which first action had been consolidated, in case involving two actions alleging illegality of automated red light enforcement system; company never filed a motion for summary judgment against plaintiffs in first action, and while cases had been consolidated, they had not been combined.

### [2] Action

🔑 Civil or criminal

Automobiles

🔑 Construction and operation of regulations in general

Parish's automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a red light, had a non-punitive purpose, as would support finding that ordinance was civil in nature and thus not subject to statute regulating collection of criminal fines and forfeitures; no part of the ATSE stated that it was intended to punish drivers for such conduct, and no fine imposed for ATSE violation would result in notification to owner's insurance company or state Department of Motor

Vehicles. [LSA-R.S. 15:571.11](#).

[3]

**Action**

🔑 [Civil or criminal](#)

**Automobiles**

🔑 [Construction and operation of regulations in general](#)

Parish’s automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a red light, was not so punitive as to transform otherwise civil penalty into criminal one, as would support finding that ordinance was civil in nature and thus not subject to statute regulating collection of criminal fines and forfeitures; registered owner was not restrained from any future action by a penalty under ordinance, ordinance violations were not reported to owner’s insurance company or Department of Motor Vehicles, citation under ordinance did not depend on whether a driver intended to commit the act, and intended purpose of protecting public safety was clearly stated in text of ordinance. [LSA-R.S. 15:571.11](#).

[4]

**Penalties**

🔑 [Nature and form of remedy](#)

The fact that the same conduct constitutes a criminal offense and a civil violation under state law does not automatically transform the civil penalties into criminal penalties.

[5]

**Automobiles**

🔑 [Concurrent and conflicting regulations](#)

Parish’s automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection

on a red light, was not preempted by Louisiana Highway Regulatory Act (LHRA); LHRA gave parishes authority to adopt additional regulations controlling traffic upon nonstate highways outside of corporate limits of a municipality, and ATSE traffic cameras were neither placed on state-maintained highways nor within corporate limits of any municipality within parish. [LSA-R.S. 32:41\(14\)](#).

[6]

**Automobiles**

🔑 [Concurrent and conflicting regulations](#)

Parish’s automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a steady red light signal, did not conflict with Louisiana Highway Regulatory Act (LHRA) by punishing an act allowed by LHRA; LHRA also did not permit a vehicle to enter area within lateral lines of intersecting roads when faced with a steady red light signal. [LSA-R.S. 32:232\(3\)\(a\)](#).

[7]

**Automobiles**

🔑 [Concurrent and conflicting regulations](#)

Parish’s automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a steady red light signal, did not conflict with Louisiana Highway Regulatory Act (LHRA) by decriminalizing act of running a red light; motorists who violated ordinances could still be stopped and criminally cited for same conduct. [LSA-R.S. 32:232\(3\)\(a\)](#).

[8]

**Automobiles**

🔑 [Charging Instrument; Summons or Ticket](#)



Louisiana Highway Regulatory Act (LHRA) requirements for traffic citations did not apply to citations issued for violations of parish automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a red light; LHRA requirements only applied to alleged violations of state law or city or town ordinance, not parish ordinance. [LSA-R.S. 32:398.2](#).

[9] **Constitutional Law**  
🔑 Notice and Hearing

The fundamental requirement of procedural due process is notice and the opportunity to be heard at a meaningful time and in a meaningful manner. [U.S.C.A. Const.Amend. 14](#); [LSA-Const. Art. 1, § 2](#).

[10] **Trial**  
🔑 Right of party to confront witnesses

Constitutional right to confront witnesses did not apply to alleged violations of parish's automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a red light; such constitutional protection applied only in context of criminal proceedings, and ordinance was civil in nature. [U.S.C.A. Const.Amend. 6](#).

[11] **Witnesses**  
🔑 Self-Incrimination

The Fifth Amendment protects a person only against being incriminated by his own compelled testimonial communications.

[U.S.C.A. Const.Amend. 5](#).

[12] **Criminal Law**  
🔑 Compelling Self-Incrimination

Parish's automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a red light, did not compel vehicle owners to give testimonial statements that would incriminate them in a current or future criminal prosecution, as could violate owners' Fifth Amendment rights. [U.S.C.A. Const.Amend. 5](#).

[13] **Automobiles**  
🔑 Local regulations  
**Constitutional Law**  
🔑 Streets, Highways, and Sidewalks

Parish's automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an "intersection" on a red light, was not unconstitutionally vague in violation of due process; ordinance prohibited a vehicle from entering area bounded by the lateral lines of intersecting roads when faced with a steady red light. [U.S.C.A. Const.Amend. 14](#); [LSA-Const. Art. 1, § 2](#).

[14] **Constitutional Law**  
🔑 Reasonableness, rationality, and relationship to object

Government action comports with substantive due process if the action is rationally related to a legitimate government interest. [U.S.C.A. Const.Amend. 14](#); [LSA-Const. Art. 1, § 2](#).

1 Cases that cite this headnote

[15] **Judgment**

🔑 Particular Cases

Genuine issue of material fact as to whether parish's civil automated traffic signal enforcement (ATSE) ordinance, allowing for citation of owners of vehicles which entered an intersection on a steady red light signal, gave alleged violators sufficient notice of proceedings against them, so as to satisfy due process, precluded summary judgment in favor of parish, in motorists' action seeking declaratory judgment that ordinance was unconstitutional. U.S.C.A. Const.Amend. 14; LSA-Const. Art. 1, § 2.

[16] **Judgment**

🔑 Particular Cases

Genuine issue of material fact as to what, if anything, traffic signal enforcement company did to set up red light enforcement system, which was challenged as illegal in declaratory judgment action by motorists, precluded summary judgment in favor of company.

[17] **Judgment**

🔑 Hearing and determination

Motorists were not afforded sufficient time for discovery prior to grant of summary judgment to parish and traffic signal enforcement company, in motorists' declaratory judgment action alleging illegality of automatic traffic signal enforcement (ATSE) ordinance, and thus grant of summary judgment was improper, where motorists were not afforded adequate opportunity to respond after defendants alleged that parish sheriff, not defendants, possessed information concerning ATSE fees and fines.

[18] **Declaratory Judgment**

🔑 Limitations and laches

Prescriptive period of ten years, for actions seeking return of a thing not due, was applicable to motorists' action asserting illegality of automated traffic signal enforcement (ATSE) ordinance, where motorists sought return of money they paid as result of enactment and enforcement of ordinance. LSA-C.C. art. 3499.

[19] **Declaratory Judgment**

🔑 Limitations and laches

Actions seeking a declaratory judgment are imprescriptible.

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Panel composed of Judges FREDERICKA HOMBERG WICKER, JUDE G. GRAVOIS, and ROBERT A. CHAISSON.

**Opinion**

FREDERICKA HOMBERG WICKER, Judge.

**\*\*3** This consolidated appeal arises from grants of summary judgment in favor of defendants, the Parish of Jefferson and **Redflex** Traffic Systems. Plaintiffs/Appellants argue that the Automatic Traffic Signal Enforcement ordinance enacted by Jefferson Parish, allowing for citations to be issued to the registered owners of vehicles which enter an “intersection” when faced with a steady-red light, and its accompanying enforcement program, in which Jefferson Parish has partnered with **Redflex** Traffic Systems, violates the laws of the State of Louisiana and the United States and Louisiana Constitutions. Both Jefferson Parish and **Redflex** deny these claims. Additionally, Jefferson Parish answers this appeal alleging that the trial court erred in denying its exception of prescription against the claims made in the *Falgoust* plaintiffs’ suit. For the following reasons, we find the trial court erred in its grants of summary judgment, and reverse those **\*\*4** judgments. We also find that the trial court did not err in denying Jefferson Parish’s exception of prescription. In light of these findings, we remand this matter for further proceedings.

**FACTS**

On June 20, 2007, the Jefferson Parish Council adopted the Automated Traffic Signal Enforcement ordinance (the “ATSE”), Jefferson Parish Ordinance, 36–307 *et seq.* The ATSE envisions the installation of automated cameras which photograph the rear of vehicles entering highly trafficked intersections in the face of a steady-red traffic signal. Violators are pursued, pursuant to the ATSE statutory scheme. Jefferson Parish contracted with **Redflex** Traffic Systems, a national concern in the business of installing and maintaining traffic control camera equipment that works in concert with municipal, county (parish) and state governments across the United States, to pursue the owners of vehicles which are photographed violating local, county (parish), or state traffic laws. **\*379** The enactment and the enforcement of this ordinance are challenged on this appeal.

As enacted, the ATSE authorizes the imposition of a monetary penalty not to exceed \$175 on the registered owner of a motor vehicle which “proceeds into an intersection at a system location when the traffic control signal for the motor vehicle’s direction of travel is emitting a steady-red signal.” Jefferson Parish Ordinance Sec. 36–309.

Once a citation is issued to the vehicle owner for a

violation, ATSE provides for three tiers of notice and enforcement. Jefferson Parish Ordinance Sec. 36–308. First, ATSE provides that the vehicle owner “is the person responsible for” paying the citation’s fine and that the owner must do so within 30 days.<sup>1</sup> *Id.* Second, if a vehicle owner fails to pay or contest the “violation notice,” there will be “a second **\*\*5** notification to the vehicle owner” and an additional “late payment penalty” of at least \$25. *Id.* Under the ATSE, the owner of the camera enforcement equipment, now **Redflex** is responsible for mailing this first and second notification to the vehicle’s owner by regular U.S. Mail. *Id.* The third and final tier of the ATSE’s enforcement states:

If after the second notification the Vehicle Owner fails to pay the fine or contest the fine, then the violation will be sent to the Jefferson Parish First and Second Parish Courts, and processed for review by the Jefferson Parish District Attorney’s Office to be handled in a manner consistent with that of a parking violation.

*Id.*

The ATSE goes on to state:

Notwithstanding the limitations on the amount of the fine imposed under this Article, however, any court which handles any part of the prosecution for a violation under this Article may impose costs upon the person responsible for the fine in addition to the fine and enforcement costs imposed under this Article.

Jefferson Parish Ordinance Sec. 36–309.

As discussed above, to enforce the ATSE, Jefferson Parish partnered with **Redflex** by a contract executed on March 16, 2007.<sup>2</sup> In this contract, the parties agreed that **Redflex** would install its camera systems at intersections to photograph potential ATSE violators. The parties further agreed that **Redflex** would collect “violation data,” store it, and make it accessible for an authorized Parish employee to review. The contract specifically provides that “the decision to issue a citation shall be the sole, unilateral and exclusive decision of the authorized employee.”

According to the contract, once the “authorized

employee” of Jefferson Parish determines that a violation of the ATSE has occurred, that employee creates an “authorized violation” on **Redflex’s** system. Once **Redflex** receives this \*\*6 “authorized violation,” the contract provides that **Redflex** must “print and mail a citation....”

The contract further mandates that Jefferson Parish “diligently prosecute citations and the collection of all fines in respect thereof, and [Jefferson Parish] shall be obligated to pay, the compensation [ ... agreed to].”<sup>3</sup> Finally Jefferson Parish, in this contract, warrants and represents \*380 “that it has all right, power and authority to execute” the contract and to “perform its obligations” under it.

After executing this contract with Jefferson Parish, **Redflex** installed its camera systems in various locations in Jefferson Parish. According to the affidavit of Robert Salcido, the director of operations and custodian of records for **Redflex**, no **Redflex** camera system was installed, or situated on, Louisiana highways or on Department of Transportation and Development controlled roads or within an incorporated municipality within Jefferson Parish. **Redflex’s** camera systems worked in conjunction with “electronically-operated traffic-control signal[s].” These camera systems produced images depicting the license plate on the rear of the motor vehicle which indicated that the vehicle was “not operated in compliance with the instructions of the traffic control signal.”

After the installation of the **Redflex** cameras, and pursuant to the ATSE and Jefferson Parish’s contract with **Redflex**, citation notices were issued by **Redflex** and sent by U.S. mail to the registered owners of vehicles. Many of the registered vehicle owners received the notice and either paid it or contested it.

#### **PROCEDURAL HISTORY**

This appeal arises, as described below, from the consolidated class-action petitions of the *Morales* and *Falgoust* plaintiffs, and the summary judgments \*\*7 issued against those plaintiffs and in favor of defendants, Jefferson Parish and **Redflex**.<sup>4</sup>

The *Morales* plaintiffs filed their “class action petition for damages and declaratory judgment” on May 15, 2009, against Jefferson Parish and **Redflex**. This petition was docketed under Twenty-Fourth Judicial District Court case number 673–195. In this petition, plaintiffs sought: to be certified as a class; damages; and a declaratory judgment finding Jefferson Parish’s ATSE to be illegal and unconstitutional under the Louisiana Constitution, to be void *ab initio*, and to be an *ultra vires* act.<sup>5</sup> The *Morales* plaintiffs alleged that Jefferson Parish’s ATSE was unlawful and unconstitutional for several reasons including, but not limited to, that the ATSE violated Louisiana’s Constitution and Code of Civil Procedure because it allowed the civil notice of violation to be served upon putative violators through the U.S. Mail, rather than through the method proscribed in articles 1232 and 1234 of the Louisiana Code of Civil Procedure. The *Morales* plaintiffs also complained that, if the ATSE was a civil regulatory scheme, it was illegally used to impose criminal court costs. As to **Redflex** specifically, in addition to the above complaints, the *Morales* plaintiffs alleged that **Redflex’s** actions were both an illegal usurpation of Jefferson Parish’s police power and a violation of their right to substantive due process under the Louisiana Constitution. In sum, the *Morales* plaintiffs challenged the ATSE both as written and as applied.

Defendants each filed an exception of *res judicata* and a motion for summary judgment seeking to defeat the *Morales* plaintiffs’ claims. The trial court \*\*8 granted \*381 these exceptions of *res judicata* on September 30, 2009, dismissing all but two claims. Those claims related to whether the ATSE violated Louisiana’s spousal immunity privilege or impermissibly attempted to govern civil relationships. On January 4, 2010, the trial court granted summary judgment in favor of defendants on those remaining two claims and dismissed the *Morales* plaintiffs’ suit. On appeal, this Court reversed that portion of the September 30, 2009 judgment which maintained the exceptions of *res judicata* and remanded the matter for further proceedings. *Morales, et al v. Parish of Jefferson and Redflex Traffic Systems, Inc.*, 10–273 (La.App. 5 Cir. 11/9/10), 54 So.3d 669, 675. This Court also dismissed the portion of the plaintiffs’ appeal relating to the January 4, 2010, summary judgment, reasoning that it was no longer a final judgment. *Id.*

On March 3, 2011, the trial court transferred and consolidated the *Falgoust* plaintiffs’ suit into the *Morales* suit. Thereafter, the *Morales* plaintiffs faced a motion for summary judgment by Jefferson Parish.

Jefferson Parish moved for summary judgment against the *Morales* plaintiffs on May 23, 2012, arguing, *inter alia*,

*The Morales Plaintiffs*

that the *Morales* plaintiffs would be unable to prove their claim that the ATSE was illegal under Louisiana's Constitution and laws. On September 21, 2012, the trial court held a hearing on Jefferson Parish's motion for summary judgment and exception of prescription. At that hearing, the trial court orally granted Jefferson Parish's motion for summary judgment, stating:

I believe the ordinance is civil in nature as drafted. That's why the facial challenges were dismissed.... It's the application of the ordinance that [counsel for the *Morales* plaintiffs] now objects to.

\* \* \*

[Counsel for the *Morales* plaintiffs is] talking about application, and one of the examples he's used is with regard to the two individuals. They were assessed not only the civil fine for running the red light under the ordinance, but they were also assessed other fees and costs which are the only types of fees and costs that would be assessed in a criminal case.

\* \* \*

**\*\*9** The Court does believe that the ordinance, as written, is constitutional. The challenge by the *Morales* plaintiffs is with regard to application of the ordinance, and the only defendant against that claim is the Parish of Jefferson. The Court believes that the Parish of Jefferson is not the appropriate party with regard to those challenges, and therefore, the motion for summary judgment is granted.

On October 9, 2012, the trial court memorialized its grant of summary judgment in favor of Jefferson Parish in a written judgment.<sup>6</sup> The *Morales* plaintiffs moved for a devolutive appeal of this judgment; the trial court granted the appeal of the *Morales* plaintiffs on December 10, 2012.<sup>7</sup>

**\*382** <sup>[1]</sup> **Redflex** never filed a motion for summary judgment against the *Morales* plaintiffs for their **Redflex** claims. Therefore as it relates to the *Morales* plaintiffs, there is no grant of summary judgment in favor of **Redflex**, and against the claims of the *Morales* plaintiffs for us to review. Although **Redflex** did file a motion for summary judgment on October 26, 2012, that motion explicitly and specifically only addressed the *Falgoust* plaintiffs' **Redflex** claims. While we recognize that by the date **Redflex** filed its summary judgment this matter had become the consolidated case of 691-768 (the *Falgoust* plaintiffs) c/w 673-195 (the *Morales* plaintiffs), we find that **Redflex's** motion for summary judgment did not act against the *Morales* plaintiffs. While the *Morales* and

*Falgoust* plaintiffs consolidated their suits, they did not combine them. See *Morales v. Parish and Redflex*, 11-317 (La.App. 5 Cir. 5/19/2011) (unpublished). Furthermore, the trial court's December 10, 2012 summary judgment in favor of **Redflex** did not address itself to the *Morales* plaintiffs' claims against **Redflex**.

**\*\*10** *The Falgoust Plaintiffs*

The *Falgoust* plaintiffs filed a "class action petition for accounting and declaratory judgment" on August 26, 2010, against Jefferson Parish and **Redflex**, case number 691-768 in the Twenty-Fourth Judicial District Court. In their petition, the *Falgoust* plaintiffs also challenged Jefferson Parish's enactment and operation of the ATSE. They claimed the ATSE is unlawful because it is preempted by Louisiana state law, because it conflicts with Louisiana law, and because it violates the Louisiana and U.S. Constitutions. The *Falgoust* plaintiffs petitioned the court for three forms of relief. First, they asked the court to "declare that the ATSE is, and always has been illegal and unenforceable." Second, they asked the court to order a refund, with interest, to its class members of "all monies paid to Jefferson Parish and/or the Jefferson Parish Photo Enforcement Program Payment Center as a result of Notices of Violation issued pursuant to the invalid ATSE Ordinance." Third, the *Falgoust* plaintiffs also asked the court to order Jefferson Parish and **Redflex** to account for all funds collected.

The trial court certified the *Falgoust* plaintiffs as a class on December 17, 2010. The trial court defined the *Falgoust* plaintiffs' class as follows:

All persons who received a Notice of Violation from the Jefferson Parish Photo Enforcement Program, as provided in Automated Traffic Signal Enforcement ('ATSE'), set forth as Jefferson Parish Ordinance No. 23083, Article XI, § 63-307 *et seq.*, since its inception until Jefferson Parish suspended its enforcement on or about January 27, 2010, and who complied with the demand of said Violation and paid the 'fine' specified therein, with the exception of those persons named as plaintiffs in [*Sevin*] v. *Jefferson*



*Parish*, Docket No. 08–802 (U.S.D.C.Ed.La.), and *Morales v. Jefferson Parish*, Docket No. 673–195 (24th Judicial District Court, La.).

On March 3, 2011, the trial court in the *Morales* suit granted defendants’ motion to transfer the *Falgoust* plaintiffs’ suit into its division and consolidate it with the *Morales* suit. A writ to this Court was sought complaining of this transfer \*\*11 and consolidation. See *Morales v. Parish and Redflex*, 11–317 (La.App. 5 Cir. 5/19/2011) (unpublished). That writ was denied by this Court.<sup>8</sup> *Id.*

\*383 Jefferson Parish filed an exception of prescription against the claims of the *Falgoust* plaintiffs’ class representatives, Earl J. Falgoust and Kathleen McMenamin, on May 18, 2012. In support of this exception, Jefferson Parish argued that Mr. Falgoust and Ms. McMenamin’s claims were delictual actions which were prescribed because more than one year had passed between when they knew of their harm and when they filed their suit.

Jefferson Parish moved for summary judgment against the *Falgoust* plaintiffs on April 27, 2012.<sup>9</sup> In that motion, Jefferson Parish argued the plaintiffs had failed to produce sufficient evidence to establish their claim that Jefferson Parish’s ATSE ordinance is unconstitutional.

The trial court held a hearing on Jefferson Parish’s exception of prescription and motion for summary judgment on September 21, 2012. At the conclusion of this hearing, the trial court denied Jefferson Parish’s exception of prescription, but granted its motion for summary judgment.<sup>10</sup> On October 25, 2012, the trial court issued a written judgment which memorialized this ruling and dismissed the *Falgoust* plaintiffs’ claims against Jefferson Parish.

**Redflex** moved for summary judgment against the *Falgoust* plaintiffs on October 26, 2012.<sup>11</sup> In support of its motion, **Redflex** argued that summary judgment in its favor was appropriate because the trial court had already granted \*\*12 summary judgment in favor of its co-defendant, Jefferson Parish, on the same question of whether the Jefferson Parish ATSE ordinance was constitutional. **Redflex** supplemented its motion for summary judgment on November 7, 2012, asking the trial court to dismiss the *Falgoust* plaintiffs’ quasi-contract claims for the return of the money generated by the ATSE ordinance. **Redflex** argued that this dismissal was proper because it had not received any money from Jefferson

Parish’s ATSE ordinance.

**Redflex’s** Motion for Summary Judgment came for hearing on December 5, 2012. At that hearing, counsel for **Redflex** adopted the argument and record from the September 21, 2012 hearing. In opposition, the *Falgoust* plaintiffs argued the trial court lacked jurisdiction to decide **Redflex’s** supplemental motion for summary judgment, when the same issues raised in it were also on appeal to this Court due to the appeal of the prior grant of summary judgment. The trial court, in the interest of allowing this Court to look at the issues of this appeal in their entirety, granted **Redflex’s** motion for summary judgment “as to the constitution and the legality” of the ATSE. It thereafter dismissed the suit against **Redflex** without prejudice. The trial court memorialized its ruling in a written judgment issued on December 10, 2012. Plaintiffs moved to appeal this judgment on December 10, 2012.

#### \*384 DISCUSSION

Plaintiffs, in a combined effort to overturn the summary judgments rendered against them, assign two errors. These assigned errors are broken down into five separate issues. Of these, three are seminal to our decision on this appeal.<sup>12</sup> First, plaintiffs argue the trial court erred in dismissing their claim against Jefferson Parish because the ATSE violated state law. In support of this assignment, plaintiffs argue the ATSE: is preempted by state law; impermissibly modifies or conflicts with the Louisiana Highway Regulatory Act, *La. R.S. 32:1 et seq.*, (the “LHRA”); and the ATSE violates *La. R.S. 15:571.11*. Second, plaintiffs argue that the trial court erred in granting summary judgment because the ATSE violates various protections of the United States and Louisiana Constitutions. Third, plaintiffs argue that the trial court erred in granting summary judgment in favor of defendants because it erred in finding that Jefferson Parish was not responsible for the allegedly illegal application of the ATSE and because it did not allow adequate time for discovery to take place. We find only this third assignment to be persuasive.

Jefferson Parish answers this appeal, alleging that the trial court erred in its October 25, 2012 judgment denying its exception of prescription. We find this argument to be without merit.

### Assignment One: State law violation

<sup>[2]</sup> Plaintiffs' first assignment of error contends that the ATSE is unlawful because the ATSE: is preempted by state law; impermissibly modifies or conflicts with the LHRA; and because the ATSE violates La. R.S. 15:571.11, which addresses the collection of criminal fines and forfeitures. The analysis of each of these arguments depends on a threshold question: Are the citations issued pursuant to the ATSE, civil or criminal matters?

United States District Judge Sarah S. Vance aptly described the analysis this Court must make in deciding whether the ATSE imposes a civil or criminal penalty when she decided a case in federal court that challenged the ATSE.

As both sides correctly recognize, the classification of the ordinance determines which procedures are constitutionally required. *See, e.g.,* **\*\*14** *United States v. Ward*, 448 U.S. 242, 248, 100 S.Ct. 2636, 65 L.Ed.2d 742 (1980) (listing several constitutional guarantees that apply only in criminal proceedings).

The Supreme Court has explained that determining whether a penalty is civil or criminal in nature is principally a matter of statutory interpretation. *Hudson v. United States*, 522 U.S. 93, 99, 118 S.Ct. 488, 139 L.Ed.2d 450 (1997). This is often a straightforward inquiry, as many statutes clearly state whether they are intended to be civil or criminal. *See, e.g., Ware v. Lafayette City-Parish Consolidated Government*, No. 08-218, slip op. at 9, 2009 WL 5876275 (W.D.La. Jan. 6, 2009) (Magistrate Judge's Report and Recommendation) (finding that Lafayette City-Parish's traffic camera ordinances were civil in nature because the ordinances contain 'repeated references to 'civil citations' and 'civil penalties'); NEW ORLEANS CODE OF ORDINANCES § 154-1702 (Automated Traffic Enforcement System) (referring to '[a]dministrative adjudications,' 'civil penal[t]ies,' and 'civil liability'). With the ATSE, however, there is no clear-cut answer. As the parties' briefs illustrate, the ordinance is far from a model of **\*385** clarity as to what the Jefferson Parish Council intended.

*Sevin v. Parish of Jefferson*, 621 F.Supp.2d 372, 378-79 (E.D.La.2009).

The issues before Judge Vance did not require her to rule on whether the Jefferson Parish Council intended for the ATSE to be civil or criminal in nature; Judge Vance found that in either case, the ordinance did not facially violate the protections of the United States Constitution.

However, because this Court must address the state law issues raised in this appeal, we must decide this question and the constitutionality of the ATSE's application.<sup>13</sup> After examining the text of the ATSE, we agree with Judge Vance: the ATSE does not clearly state whether it is civil or criminal in nature.

Faced with the ATSE's ambiguous text, we adopt the two-part test, set forth in *State ex rel. Olivieri v. State*, 00-0172 (La.2/21/01), 779 So.2d 735, 752-53, in order to analyze the civil versus criminal nature of the ATSE. The first part of this **\*\*15** test requires this Court to determine whether the legislature which enacted this law, the Jefferson Parish Council, intended for it to have a "punitive" or a "non-punitive purpose."<sup>14</sup> *See also State v. Trosclair*, 11-2302 (La.5/8/12), 89 So.3d 340, 349. If we determine that the Jefferson Parish Council "intended to punish" ATSE violators, then we must find that **\*386** the ATSE is criminal in nature.<sup>15</sup> If, on this first part of the test, we determine that the Jefferson Parish Council intended to inflict punishment on violators, and that therefore the statute is criminal in nature, this will end our inquiry.<sup>16</sup> On the other hand, if we find this law to have a non-punitive purpose, we must then find the ATSE to be civil in nature. Only if we **\*\*16** find the ATSE to be civil in nature do we turn to the second part of the *Olivieri* test.

If we conclude, as to the first part of the *Olivieri* test, that the ordinance is civil in nature, we must then conduct the seven factor analysis which is the second part of the *Olivieri* test.<sup>17</sup> Explaining and delineating this seven-factor analysis, the Louisiana Supreme Court stated:

if the statute has a non-punitive purpose, we are required to determine whether the statutory scheme is so punitive *in effect* as to 'transform what was clearly intended as a civil remedy into a criminal penalty.' [*Hudson*, 522 U.S. at 99, 118 S.Ct. 488] (quoting *Rex Trailer Co. v. United States*, 350 U.S. 148, 154, 76 S.Ct. 219, 100 L.Ed. 149 (1956)). The determination of whether an intended civil remedy has a punitive effect is made by the consideration of seven factors:

- [1] whether the sanction involves an affirmative disability or restraint,
- [2] whether it has historically been regarded as a punishment,
- [3] whether it comes into play only on a finding of scienter,
- [4] whether its operation will promote the traditional aims of punishment-retribution and deterrence,
- [5] whether the behavior to which it applies is already a crime,
- [6] whether an alternative purpose to which it may rationally be connected is assignable for it, and
- [7] whether it appears excessive in relation to the

alternative purpose assigned.... *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168–69, 83 S.Ct. 554, 9 L.Ed.2d 644 (1963) (footnotes omitted), cited in, [*Hudson*, 522 U.S. at 99–100, 118 S.Ct. 488].

*Id.*

Addressing now part one of the *Olivieri* test, we find sections 36–309 and 36–313 of the ATSE particularly instructive. In section 36–309, the ATSE states that its purpose is to protect the public from the danger of vehicles entering intersections when faced with a steady-red-light signal and the accidents, and the other consequences which result from such acts. Neither that section, nor any other part of the ATSE, states that the ATSE is intended to punish drivers who \*\*17 commit this act. In section 36–313, the ATSE describes itself as “an alternative method of detecting and deterring red-light violations.” That section goes on to specifically provide that, \*387 “[n]o fine imposed [for ATSE violations] will result in notification to the Louisiana Department of Motor Vehicles, to the owner’s insurance company or to the insurance company of any person on whom a fine is imposed under this article.”<sup>18</sup> We find that the inclusion of this section indicates that the ATSE has a non-punitive purpose because it insures that the putative violators do not suffer collateral consequences through increased insurance rates in the future. Considering these sections, and the ATSE as a whole, we find that the ATSE has a “non-punitive purpose.” Therefore, we find that the ATSE is civil in nature.

[<sup>31</sup>] Given this conclusion, we must now analyze the ordinance applying the seven factors of the second part of the *Olivieri* test to determine whether, in spite of the ATSE’s non-punitive purpose, we find the “clearest proof” that the ATSE is so punitive as to transform what would otherwise be a civil penalty into a criminal penalty. *Hudson*, 522 U.S. at 100, 118 S.Ct. 488. The Louisiana Supreme Court has further explained:

These [seven] factors, however, are neither exhaustive nor dispositive; they only provide a framework for the analysis. [*Smith v. Doe*, 538 U.S. 84, 97, 123 S.Ct. 1140, 1149, 155 L.Ed.2d 164 (2003) ]. Moreover, while the [United States] Supreme Court has not explained the relative weight to be afforded each factor, it has recognized that no one factor is determinative as they ‘often point in differing directions’ and has

even cautioned that only the *clearest proof* will suffice to override legislative intent and transform what has been denominated a civil remedy into a criminal penalty. [*Hudson*, 522 U.S. at 100–01, 118 S.Ct. 488] (quoting [*Kennedy*, 372 U.S. at 169, 83 S.Ct. 554] ); see also, *Kansas v. Hendricks*, 521 U.S. 346, 361, 117 S.Ct. 2072, 2082, 138 L.Ed.2d 501 (1997). \*\*18 Ever conscious of these instructions, we examine each factor to ascertain its relevance herein.

*Trosclair*, 89 So.3d at 351 (emphasis in the original).

As to factor one (whether the sanction involves an affirmative disability or restraint), we find that it does not. Here, “we inquire how the effects” of the ATSE “are felt by those subject to it. If the disability or restraint is minor and indirect, its effects are unlikely to be punitive.” *Trosclair*, 89 So.3d at 351–52 (quoting *Smith*, 538 U.S. at 99–100, 123 S.Ct. 1140). As in *Smith*, individuals affected by the challenged statute have no physical restraint or imprisonment imposed on them. *Id.* While a fine is imposed on the registered owner of a vehicle, the registered owner is not restrained from any future action by this monetary penalty. See *Van Harken v. City of Chicago*, 906 F.Supp. 1182, 1191 (N.D.Ill.1995) *aff’d as modified*, 103 F.3d 1346 (7th Cir.1997) (“[A] monetary fine limited to \$200 is not an affirmative restraint or disability.”).

As to factor two (whether this sanction has historically been regarded as a punishment), we find that this sanction, a fine, has historically been a punishment of both civil and criminal offenses. *Hudson*, 522 U.S. at 104, 118 S.Ct. 488 (finding that money penalties have not historically been viewed as punishment and quoting \*388 *Helvering v. Mitchell*, 303 U.S. 391, 400, 58 S.Ct. 630, 633, 82 L.Ed. 917 (1938) “the payment of fixed or variable sums of money [is a] sanction which ha[s] been recognized as enforceable by civil proceedings since the original revenue law of 1789.”). In further analyzing this second factor, we again recognize that the ATSE’s prohibition against reporting violations to insurance companies or the Louisiana Department of Motor Vehicles supports a finding that the fine imposed by the ATSE is not punishment, but rather a civil regulatory scheme. See also *Smith*, 538 U.S. at 94, 123 S.Ct. 1140 (“even if the objective of the [challenged law] is



consistent **\*\*19** with the purposes of the [state’s] criminal justice system, the [s]tate’s pursuit of [the challenged law] in a regulatory scheme does not make the objective punitive.”).

As to factor three (whether ATSE comes into play only on a finding of scienter), we find that it does not. “Scienter” is a “degree of knowledge that makes a person legally responsible for the consequences of his or her act or omission;” it is “the fact of an act’s having been done knowingly,” especially as a “ground for civil damages or criminal punishment.” Black’s Law Dictionary 1373 (8th ed.2004). Violations of the ATSE occur when a vehicle proceeds into an intersection when faced with a steady-red light. Under the ATSE, it is irrelevant whether a driver intends to commit this act.

As to factor four (whether operation of the ATSE will promote the traditional aims of punishment, retribution and deterrence), we find that the ATSE operates to promote the traditional aim of deterrence, but not of punishment and retribution. Furthermore, we recognize that “deterrence” may serve civil as well as criminal goals. *State v. Duncan*, 98–1730 (La.App. 1 Cir. 6/25/99), 738 So.2d 706, 712. “Any number of governmental programs might deter crime without imposing punishment. ‘To hold that the mere presence of a deterrent purpose renders such sanctions ‘criminal’ ... would severely undermine the Government’s ability to engage in effective regulation.’ ” *Smith*, 538 U.S. at 102, 123 S.Ct. 1140 (quoting *Hudson*, 522 U.S. at 105, 118 S.Ct. 488). The fact that the ATSE deters drivers from committing future violations of the ATSE and the LHRA, does not necessitate a finding either that the ATSE is civil or criminal in nature.

<sup>[4]</sup> As to factor five (whether the behavior to which it applies is already a crime), we find that the behavior it regulates, entering an intersection when faced with a steady-red signal, is already made a crime by Louisiana law. **\*\*20** La. R.S. 32:232. However, we recognize that the fact that the same conduct constitutes a criminal offense and a civil violation under state law does not automatically transform the civil penalties into criminal penalties. See *Gardner v. City of Columbus, Ohio*, 841 F.2d 1272, 1277 (6th Cir.1988) (finding that the imposition of criminal and civil sanctions for the same act does not necessarily transform a civil penalty into a criminal penalty, “particularly when the penalties are in different parts of a statute or are in separate statutes.”).

As to factor six (whether an alternative purpose to which it may rationally be connected is assignable for it), the Louisiana Supreme Court has explained:

This [factor] is generally interpreted as an inquiry into whether the statute advances a legitimate regulatory purpose. ‘The [statute’s] rational connection to a nonpunitive purpose is a ‘[m]ost significant’ factor in our determination that the statute effects are not punitive.’ [*Smith*, 538 U.S. at 102, 123 S.Ct. 1140] (quoting *United States v. Ursery*, 518 U.S. 267, 290, 116 S.Ct. 2135, 2148, 135 L.Ed.2d 549 (1996)). Such a connection, **\*389** however, need only be rational for ‘[a] statute is not deemed punitive simply because it lacks a close or perfect fit with the nonpunitive aims it seeks to advance.’ [*Smith*, 538 U.S. at 103, 123 S.Ct. 1140].

*Trosclair*, 89 So.3d at 354. Considering this, we find that an alternative purpose of protecting public safety, by preventing traffic collisions caused by vehicles that run red lights, is assignable to this statute. This alternative purpose is clearly stated in the text of the ATSE in section 36–309.

As to factor seven (whether the ATSE enforcement appears excessive in relation to the alternative purpose assigned), we recognize that:

[While this] factor often also receives great weight, [ ... ] the [U.S.] Supreme Court has cautioned this excessiveness inquiry ‘is not an exercise in determining whether the legislature has made the best choice possible to address the problem it seeks to remedy. The question is whether the regulatory means chosen are reasonable in light of the nonpunitive objective.’

*Trosclair*, 89 So.3d at 354 (quoting *Smith*, 538 U.S. at 105, 123 S.Ct. 1140). We find that the ATSE’s fine and enforcement system does not appear to be excessive in relation to **\*\*21** the alternative purpose of preventing future traffic collisions at intersections caused by vehicles running red lights.

After applying these seven factors and weighing the results, we find that the ATSE is not so punitive that it must be considered criminal in nature. The ATSE is civil in nature. In light of this finding, we now address whether the ATSE violates the Louisiana state law, or the United States or Louisiana Constitutions, either as it is written or as it is applied.

*State Law: Preemption*

<sup>[5]</sup> First, we consider whether the ATSE is preempted by state law. Plaintiffs argue that by enacting the LHRA,

Louisiana has set up a comprehensive highway regulatory scheme that does not allow for Jefferson Parish to enact or enforce the ATSE. For the following reasons, we disagree.

Plaintiffs direct us to [La. R.S. 32:21](#), providing for “uniform application” of the LHRA, to support their preemption argument. However, [La. R.S. 32:42](#) gives “Local parish authorities”—such as Jefferson Parish—the power to “adopt ordinances regulating the matters enumerated in [R.S. 32:41](#)” which govern “highways other than state maintained highways” and “public roads within their territorial limits, but outside corporate limits of any municipality therein.”<sup>19</sup> Subject to the restrictions of [La. R.S. 32:42](#), [La. R.S. 32:41](#) allows Jefferson Parish to adopt ordinances that, *inter alia*, are:

A. (2) Enforcing the provisions of this Chapter, regulations of the department and of the commissioner and local regulations adopted pursuant hereto, by means of police officers or by the use of traffic-control devices approved by the department; [or] ... (14) Creating additional regulations controlling traffic upon nonstate maintained highways within their corporate limits under their general police power so long as such regulations do not modify, or conflict with, the **\*\*22** provisions of this Chapter or regulations of the department and the commissioner adopted pursuant hereto.

Examining the record in this matter, the undisputed evidence shows that the ATSE **\*390** traffic cameras were neither placed on state maintained highways nor within the corporate limits of any municipality within Jefferson Parish. Therefore, the ATSE enforcement scheme may be justified under either [La. R.S. 32:41\(2\)](#) or (14). Because we find the ATSE is permitted under [La. R.S. 32:41\(14\)](#), we do not address whether the ATSE is also permitted by [La. R.S. 32:41\(2\)](#).

[La. R.S. 32:41\(14\)](#) permits Jefferson Parish to enact and enforce the ATSE outside the corporate limits of any municipality within Jefferson Parish, so long as the ATSE does not “modify, or conflict with” the LHRA or the “regulations of the department and the commissioner adopted pursuant” to it. Accordingly, we find that the LHRA does not render the ATSE invalidated through preemption. Therefore, the question of whether the LHRA prohibits the ATSE must be determined by whether the ATSE conflicts with or modifies the LHRA.

*State Law: LHRA Conflict or Modification*

Plaintiffs argue that the ATSE conflicts with the LHRA because: (1) the ATSE punishes an act which is allowed by the LHRA; (2) under the ATSE, the registered owner of a vehicle is liable if his or her car is photographed running a red light, but under the LHRA, [La. R.S. 32:232](#), it is the driver of the car who is prohibited from running a red light; (3) the ATSE decriminalizes running a red light; and because, (4) the ATSE does not meet the methods proscribed in Louisiana law for the enforcement of traffic tickets.

<sup>[6]</sup> In their first argument, plaintiffs contend that the ATSE conflicts with the LHRA because the ATSE punishes drivers in a situation where the LHRA does not punish drivers in the same situation. *Compare* Jefferson Parish Ordinance, Section **\*\*23** 36–309 with [La. R.S. 32:232\(3\)\(a\)](#). Specifically, plaintiffs argue that [La. R.S. 32:232\(3\)\(a\)](#) permits a vehicle, which has legally passed through either a stop line or a crosswalk before encountering a red light at the intersection of two perpendicular streets, to pass through the intersection on a steady-red signal, whereas the same motorist would be prohibited from passing through this same intersection by the ATSE.<sup>20</sup>

**\*391** Plaintiffs illustrate their proposed situational conflict by a hypothetical. Plaintiffs ask this Court to first imagine a vehicle traveling towards an intersection which is controlled by a signal light which is displaying a yellow signal. Plaintiffs ask this Court to then imagine that after this vehicle has passed a stop line, a crosswalk, or both, on the near-side of the intersection, but before this vehicle has entered the area shared by the intersecting roads, bounded by the lateral lines of the intersecting roads, the signal light changes and begins to display a steady-red signal.<sup>21</sup> Plaintiffs argue that, in this hypothetical situation, the LHRA and the ATSE conflict because they demand different actions from the vehicle. Plaintiffs **\*\*24** propose that under the LHRA, the vehicle may proceed into the intersection, but, that under the ATSE, the vehicle must stop before proceeding into the intersection. Because we find that appellants misconstrue the LHRA, we disagree.

Under no circumstances may a vehicle enter the area within the lateral lines of the intersecting roads when it is faced with a steady-red light signal. We reach this conclusion after comparing the provisions of both the LHRA and the ATSE which govern this hypothetical situation.

The LHRA governs the plaintiffs’ hypothetical situation in the following text:

Whenever traffic is controlled by traffic-control signals

exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) GREEN indication:

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall stop and yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall stop and yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian control signal as provided in [R.S. 32:233](#), pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady YELLOW indication:

(a) **Vehicular traffic facing a steady yellow signal alone is thereby warned that the related green signal is being terminated \*\*25 or that a red signal will be exhibited immediately thereafter and such vehicular traffic \*392 shall not enter the intersection when the red signal is exhibited.**

(b) Unless otherwise directed by a pedestrian control signal as provided in [R.S. 32:233](#) a pedestrian facing a steady yellow signal is thereby advised that there is insufficient time to cross the roadway before a red signal is exhibited and no pedestrian shall then start to cross the roadway.

(3) Steady RED indication:

(a) **Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, or if none, then before entering the crosswalk on the near side of the intersection, or if none,**

**then before entering the intersection, and shall remain standing until an indication to proceed is shown** except as provided in Subparagraph (c) of this Paragraph.

(b) Vehicular traffic facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked stop line, or if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication permitting the movement indicated by such red arrow is shown except as provided in Subparagraph (c) of this Paragraph.

(c) Except when a sign prohibits a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, or to U-turn at a signalized U-turn after stopping as required by Subparagraph (a) or Subparagraph (b) of this Paragraph. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

[La. R.S. 32:232](#) (emphasis added).

In comparison, the ATSE, governing the same hypothetical, imposes liability as follows:

The registered owner of a motor vehicle which proceeds into an intersection at a system location when the traffic control signal for the motor vehicle's direction of travel is emitting a steady red signal shall be liable for a ... penalty....

Jefferson Parish Ordinance, Section 36–309.

**\*\*26** Plaintiffs urge this Court to apply a definition of “intersection” to the above quoted section of the ATSE, which excludes “crosswalks” from the area considered to be part of the “intersection.” This definition, in relevant part, states:

Intersection means [ ] a junction where one (1) roadway crosses another; the actual area common to crossing roadways embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral lines of the roadways of two (2) streets which join one another, usually at right angles. Crosswalks do not comprise part of the intersection.

Jefferson Parish Ordinances, Sec. 29–0.1. (Definitions).<sup>22</sup>

We reach our conclusion that the LHRA in all instances prohibits vehicles from passing a stop line or entering a crosswalk or the area bounded by the lateral lines of \*393 the intersecting roads, when facing a steady-red light signal, after considering in conjunction, both the LHRA’s provision governing the behavior of a vehicle facing a yellow light signal, and its provision governing the behavior of a vehicle facing a red light signal. *La. R.S. 32:232(2)* and (3). A driver of a vehicle facing a yellow light signal is warned that “a red signal will be exhibited immediately thereafter and such” a vehicle is prohibited from entering “the intersection when the red signal is exhibited.” *La. R.S. 32:232(2)(a)*. A driver of a vehicle who thereafter faces a red light signal is further also required to “stop at a clearly marked stop line, or if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown...” *La. R.S. 32:232(3)(a)*. This requirement—that a vehicle stop, at a stop line or crosswalk, on the near side of an intersection the vehicle is approaching—in no way negates the vehicle’s responsibility to stop before entering the actual area in which two vehicles may collide if the vehicle is faced with a red light signal.

\*\*27 In comparison, the ATSE creates liability when a vehicle proceeds into an intersection when the vehicle is faced with a steady-red light signal. This creates liability for the exact same behavior that *La. R.S. 32:232(2)(a)* prohibits.

While the LHRA, in *La. R.S. 32:232*, and the ATSE do not conflict, they also do not regulate all of the same behavior. The ATSE does not create liability when a vehicle that is approaching an intersection and is faced with a steady-red light signal proceeds past a stop line, crosswalk, or both, but does not enter the area shared by the intersecting roads. In contrast, the LHRA, in *La. R.S.*

*32:232(3)(a)*, prohibits this failure to stop. After considering this difference, we find that the difference is permissible under *La. R.S. 32:41(14)*, because it does not modify or change the prohibitions of the LHRA or the regulations of the department and the commissioner adopted pursuant to it.

<sup>[7]</sup> In their second and third arguments seeking to prove that the ATSE modifies or changes the LHRA, plaintiffs contend both that it is impermissible that the ATSE holds the registered owner of a violating vehicle liable rather than the person who drives the vehicle, and that the ATSE decriminalizes the act of running a red light. These arguments also fail. These arguments fail to recognize that the Jefferson Parish ATSE is a separate and distinct law from the state LHRA. There is no evidence that the driver of a car may not still be stopped and criminally cited, pursuant to the LHRA, for running a red light or for any other act prohibited by the LHRA. Additionally, the civil citations issued pursuant to the ATSE in no way prohibit officers from issuing criminal citations pursuant to the LHRA.

<sup>[8]</sup> In their fourth and final argument, plaintiffs contend that citations issued pursuant to the ATSE do not conform to the requirements of *La. R.S. 32:398.2*, and that therefore, those ATSE citations are illegal both based on their failure to comply with *La. R.S. 32:398.2* and because they modify or change the LHRA. We \*\*28 again disagree. *La. R.S. 32:398.2* sets requirements for traffic citations issued for alleged violations of “the motor vehicle laws of this state or of any traffic ordinance of any city or town.” Because ATSE citations were issued for violations of a civil Parish ordinance, *La. R.S. 32:398.2* simply does not apply.

Because we reject plaintiffs’ four arguments as to why the ATSE modifies or conflicts with the LHRA, we accordingly \*394 find this aspect of this assignment of error to be without merit.

*State Law: Violation*

Plaintiffs also argue the ATSE is invalid because it invalidates state law in several ways. In one of these arguments, plaintiffs allege that the ATSE, as enforced, violates *La. R.S. 15:571*. That statute states, in relevant part that:

A. (1)(a) All fines and forfeitures,



... conviction fees in criminal cases, and prosecutions for violations of state law or parish ordinances, upon collection by the sheriff or executive officer of the court, shall be paid into the treasury of the parish in which the court is situated and deposited in a special 'Criminal Court Fund' account, which, on motion by the district attorney and approval order of the district judge, may be used or paid out [ ... in certain prescribed ways].

La. R.S. 15:571.11.

Defendants argue that this statute is not applicable because it is a law of criminal procedure, and the ATSE does not create a criminal process, but rather, sets up a civil process. We agree. Additionally, we find [La. R.S. 15:571.11](#) is not violated because there is no evidence in this record that any of the fines paid pursuant to the ATSE are collected by the sheriff or an executive officer of a court. Therefore, this argument is without merit.

### Assignment Two: Constitutionality

<sup>[9]</sup> Plaintiffs argue the ATSE is unconstitutional both as written and as applied because it deprives individuals of their rights to due process. Plaintiffs' rights to **\*\*29** due process are guaranteed by both the U.S. and Louisiana Constitutions. [U.S. Const. Amend. 14](#); [La. Const. Art. 1 § 2](#). The fundamental requirement of procedural due process is notice and the opportunity to be heard at a meaningful time and in a meaningful manner. [Hamilton v. Royal International Petroleum Corporation, 05-846 \(La.2/22/06\), 934 So.2d 25, 32](#). Plaintiffs claim that their right to procedural due process has been violated because they have been deprived of their rights to: confront the witnesses against them; to be convicted by "proof beyond a reasonable doubt" without the use of presumption; to remain silent; and to be tried under a statute which is not void for vagueness. Plaintiffs also attack the ATSE as a violation of substantive due process. We address each of these arguments in turn.

<sup>[10]</sup> First, we find that the ATSE does not deprive plaintiffs of their constitutional right to confront witnesses or be

convicted by "proof beyond a reasonable doubt" because those two protections apply only in the context of criminal proceedings. See [U.S. Const. amend. VI](#) (right to confront witnesses in criminal prosecutions); [Gutenkauf v. City of Tempe, CV-10-02129-PHX-FJM, 2011 WL 1672065 \(D.Ariz. May 4, 2011\)](#) ("The Sixth Amendment only applies in the criminal context."); [La.Rev.Stat. Ann. § 49:964\(G\)\(6\)](#) (Agency decisions must be supported by a preponderance of the evidence).

<sup>[11]</sup> <sup>[12]</sup> Second, with regard to plaintiffs' right to remain silent, we recognize that the Fifth Amendment "protects a person only against being incriminated by his own compelled testimonial communications." [State v. Charles, 09-0433 \(La.9/4/09\), 16 So.3d 1166, 1167](#) (quoting [Fisher v. United States, 425 U.S. 391, 409, 96 S.Ct. 1569, 1580, 48 L.Ed.2d 39 \(1976\)](#)). Here, we find no evidence in the record that plaintiffs were compelled to give testimonial statements that would **\*\*30** incriminate them in a current or future criminal prosecution. Accordingly, we find plaintiffs' Fifth Amendment rights against self-incrimination were not violated.

**\*395** <sup>[13]</sup> Third, we also reject plaintiffs' argument that the ATSE is unconstitutionally vague. Plaintiffs argue the ATSE is unconstitutionally vague because it does not specifically define what it prohibits, by its text imposing a liability on any given vehicle which "proceeds into an intersection" when faced with a traffic light emitting a steady-red signal. Plaintiffs argue that this proceeding into an "intersection" is an undefined act and therefore this statute is unconstitutionally vague. The standard for judging this claim by plaintiffs was explained by the Louisiana Supreme Court in [State v. Hair](#) as follows:

A statute is unconstitutionally vague if an ordinary person of reasonable intelligence is not capable of discerning its meaning and conforming his conduct thereto. This occurs where a statute either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application. In such instances, the statute violates due process of law. Due process requires only that the language of a statute have generally accepted meaning so that a person of ordinary and reasonable intelligence is capable of discerning

its proscriptions and is given fair notice of the conduct which is forbidden by its terms.

00–2694 (La.5/15/01), 784 So.2d 1269, 1274 (internal citations omitted).

Applying this standard, we find that the ATSE is not unconstitutionally vague. The ATSE’s restriction does not impose liability on a vehicle which, when facing a steady-red light, passes a stop line, a crosswalk, or both, on the near side of an intersection. It imposes a particular restriction upon vehicles traveling in Jefferson Parish—namely, it prohibits a vehicle from entering the area bounded by the lateral lines of intersecting roads when faced with a steady-red light.

<sup>[14]</sup> Finally, plaintiffs’ argument that the ATSE deprives them of substantive due process under the U.S. Constitution is also without merit. “Government action comports with substantive due process if the action is rationally related to a **\*\*31** legitimate government interest.” *Standard Materials, Inc. v. City of Slidell*, 96–0684 (La.App. 1 Cir. 9/23/97), 700 So.2d 975, 988. The government’s fines by citations under the ATSE, in this instance, are rationally related to Jefferson Parish’s legitimate goal of protecting the public welfare by preventing traffic accidents at intersections; there is no violation of plaintiffs’ right to substantive due process.

### Assignment Three: Parish Liability and Discovery Time

<sup>[15]</sup> Despite the above findings, we reverse the trial courts’ grants of summary judgment in favor of Jefferson Parish and **Redflex**. The trial court found that, with regard to plaintiffs’ complaints of the manner in which the ATSE was enforced or applied, Jefferson Parish was not an appropriate party defendant. We find that a genuine issue of material fact exists as to whether Jefferson Parish was, as a matter of fact or of law, the proper party against whom these plaintiffs could assert their remaining viable claims. The trial court erred in granting summary judgment in favor of Jefferson Parish. We further find that plaintiffs were not afforded an adequate opportunity for discovery against both Jefferson Parish and **Redflex** on this particular issue.

Although we do not now opine upon the correct resolution of this issue of fact, in light of our finding that the ATSE is a civil enforcement scheme, there are questions as to, among other things, whether the procedure to give alleged violators notices **\*396** of the proceedings against them in the First and Second Parish Courts for the Parish of Jefferson was legally sufficient; whether the proceedings in the First and Second Parish Courts for the Parish of Jefferson complied with the applicable rules of jurisdiction, civil procedure, and procedural due process; whether the District Attorney had the power, in his official capacity, to prosecute **\*\*32** citations issued pursuant to the ATSE;<sup>23</sup> and whether the imposition of criminal fees in a civil proceeding was permissible.

We conclude that there is a genuine issue of material fact as to whether Jefferson Parish may be liable for any of these potential failings. Jefferson Parish enacted the law. Further, there is no evidence in this record which would enable us to discern whether Jefferson Parish itself designed the ATSE enforcement process or whether Jefferson Parish simply enacted the ATSE, and then left it to independent entities, such as the Sheriff, Clerk of Court, District Attorney and the First and Second Jefferson Parish Courts, to set up the enforcement methods. Without such evidence, the trial court erred in finding that Jefferson Parish, which enacted the ATSE ordinance, was not a proper party defendant.<sup>24</sup>

<sup>[16]</sup> As to **Redflex**, we find the trial court erred in issuing summary judgment in its favor on December 10, 2012. We find that there is a material issue of fact as to what, if anything, **Redflex** did to set up the procedures which are now called into question. Furthermore, to the extent that plaintiffs petitioned **Redflex** for an accounting of funds which were collected pursuant to the ATSE, we find that the trial court also erred in granting summary judgment in favor of **Redflex**. There are genuine questions of material fact as to how much money was collected during the **\*\*33** period in which the ATSE was enforced.<sup>25</sup> Furthermore, there is an unresolved genuine question of material fact as to how much money, if any, **Redflex** would be due under its contract with Jefferson Parish, if the court, in further proceedings, finds the ATSE illegal or unconstitutional as applied.

<sup>[17]</sup> Additionally, as to both Jefferson Parish and **Redflex**, we find merit in plaintiffs’ argument that summary judgment was improper because they had not been given sufficient time for discovery. Plaintiffs **\*397** were not afforded an adequate opportunity to respond after defendants alleged that the Sheriff of the Parish of Jefferson, not the defendants, possessed and controlled

the escrow account containing all of the ATSE fees and fines at issue.<sup>26</sup>

For these reasons, we reverse the summary judgments issued in favor of defendants and remand this matter for additional discovery and further proceedings consistent with this opinion.

**WRIT NUMBER 13–C–500:**

**JEFFERSON PARISH’S EXCEPTION OF PRESCRIPTION**

[18] On May 18, 2012, Jefferson Parish filed an exception of prescription against the claims of the *Falgoust* plaintiffs’ class representatives, Earl J. Falgoust and Kathleen McMenamain, arguing that Mr. Falgoust and Ms. McMenamain alleged delictual claims that had prescribed. Jefferson Parish pointed out that while the *Falgoust* plaintiffs’ petition alleged that Mr. Falgoust paid his fine arising from his ATSE violation notice on June 12, 2008, and that Ms. McMenamain did the same on or after May 14, 2009, their petition was not filed until August 26, 2010. \*\*34 Jefferson Parish argued that, given the *Falgoust* plaintiffs’ own allegations, the one-year prescriptive period for their delictual action claims had run. See La. C.C. art. 3492.

The trial court heard Jefferson Parish’s exception of prescription and thereafter denied it. The trial court issued a written judgment confirming, *inter alia*, its denial of Jefferson Parish’s exception on October 25, 2012. On June 14, 2013, Jefferson Parish filed a supervisory writ with this Court seeking supervisory review of this ruling.<sup>27</sup> On December 18, 2013, in the interest of judicial efficiency, this Court consolidated Jefferson Parish’s writ application into this appeal.

[19] After reviewing the record, the law, and in light of our findings above, we find that the trial court did not err in denying Jefferson Parish’s exception of prescription. The

*Falgoust* plaintiffs have not asserted a delictual action which would be subject to a one-year prescriptive period. Rather, they seek a declaratory judgment declaring the ATSE illegal and the return of the money they paid as a result of the enactment and enforcement of the ATSE. Actions such as those by the *Falgoust* plaintiffs here, seeking a declaratory judgment, are imprescriptible, and actions seeking return of a thing not due are subject to a prescriptive period of ten years. See *Louisiana State Med. Soc. v. Louisiana State Bd. of Nursing*, 493 So.2d 581, 584 (La.1986) (“prescription or laches cannot be asserted against a suit to declare a ruling or ordinance invalid or unconstitutional”); and La. C.C. art. 3499 (providing a ten-year liberative prescriptive period for personal actions); *Julien v. Wayne*, 415 So.2d 540, 542 (La.App. 1 Cir. 5/25/1982) (“A claim for restitution of payment not due is based on the doctrine of quasi-contract, which \*\*35 prescribes only by prescription of ten years.”). Accordingly, we find the trial court did not err in denying Jefferson Parish’s exception of prescription.

**\*398 CONCLUSION**

For the foregoing reasons, we hereby reverse the grants of summary judgment rendered in favor of Jefferson Parish on October 9, 2012 and October 25, 2012, as well as the grant of summary judgment rendered in favor of **Redflex** on December 10, 2012. We also deny Jefferson Parish’s application for supervisory relief from the denial of its exception of prescription. We remand this matter to the trial court for further proceedings consistent with this opinion.<sup>28</sup>

**WRIT DENIED; SUMMARY JUDGMENTS REVERSED; REMANDED.**

**All Citations**

140 So.3d 375, 13-486 (La.App. 5 Cir. 4/30/14)

**Footnotes**

1 It is unclear from the ATSE when this 30–day response period begins to run.

2 This agreement was ratified by the Jefferson Parish Council on January 24, 2007.

3 Pursuant to the compensation agreement, the marginal amount that Jefferson Parish is entitled to from the paid citations

increases with the number of citations that it issues and that are paid.

- 4 As will be discussed later, the trial court granted summary judgment in favor of Jefferson Parish and **Redflex** against the *Falgoust* plaintiffs. The trial court also granted summary judgment in favor of Jefferson Parish and against the *Morales* plaintiffs. **Redflex** did not pursue summary judgment against the *Morales* plaintiffs.
- 5 The *Morales* plaintiffs' petition does not challenge the constitutionality of the ATSE, as written or as applied, under the U.S. Constitution.
- 6 The trial court also denied, as moot, a motion for class certification which had been filed on behalf of the *Morales* plaintiffs.
- 7 The *Morales* plaintiffs initially erred by moving for an appeal from the trial court's October 25, 2012 judgment. The *Morales* plaintiffs later filed a supplemental motion for appeal in which they stated that the October 25, 2012 date in the original motion was a typographical error and that it was the trial court's October 9, 2012 judgment that they wished to appeal.
- 8 While the trial court's March 3, 2011 suit consolidated the plaintiffs' actions into one matter, it did not combine their suits. See *Id.* (citing *Ricks v. Kentwood Oil Co., Inc.*, 09-0677 (La.App. 1 Cir. 2/23/10), 38 So.3d 363, 366, writ denied, 10-1733 (La.10/15/10), 45 So.3d 1112).
- 9 Although the case was consolidated at this time, Jefferson Parish directed its April 27, 2012 motion for summary judgment only against the *Falgoust* plaintiffs.
- 10 Also at that hearing, the trial court denied defendants' exception of no cause of action, and denied the plaintiffs' motion for summary judgment.
- 11 This motion was explicitly not against the *Morales* plaintiffs. Furthermore, in that motion, although **Redflex** alleges that the *Morales* plaintiffs "dismissed **Redflex**, with prejudice, prior to the September 21, 2012 hearing," we can find no evidence of this dismissal in the record.
- 12 Given our discussion of these three issues, we need not decide the remaining issues raised by the plaintiffs in their assignments of error.
- 13 In two previous writ dispositions, this Court treated challenges to the ATSE violations as criminal matters. However, this Court took those two previous writs as they were presented to this Court, without deciding on the correctness of whether those matters were properly criminal or civil. *State of Louisiana v. Anderson B. Cosby, IV*, 08-KH-627 (La.App. 5 Cir. 8/11/08) (unpublished writ) (reversing relator's "misdemeanor conviction for running a red light."); *Parish of Jefferson v. Timothy G. Morales*, 08-KH-1173 (La.App. 5 Cir. 10/30/08) (unpublished writ) (finding this Court did not have jurisdiction to review the constitutionality of the First Parish Court's finding that relator was "guilty" of violating the ATSE).
- 14 As Judge Vance discussed in *Sevin*, 621 F.Supp.2d 372, there is significant ambiguity as to what courts may look to in interpreting whether a law, such as the ATSE, on its face, is civil or criminal:  
In addition, the evidence points in different directions depending upon which sources are considered. The Supreme Court has not squarely decided whether sources other than the statutory text itself-such as state court decisions and state executive branch practices-may be taken into account when the Court determines whether a statute is civil or criminal in nature. Compare [*Hudson*, 522 U.S. at 104, 118 S.Ct. 488] ('[W]e look only to 'the statute on its face' to determine whether a penalty is criminal in nature.') (quoting [*Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 169, 83 S.Ct. 554, 9 L.Ed.2d 644 (1963)] ), and [*Smith v. Doe*, 538 U.S. 84, 106, 123 S.Ct. 1140, 1154, 155 L.Ed.2d 164 (2003)] (Thomas, J., concurring) ('[T]he determination whether a scheme is criminal or civil must be limited to the analysis of the obligations actually created by statute.'), with [*Seling v. Young*, 531 U.S. 250, 266, 121 S.Ct. 727, 148 L.Ed.2d 734 (2001)] ('This case gives us no occasion to consider ... the extent to which a court may look to actual conditions of confinement and implementation of the statute to determine in the first instance whether a confinement scheme is civil in nature.'), [*Smith*, 538 U.S. at 99, 123 S.Ct. 1140] (considering '[t]he fact that Alaska posts [sex offender] information on the Internet,' despite the lack of any reference to internet notification in the statute), and [*Seling*, 531 U.S. at 267-70, 121 S.Ct. 727] (Scalia, J., concurring) (arguing that courts can look beyond the face of the statute in limited circumstances). This methodological debate has more than theoretical implications for this case. If this Court were to consider nonstatutory sources, the case for classifying the ATSE as a criminal ordinance would be greatly strengthened. See, e.g., Mem. in Support of Pls.' Motion for Summary Judgment, R. Doc. 101-27 at 8-12; Broussard Aff., R.



Doc. 132.

*Id.*

- 15 [Smith](#), 538 U.S. at 92–93, 123 S.Ct. 1140 (“A conclusion that the legislature intended to punish would satisfy an ex post facto challenge without further inquiry into its effects, so considerable deference must be accorded to the intent as the legislature has stated it.”).
- 16 See [Smith](#), 538 U.S. at 85, 123 S.Ct. 1140 (“If the intention was to impose punishment, that ends the inquiry. If, however, the intention was to enact a regulatory scheme that is civil and nonpunitive, the Court must further examine whether the statutory scheme is so punitive either in purpose or effect as to negate the State’s intention to deem it civil.”).
- 17 Before these factors were adopted in Louisiana, they were set out in by the U.S. Supreme Court in [Kennedy](#), 372 U.S. 144, 83 S.Ct. 554. Since [Kennedy](#), the U.S. Supreme Court continues to endorse and use these factors, in cases such as [Smith](#), 538 U.S. 84, 123 S.Ct. 1140, despite others changes in the Court’s prescription for this analysis between [United States v. Halper](#), 490 U.S. 435, 448–449, 109 S.Ct. 1892, 1901–1902, 104 L.Ed.2d 487 and [Hudson](#), 522 U.S. at 99, 118 S.Ct. 488.
- 18 ATSE section 36–313 goes on to provide: “... An owner who fails to pay the fine and/or enforcement costs imposed under this article or to timely contest liability for said fines and/or costs shall be considered to have admitted liability for the full amount of the fines and costs stated in the notice of violation mailed to the person and the matter will be turned over to the district attorney’s office for further prosecution and collection.”
- 19 We also recognize that [La. R.S. 32:21](#), allows “local authorities” to “adopt local traffic regulations in accordance with the provisions of [R.S. 32:41](#), [32:42](#).”
- 20 [La. R.S. 32:1\(26\)\(a\)](#) defines “intersection” as “The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.” When the ATSE was enacted in 2007, this definition of “intersection” was the governing state law. However, 2010 La. Act No. 275, amended this definition, effective June 17, 2010, to include [La. R.S. 32:1\(26\)\(d\)\(ii\)](#), a provision including the area beyond a designated stop line or yield line, or within the area of a cross work, within the definition of what constitutes an intersection. If we applied the definition of intersection from Chapter 29 of Jefferson Parish Ordinances, which does not include the crosswalk as a part of the intersection, there would be a difference in the definition of the term “intersection” between the state law and the parish ordinance. This however would be a difference without a consequence because it would create no conflict or modification of the LHRA. A vehicle is not permitted under the LHRA, when it is approaching a steady red traffic signal governing an intersection, to proceed past a stop line, crosswalk, or the area shared by the lateral lines of the intersecting roads. [La. R.S. 32:232](#). While the ATSE does not prohibit a vehicle from proceeding past a stop line or into a crosswalk in the same situation, the ATSE does prohibit the vehicle in the same situation from entering the area bounded by the lateral lines of the intersecting roads. Despite the fact that the ATSE enforces only part of the prohibition of [La. R.S. 32:232](#), the ATSE does not modify or conflict with the LHRA.
- 21 To reach this conclusion, plaintiffs apply the definition of “intersection” found in Chapter 29 of the Jefferson Parish Ordinances to the ATSE. Although we do not find this argument to be correct for all purposes, we assume it is correct in this analysis for our current purpose of analyzing plaintiffs’ argument.
- 22 By its plain terms, this definition of intersection applies only to Chapter 29 of the Jefferson Parish Ordinances, not Chapter 36, the chapter which contained the ATSE.
- 23 First, we find that the ATSE, as written, does not constitute a violation of the U.S. or Louisiana Constitutions on its face. While it is questionable whether Jefferson Parish can force a District Attorney to be responsible for prosecuting civil ordinance violations, that is not what the text of the ATSE proscribes. The ATSE simply states that the violations will be turned over to the District Attorney. Under the ATSE, as written, it appears the District Attorney could choose to do nothing with these ATSE violations. Second, we do not now opine as to whether the ATSE, *as applied*, through its use of the District Attorney, violated either the U.S. or Louisiana Constitutions. The trial court must first allow additional proceedings as to whether Jefferson Parish was the proper party defendant.
- 24 In [Woodard v. Andrus](#), 419 F.3d 348, 352 (5th Cir.2005), the U.S. Fifth Circuit Court of Appeals was faced with the question of whether a parish clerk of court set parish policy, such that the parish was liable for the clerk’s actions under a [42 U.S.C. § 1983](#)

action. While we are not faced with a “1983 action” in this appeal, we recognize that *Woodard* may be instructive in further proceedings to determine whether Jefferson Parish delegated final decision making authority to other entities, such that Jefferson Parish must be liable for any potential failings of those other entities.

- 25 This is because, *inter alia*, there is not sufficient evidence in this record to determine the number of violation citations issued pursuant to the ATSE, and the amount of money that was paid in response to those citations.
- 26 In light of these findings that the trial courts’ grants of summary judgment in favor of defendants were improper for the previously mentioned reasons, we need not now address plaintiffs’ claim that summary judgment in favor of **Redflex** was improper because they stated a claim for a declaratory judgment action against **Redflex**.
- 27 Jefferson Parish’s supervisory writ application became docketed in this Court as matter number 13–C–0500.
- 28 These are the dates that the written judgments were rendered.

## **Exhibit J**

# **Chicago Media Coverage of Redflex**

**March 13, 2012 through August, 12 2013**

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# Sky Valley Chronicle

Mon, August 12, 2013

## BREAKING NEWS

### RED LIGHT CAMERA COMPANY HIRED BY MONROE CITY COUNCIL AT CENTER OF BRIBERY PROBE

April 18, 2013

The Monroe red light camera partner at the center of \$2 million bribery probe in Chicago.

(MONROE, WA) -- Redflex Traffic Systems Inc., an Arizona based firm that was hired by the city of Monroe to install and run its short lived and controversial red light camera traffic ticket operation is at the heart of a bribery investigation in Chicago.

According to the Chicago Tribune, RedFlex paid for more than a dozen vacations for a former Chicago transportation employee, and many cities are now choosing other vendors because of the ongoing federal investigation into allegations of a \$2 million bribery scheme.

And on April 11 the newspaper reported that, "Seeking to reverse their fortunes amid a debilitating Chicago corruption scandal, top executives of Redflex Traffic Systems flew to Florida for a personal pitch to local officials having second thoughts about giving the company a major contract for a red-light camera system.

It wasn't enough.

The board of commissioners in Orange County, Fla., voted unanimously this week to abandon negotiations with Redflex, the highest-scoring bidder on the county's plan to install as many as 80 traffic cameras in suburban Orlando.

Citing an ongoing federal criminal investigation into allegations of a \$2 million bribery scheme in Chicago and the company's potentially shaky future, commissioners opted instead to go with their second choice."

The Tribune report quoted Orange County Commissioner Fred Brummer as saying before the 7-0 Tuesday vote against Redflex, "I just don't think it's appropriate for us to congratulate a company that has this type of core value failure...the appearance, to me, is just dreadful, and appearances matter."

Redflex officials had hoped the Florida contract would become their biggest in North America, replacing the Chicago program lost to a "burgeoning investigation triggered by Tribune disclosures in October about the company's cozy relationship with a former city



manager," according to the Tribune story.

From the Tribune report:

"Instead it was the latest vote of no confidence for Australia-based Redflex Holdings Ltd. and its U.S. subsidiary in Phoenix, which are facing scrutiny from local governments across the country in response to the Chicago revelations. In recent weeks, several governments from California to Louisiana have raised concerns about their relationships with Redflex.

In Prescott Valley, Ariz., Town Council members have ordered staff not to consider Redflex when its contract is up for renewal in October. "I've lost faith in Redflex as a corporation," Councilman Rick Anderson said at a March study session attended by more than 50 people who came to oppose a continuation of the red-light camera contract.

In San Rafael, Calif., City Council members are expected to consider the bribery allegations in May when they take up the issue of whether to expand or kill a Redflex red-light camera pilot project now underway. "Just because of the nature of the allegations, I can't help but think it would be a consideration," Mayor Gary Phillips said.

And in Jefferson Parish, La., council members cited the company's Chicago troubles during a March vote to refund \$19.7 million in red-light tickets collected by Redflex before parish officials shut down the red-light program there in 2010 amid a corruption scandal involving a lobbyist who worked for Redflex and numerous other clients. The money has been locked in an escrow account awaiting the outcome of a Redflex breach-of-contract lawsuit against the parish."

In Monroe the contract with Redflex expires in the fall. Earlier this month Monroe city council members voted 4-2 in favor of the city sending Redflex a letter to notify the company that the city does not intend to renew the contract for the controversial cameras.

More on that story can be found [here](#)

More on the Chicago scandal involving Redflex can be found [here](#)  
<http://www.skyvalleychronicle.com/BREAKING-NEWS/RED-LIGHT-CAMERA-COMPANY-HIREDBY-MONROE-CITY-COUNCIL-AT-CENTER-OF-BRIBERY-PROBE-1324735>

# THE DAILY JOURNAL

The Peninsula's homepage

Belmont gives Redflex the boot

June 13, 2013, 05:00 AM By [Bill Silverfarb](#) Daily Journal

Redflex was given the boot by the Belmont City Council in a passionate Tuesday night meeting, ending a three-year relationship with the red light camera operator for traffic enforcement at busy Ralston Avenue, El Camino Real and Old County Road.

The vote was 3-1, with Councilman David Braunstein voting to extend a contract with Redflex by two years. Mayor Christine Wozniak, Councilwoman Coralin Feierbach and Councilman Dave Warden voted to not renew the contract with Vice Mayor Warren Lieberman being absent.

Before the vote was cast, a Redflex executive, Jim Saunders, told the council a recent bribery and corruption scandal was behind the company and even offered the city a 20 percent discount to continue the traffic enforcement program an additional two years.

A long line of residents and a woman who called herself Jane Q. Public from San Francisco, who recently got an unexpected red light camera ticket from Belmont in the mail, each urged the council to end the program for a variety of reasons, however.

Jane Q. Public's impassioned three-minute plea during a public hearing solicited a rousing response from Warden, who has opposed the program for years.

Jane Q. Public said she would never spend a dime in Belmont again after receiving a \$540 ticket from the city for not making a complete stop before making a right-hand turn. She got the ticket about two months after the violation and told the council it would be impossible to fight.

She also blasted the city for outsourcing police work to Arizona and said the money she is being fined could have gone toward eating lunch or buying goods in Belmont.

Warden then essentially apologized to the woman, offered to buy her lunch and shared his own story about getting one of the red light camera tickets in the East Bay.

"I got a red light [ticket] in Newark years ago and haven't spent a dime there since," said Warden, who works for a company in Fremont. Since he got the ticket in the mail months after the alleged infraction, Warden said there was no "cause and effect" in receiving the ticket and that he ended up "mad at the city."

Accident rates have not gone down, Warden said, and the money from the fine goes to the state, county and "you guys," Warden said as he pointed toward the Redflex officials sitting in the audience.

"I hate these things," Warden said.

Feierbach said she was ready to vote against extending the contract last month and Wozniak said Redflex was not the kind of company she wanted to do business with considering

recent bribery charges in Chicago and a slew of company resignations during the corruption investigation.

Resident Wade Leshon told the council that up to \$1 million a year in discretionary funding leaves the city through the program.

“They are not a welcoming thing for people who come into Belmont,” Leshon said about the cameras.

Bryan Coker got one of the tickets in the mail and was expecting it to be \$100 or \$200.

“It’s an immoral way for the city to generate money,” he said about the \$500-plus red light ticket he got in the mail.

Resident Perry Kennan said the money generated from the tickets should be staying in the city.

“It seems like a real economic waste this money leaving Belmont,” resident Perry Kennan told the council.

Cities cannot install the devices for revenue generation, however, due to state law.

The program cost the city about \$11,740 a month over the three years and generated about \$14,000 a month for the city, according to a staff report.

Police Chief Dan DeSmidt told the council the program was effective considering the city’s current lack of resources and the difficulty in enforcing traffic at the two intersections on Ralston where the cameras are placed.

The cameras should be gone by July when the contract officially ends, DeSmidt said. About 173 red light camera tickets were issued a month during the three years of the

program, or about six a day.

In other business, the council approved a nearly \$60 million budget for fiscal year 2013-14 Tuesday night. The city’s general fund revenue is expected to be \$17.6 million next year as the city expects to spend about \$15.5 million on public safety, parks and recreation and other programs.

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<http://www.smdailyjournal.com/articles/news/2013-06-13/belmont-gives-redflex-the-boot/1772695.html>

## County right to wait out Redflex woes

The Daily Progress | Posted: Friday, May 24, 2013 8:26 am

The company that provides Albemarle County's red-light camera at U.S. 29 and Rio Road — and that is being considered to provide additional traffic surveillance for school buses — has crashed into a scandal that has sent its stock prices plummeting and caused other jurisdictions to break off negotiations for services.

Albemarle is simply monitoring the situation for the time being.

Australia-based Redflex Holdings Limited has finally admitted paying \$2.03 million from 2003 to 2012 to a consultant with ties to a Chicago transportation official and covered vacation-related expenses for 17 trips for that official. Suspicions had been raised some time ago by the Chicago Tribune, but the company came clean about the problem only in March, in a filing with the Australian Securities Exchange.

The filing admits that the payments “will likely be considered bribery by the authorities.”

This does not appear at this time to be the kind of financial scandal that critics feared when Albemarle began turning traffic surveillance over to Redflex. Critics worried that because Redflex stands to make money from issuing traffic tickets, it would be less than rigorous in protecting motorists from unfairly issued traffic tickets.

At one end of the scale: simple negligence perhaps motivated only subconsciously by the knowledge that more ticketing creates a greater revenue stream for the company. At the other end of the scale of potentialities: deliberate manipulation of the evidence.

The Chicago scandal seems to deal with the awarding of contracts rather than the implementation of those contracts. After all, Redflex was paying out money to certain individuals, not apparently raking in revenue of a questionable nature. The motives and legality of those payouts have yet to be established; such answers might require a court.

This newspaper remains opposed to red-light cameras for a number of reasons, including the possible temptation to use the program as a moneymaker, with all the risks to justice that entails.

But now that the program is in place, it is important to judge it fairly. And unless and until it becomes evident that Redflex has failed to meet its contractual obligations to Albemarle County, or that its current problems indicate probable failure to meet them in the future, Albemarle is right to adopt a wait-and-see approach.

<http://www.dailyprogress.com/opinion/editorials/county-right-to-wait-out...>

## IG Report Questions Locations of Chicago Red-Light Cameras

*Tuesday, May 14, 2013*



Chicago Department of Transportation can't substantiate claims that red light cameras were placed at "intersections with the highest angle crash rates in order to increase safety," report states. Mary Ann Ahern reports.

A [new report from Chicago's inspector general](#) finds safety might not be the city's main goal when picking the locations of red light cameras. In some cases, the report finds, it's not clear why certain spots were chosen.

The report, released Tuesday by Inspector General Joe Ferguson, says the Chicago Department of Transportation couldn't substantiate claims that red light cameras were placed at "intersections with the highest angle crash rates in order to increase safety."

Some camera-protected intersections, the report finds, have no recent angle crashes and the cameras haven't been moved to reflect that. Since the program started in 2003, the city relocated 10 cameras from five intersections out of a total of 384 cameras at 190 locations, according to the report.

“The city cannot effectively manage its programs unless it measures its programs,” Ferguson said in a statement. “In addition to finding that the City cannot prove [red-light camera] installation locations are based on safety considerations, we discovered a striking lack of basic recordkeeping and analysis for this \$70 million program.”

According to the report, the program made \$61 million in 2012. The most tickets, 19,805, were issued at Cicero and I-55 for a total ticket value of \$1.9 million. Other heavily ticketed intersections include Lake Shore Drive and Belmont (16,273), LaFayette and 87th (15,226) and Van Buren and Western (15,090).

The report calls on Chicago to establish clear criteria about locating and moving the cameras and to retain records and documentation of the process for each location.

In response, CDOT said it is committed to the effective management of the program and noted a majority of the locations were chosen five or more years ago, during the previous administration when none of the current CDOT leadership was in place.

In response to several questions about the program, CDOT said analysis of traffic crashes is more complicated than it seems.

"Traffic in general, and traffic crashes in particular, are not deterministic but are highly variable," CDOT said in a statement response included in the report. "Thus all analysis of traffic crashes reflects a specific combination of these factors, which may or may not be duplicated in an audit."

CDOT also noted the city is in the process of choosing a new red-light camera vendor and said it will work with the vendor to review current camera locations.

"I support these stated intentions," Ferguson said in response, "and look forward to the results of the analyses, which the IGO will assess in a future audit of the program."

Mayor Rahm Emanuel extended Chicago's contract with current vendor, Redflex, for a second time last month in hopes of ending the relationship for good in the near future.

Emanuel removed Redflex Traffic Systems Inc.'s bid for the city's speed camera contract after an investigation turned up ethics issues. The violations included paying a \$910 hotel bill for a city official who oversaw the program and failing to inform the city about it in a timely manner.

<http://www.nbcchicago.com/blogs/ward-room/IG-Report-Questions-Locations-of-Chicago-Red-Light-Cameras-207379221.html#ixzz2TVNRTYqG>

## Red Light Camera Firm With Contracts in Washington Under Investigation for Alleged Corruption In Chicago

by [Nansen Malin](#)

May 6, 2013 at 8:24 pm

With cities more and more feeling the pinch, there is an increasing reliance on “red light cameras” and other automated systems to provide needed revenues for city services. As you might expect, though, with any pot of public funds comes the temptation to purchase influence. Redflex, an Australian company that contracts to provide traffic cam systems to a number of municipalities across the US, has recently come under [investigation](#) for bribery in it’s Chicago operation. The [City of Chicago has moved](#) to discontinue its contract with [Redflex](#) and [disqualify](#) them from bidding on future contracts.

While Redflex has admitted to a single inappropriate expenditure of [\\$910 for a hotel](#) room for a City of Chicago employee, the real outrage stems from over [\\$2 million paid](#) over 4 years to a consultant whose main purpose seemed to be keeping the Chicago official in charge of the traffic cam project well entertained.

Of course, I’m shocked, shocked to hear reports of corruption in the City of Chicago. They just got turfed out of a [Florida](#) jurisdiction because of the corruption. But Redflex currently has contracts with a number of Washington and [Oregon cities](#), it may be a good time to review Redflex’s operations to make sure nothing illegal is going on here.

<http://www.nwdailymarker.com/2013/05/red-light-camera-with-contracts-in-washington-underinvestigation-for-alleged-corruption-in-chicago/>



# Chicago Tribune

## NEWS

### **Redflex losing contract bids amid Chicago scandal**

April 11, 2013 | By David Kidwell, Chicago Tribune reporter

Seeking to reverse their fortunes amid a debilitating Chicago corruption scandal, top executives of Redflex Traffic Systems flew to Florida for a personal pitch to local officials having second thoughts about giving the company a major contract for a red-light camera system.

It wasn't enough.

The board of commissioners in Orange County, Fla., voted unanimously this week to abandon negotiations with Redflex, the highest-scoring bidder on the county's plan to install as many as 80 traffic cameras in suburban Orlando. Citing an ongoing federal criminal investigation into allegations of a \$2 million bribery scheme in Chicago and the company's potentially shaky future, commissioners opted instead to go with their second choice.

"I just don't think it's appropriate for us to congratulate a company that has this type of core value failure," Orange County Commissioner Fred Brummer said before Tuesday's 7-0 vote against Redflex. "The appearance, to me, is just dreadful, and appearances matter."

Redflex officials had hoped the Florida contract would become their biggest in North America, replacing the Chicago program lost to a burgeoning investigation triggered by Tribune disclosures in October about the company's cozy relationship with a former city manager.

Instead it was the latest vote of no confidence for Australia-based Redflex Holdings Ltd. and its U.S. subsidiary in Phoenix, which are facing scrutiny from local governments across the country in response to the Chicago revelations. In recent weeks, several governments from California to Louisiana have raised concerns about their relationships with Redflex.

In Prescott Valley, Ariz., Town Council members have ordered staff not to consider Redflex when its contract is up for renewal in October. "I've lost faith in Redflex as a corporation," Councilman Rick Anderson said at a March study session attended by more than 50 people who came to oppose a continuation of the red-light camera contract.

In San Rafael, Calif., City Council members are expected to consider the bribery allegations in May when they take up the issue of whether to expand or kill a Redflex red-light camera pilot project now underway. "Just because of the nature of the allegations, I can't help but think it would be a consideration," Mayor Gary Phillips said.

And in Jefferson Parish, La., council members cited the company's Chicago troubles during a March vote to refund \$19.7 million in red-light tickets collected by Redflex before parish officials shut down the red-light program there in 2010 amid a corruption scandal involving a lobbyist who worked for Redflex and numerous other clients. The money has been locked in an escrow account awaiting the outcome of a Redflex breach-of-contract lawsuit against the parish.



Redflex CEO Robert DeVincenzi personally lobbied for the Orange County contract, including face-to-face pitches the day before the vote. Afterward he released a statement saying Redflex "was honored to be considered for the opportunity to serve the citizens of Orange County" and repeating his contention that the company has moved past the scandal by replacing its leadership and installing new standards.

"We want our corrective action steps and our transparency to lead the industry in setting high ethical standards for how public-private partnerships are conducted," he said.

But in the short term, the scandal has cost Redflex tens of millions of dollars, and more losses are expected.

In a filing Thursday with the Australian Securities Exchange, Redflex said the company has spent \$3.5 million on its internal investigation so far and expects "additional modest costs going forward" as it cooperates with authorities.

The loss of the Chicago contract will cost the company \$17 million "on a full year basis," the company said, and there is "potential for revenue loss from other municipal contract terminations that may arise as a result of the disclosures associated with the investigative findings."

The backlash against Redflex follows Tribune reports about the relationship between Redflex and John Bills, the former city transportation official who oversaw its contract. A company-sponsored investigation found that the company had plied Bills with 17 vacation trips including airfare, hotel, car rentals, meals and golf outings. The company also acknowledged paying a longtime Bills friend, Marty O'Malley, \$2 million as a Chicago consultant. Some of that money was likely intended for Bills, according to the company's findings, which said the arrangement will "likely be considered bribery by the authorities."

Bills and O'Malley have denied any wrongdoing.

[http://articles.chicagotribune.com/2013-04-11/news/ct-met-redflex-scandal-fallout-20130412\\_1\\_corruption-scandal-redflex-officials-red-light-camera-contract](http://articles.chicagotribune.com/2013-04-11/news/ct-met-redflex-scandal-fallout-20130412_1_corruption-scandal-redflex-officials-red-light-camera-contract)

# Orlando Sentinel

## Orange taps current red-light camera firm for expansion

### Leaders reject bid by firm facing bribery scandal

April 9, 2013 | By David Damron, Orlando Sentinel

Rejecting a company facing scandal, Orange County leaders voted 7-0 Tuesday to pick its current red-light-camera provider to expand significantly from 10 cameras with as many as 80 more before the end of next year.

Commissioners selected American Traffic Solutions and turned down a lower bid from Redflex Traffic Systems. The rejection primarily was because of Redflex's involvement in an alleged bribery scandal unfolding in Chicago and related to a similar contract.

"I don't think it's appropriate for us to congratulate a company that has this type of core value failure," said Commissioner Fred Brummer, in arguing against a rejected compromise that would have let Redflex and ATS split the contract. "The appearance to me is dreadful. And appearances matter."

The sole selection of American Traffic Solutions, or ATS, came with a catch, though. Commissioners said ATS must meet Reflex's \$15.7 million bid, which was \$880,000 less than the ATS proposal. A company spokesman later said ATS could work to meet the lower price.

The intersections already equipped with cameras include John Young Parkway and Central Florida Parkway, along with Dean Road and [University](#) Boulevard.

In its next expansion, the county plans to target other crash-prone intersections that are found in different parts of the county.

In the next few months, the vendor will evaluate whether red-light runners are causing the crashes at about 40 intersections and decide if one or more cameras should be installed, an official said.

Because of persistent legislative opposition in recent years, Orange has moved slowly to move beyond its initial 10 devices installed in early 2011.

Critics say the devices invade drivers' privacy and are used as revenue generators by local governments. Boosters say they curb crashes by discouraging drivers from barreling through intersections.

But like dozens of other Florida counties and cities, including Orlando, Orange County has opted to install the devices and issue \$158 fines to offenders caught on [video](#).

Tuesday's vote capped one of the most closely watched and uglier bidding fights that Orange County has seen in recent years.

The day before the vote, an attorney for Redflex told a commissioner that ATS "got greedy" by submitting a higher-priced bid. And while ATS officials had stayed largely silent about its rival's Chicago scandal, on the eve of the vote they raised the issue often and questioned Redflex's overall stability.

To pick the vendor for this expansion, Orange used several technical, pricing and other measures to rate the bidders. And after two scoring rounds and a protest hearing, Redflex won the highest marks.

But in the background, the company's Chicago red-light contract was coming under growing scrutiny.

A series of Chicago Tribune reports and an internal investigation paid for by Redflex indicated the company might have built its [business](#) in Chicago partly through a \$2 million bribery scheme involving a former city official who oversaw the program.

Chicago barred Redflex from bidding on its traffic-camera system, and the allegations led to the departure of top executives at the Phoenix-based company.

Redflex sent CEO Robert DeVincenzi to Orlando to address the issues. He assured commissioners that the problems were being met with a "broad, strong and extraordinarily aggressive" internal response.

The company's unusually blunt self-assessment and a continuing probe into two other "geographies" over similar concerns, which he said are not in Florida, ultimately prompted commissioners to balk at Redflex's bid. "There is that [cloud](#) hanging over them," Commissioner Ted Edwards said.

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[http://articles.orlandosentinel.com/2013-04-09/news/os-orange-red-light-cameras-contract-20130409\\_1\\_ats-intersections-orange-county](http://articles.orlandosentinel.com/2013-04-09/news/os-orange-red-light-cameras-contract-20130409_1_ats-intersections-orange-county)



## Former Burien Red Light Camera Firm Redflex Faces 'Bribery' Issues

Posted By Scott Schaefer On March 26, 2013 @ 8:36 am In Burien News,Business,Crime,Featured Stories,Headlines,Life |  
by [Jack Mayne](#)

**Redflex Traffic Solutions, the company that once provided red light photo enforcement cameras in Burien, and currently does in SeaTac, says an internal corruption investigation has found "potential issues" involving contracts in Chicago and two other U.S. cities, but it didn't provide further details.**

Redflex Holdings is the Australian parent company of the Phoenix-based photo-enforcement company, says Redflex Traffic Solutions has been embroiled in a bribery scandal in Chicago, which has prompted termination of the firm's executive vice president and resignations of three other top executives. The problems were reported in the Phoenix New Times, a weekly newspaper in the Arizona city .

SeaTac is in the middle of the second two-year renewal of its contract with Redflex, and it expires in March of 2014. The original three-year contract began in 2006, said Police Chief **James Graddon**. "Redflex did inform us recently of this issue," Graddon said. "We appreciated their candor and we are monitoring the situation to see if any action would be warranted." Burien dropped its contract with Redflex over a year ago.

The Phoenix New Times reported on Thursday that Redflex will lose what the Chicago Tribune calls its "lucrative" red-light-camera contract with Chicago when it expires in June "and it is banned from vying for that city's upcoming photo-radar contract designed to nab speeding motorists."

The Chicago contract is its biggest in North America and is worth about 13 percent of the "worldwide revenue for Redflex Holdings," the Chicago Tribune reported. "Since 2003, it has generated about \$100 million for Redflex and more than \$300 million in ticket revenue for the city," the Chicago paper reported.

The New Times said the company fired Aaron Rosenberg, its California-based executive vice president of business development on Feb. 20. "President and CEO Karen Finley and chief financial officer Sean Nolen resigned on Feb. 25. A few days later, Andreis Bunkse resigned as the firm's top attorney. All three worked in the company's Phoenix headquarters," the Phoenix New Times said.

In a report to the Australian Securities Exchange, Redflex described the scheme involved in the scandal as an "arrangement" between John Bills, a Chicago employee managing the city's red-light camera program, and a Redflex consultant who "likely intended" to funnel payments from the consultant to the manager.

Redflex's contract with the City of Burien was severed in February of 2012 (read our previous coverage [here](#) [2]). From May 1, 2009, through 2011, Burien collected \$592,440 in revenue from fines paid by red light scofflaws at the three city intersections where cameras were installed. But Redflex's costs were \$611,413, for a net deficit to the city of -\$18,973.

<http://b-townblog.com/2013/03/26/former-burien-traffic-red-light-camerafirm-redflex-faces-bribery-issues/>

## **Investigation of Camera Provider May Delay Plan for Cameras on Bus Signal Arms**

By *Merissa Green*

*THE LEDGER*

*Published: Tuesday, March 19, 2013 at 11:39 p.m.*

BARTOW | A plan to install cameras on three school bus stop signal arms may be on hold after Polk County School District officials learned that the company that would provide the technology is being investigated.

The Chicago Tribune reported that Redflex Traffic Systems Inc. is embroiled in an alleged bribery scheme. Redflex Traffic Systems Inc. paid more than \$2 million to the consultant on its Chicago contract with some of the money intended for a city official, the Chicago Tribune reported. The parent company of Redflex also announced new leadership as a result of the investigation, the Chicago Tribune reported.

District officials learned about the matter Tuesday when a reporter from The Ledger asked about it following a reader linking a Ledger post on Facebook to the Chicago Tribune story.

"The District was unaware of any issues with the corporation RedFlex as the article states in the Chicago Tribune," said Rob Davis, senior director of support services. "I think it is important to remember this is a pilot at no cost to the district and no obligation once the pilot is complete."

Davis said he will investigate the matter further with School Board Attorney Wes Bridges and Interim Superintendent of Schools John Stewart.

The plan to put test cameras on stop signal arms on three buses was to begin next month, with the cameras providing evidence against motorists violating traffic laws related to school buses.

David Milhorn, director of vehicle and safety services, has previously said the School District has 511 buses that transport 49,000 students daily. He said the reports from bus drivers about violators are unsettling.

If district officials can get support from the state Legislature and law enforcement, the district will move forward with the bus stop camera program, perhaps with another company, Milhorn said. The cost to cover the program will be generated from traffic citations, he said.

Legislation proposed by Sen. Oscar Braynon II, D-Miami Gardens, would authorize school boards throughout the state to use the cameras. The intent of Senate Bill 0950 and House Bill 0699 is to provide evidence of a violation when a driver fails to stop behind the bus while the bus stop signal is displayed. If the legislation is approved, violators caught on camera will receive an automatic citation.

Currently under Florida law, a \$200 fine is assessed for passing a school bus on the side the children enter and exit while the school bus displays a stop signal. Failure to stop for a school bus carries a \$100 fine. Subsequent offenses can result in a suspended license.

<http://www.theledger.com/article/20130319/NEWS/130319003?template>



## **Federal Redflex probe casts speed camera initiative in an unfavorable light**

March 15, 2013

The first evidence of a federal criminal probe into Chicago's red-light camera program is focusing attention on bribery allegations at City Hall just as Mayor Rahm Emanuel is trying to launch his controversial speed camera initiative.

Both the company and a former city official at the center of the red-light scandal were also involved in efforts to legalize speed cameras, which the mayor plans to use to catch speeders near schools and parks around the city.

When Emanuel was first pushing his plan in 2011, the now-beleaguered Redflex Traffic Systems Inc. was positioned as a leading contender after 10 successful years as the city's red-light vendor. But Emanuel scuttled those hopes after Tribune reports last year questioned ties between the company and the former city official who oversaw its contract.

Now federal authorities are probing the personal finances of John Bills, the former managing deputy commissioner of transportation, following an internal Redflex investigation that found evidence that its largest North American program was likely built on a \$2 million bribery scheme involving Bills and a longtime friend hired as the company's Chicago consultant.

Both Bills and his friend, Marty O'Malley, have denied any wrongdoing.

A subpoena signed by an assistant U.S. attorney was delivered recently to Bills' ex-wife, his attorney Nishay Sanan said Friday. Sanan said he sent a letter to federal prosecutors asking that all further requests for records come to him.

The U.S. attorney's office declined to comment.

Emanuel moved quickly to separate his administration from the scandal after the first Tribune report in October, banning Redflex from competing for the speed camera contract and calling for an inquiry by city Inspector General Joseph Ferguson. He later barred the company from renewing its red-light contract when it expires in June. But before the scandal broke, the Tribune disclosed that the interests of Redflex, Bills and a key Emanuel political ally had converged around the mayor's speed camera push.

Emanuel political consultant Greg Goldner, working for the Redflex-funded Traffic Safety Coalition, hired Bills just after he left his job overseeing the red-light program in September 2011. Goldner said Bills was hired to bolster the group's efforts to legalize speed cameras statewide.

At that time, Emanuel's proposal for speed camera legislation was already quietly under review in Springfield. Assisting that effort was Redflex's Springfield lobbyist Michael Kasper, a Chicago lawyer who had also represented Emanuel in a residency dispute during his campaign for mayor.

Goldner told the newspaper last year that he did not know about the mayor's own push for speed cameras until it became public and only then joined forces with the administration. He said he probably would not have hired Bills had he known there would be new city business for his client to pursue.

Goldner, who managed Emanuel's 2002 election to Congress, directed a political fund that helped elect pro-Emanuel aldermen to the City Council in 2011. Kasper helped set up the fund.

The Emanuel administration has repeatedly denied Tribune requests for public records related to the speed camera push, which the mayor has pitched as a way to cut down on accidents involving schoolchildren. Critics say it is a money grab for a cash-starved city and note that Emanuel is counting on \$30 million in revenue from speed cameras this year.

Now the mayor faces the challenge of finding a new operator for the red-light system while trying to launch his speed camera program.

The allegations are centered on Bills' role overseeing the red-light program from its inception in 2003 under Mayor Richard Daley until Bills' retirement in 2011. The program generated about \$100 million for Redflex and more than \$300 million for the city.

In October the newspaper disclosed a Redflex whistle-blower letter alleging an inappropriate relationship with Bills. The 2010 letter detailed lavish vacations for Bills and illegal transfer of commissions from Redflex consultant O'Malley, saying "the level of this insider fraud would take down the contract and most likely the company."

Company executives told the Tribune and City Hall last year they discounted the allegations after an internal investigation, but a second company-initiated probe conducted by former federal prosecutor and city Inspector General David Hoffman reached starkly different conclusions.

Hoffman found that the company paid \$2.03 million to its Chicago consultant with some of the money intended for Bills, who allegedly proposed the arrangement. The company also plied Bills with 17 company-paid trips from 2003 through 2010, including airfare, hotels, golf outings, rental cars and meals, according to a summary of Hoffman's findings released March 4 on the Australian Securities Exchange.

"The arrangement between the city program manager, the consultant, and Redflex will likely be considered bribery by the authorities," the filing said. It also said company officials misled the Emanuel administration and the newspaper about the extent of the problem.

The evolving scandal has left Redflex reeling. The chairman of the Australian company and the top executives of its Phoenix-based subsidiary have all left, and company stock is trading at less than a dollar a share.

<http://my.chicagotribune.com/#section/-1/article/p2p-74846971/>



# Chicago Tribune

## Probe deepens as U.S. attorney subpoenas ex-city official

March 15, 2013

Federal authorities have launched a criminal probe of bribery allegations in Chicago's red-light camera program, issuing a subpoena for financial records of the former city official at the center of the escalating international scandal.

The subpoena, confirmed Friday by the former official's attorney, was the first indication that the U.S. attorney's office has opened a case since the Tribune raised questions in October about the city's contract with Redflex Traffic Systems, triggering a series of investigations that now threaten to consume the company.

Redflex Holdings Ltd., the Australian parent company, has said an internal investigation uncovered evidence that its decadelong Chicago program was likely built on a \$2 million bribery scheme involving the city manager and a longtime friend who was hired as the company's Chicago consultant. The program is also the subject of an investigation by city Inspector General Joseph Ferguson.

The subpoena was signed by an assistant U.S. attorney and delivered to the ex-wife of retired managing deputy transportation commissioner John Bills, his attorney Nishay Sanan said. Bills has denied any wrongdoing. Sanan said he sent a letter to federal prosecutors asking that all further requests for records come to him.

"I don't know why they didn't just subpoena my client directly, but they delivered a subpoena to his ex-wife," Sanan said.

The U.S. attorney's office declined to comment. Bills' ex-wife did not return a telephone message.

In October, the newspaper raised questions about Bills' ties to Redflex consultant Marty O'Malley and disclosed a 2010 company whistle-blower letter alleging an inappropriate relationship between Bills and Redflex that included lavish hotel accommodations. Bills and O'Malley, longtime friends from the same South Side neighborhood, said they had done nothing improper.

Bills oversaw the red-light program from its beginning in 2003 until he retired in 2011. It became Redflex's largest traffic camera program in North America, raising about \$100 million for Redflex and more than \$300 million in ticket revenue for the city.

In response to Tribune inquires, the company told the newspaper and City Hall that the whistle-blower allegations had no merit and that an internal investigation found only one instance of an improper hotel reimbursement for Bills, at the Arizona Biltmore. But the company hired a second law firm to take another look.

That investigation, led by former federal prosecutor and city Inspector General David Hoffman, found that the whistle-blower's allegations did have merit.

Redflex said earlier this month that Hoffman found the company paid \$2.03 million to its Chicago consultant, with some of the money intended for Bills. The company also acknowledged that it plied Bills with 17 company-paid trips from 2003 through 2010, including airfare, hotels, golf outings, rental cars and meals.

"The arrangement between the city program manager, the consultant, and Redflex will likely be considered bribery by the authorities," said a summary of the Hoffman findings publicly released March 4 by the company to the Australian Securities Exchange. The summary said company officials misled City Hall and the Tribune.

Redflex acknowledged last month that it is sharing Hoffman's work with law enforcement. The chairman of the Australian company and the top executives of its Phoenix-based subsidiary have all left amid the unfolding controversy, and Redflex stock has plummeted.

Emanuel's administration referred the matter to the inspector general and barred Redflex from bidding on the city's speed camera program after the Tribune's initial report. Last month — after the company acknowledged its problems were more widespread and that it was sharing information with law enforcement — the mayor banned Redflex from renewing its contract to run more than 380 red-light cameras when it expires in June.

<http://my.chicagotribune.com/#section/-1/article/p2p-74845555/>

# Chicago Tribune



## First Redflex internal probe 'clearly inadequate'

Experts say law firm hired to conduct initial investigation of bribery allegations may have been hamstrung or deceived by red-light camera firm

March 15, 2013

When a red-light camera executive warned his bosses of an alleged bribery scheme in Chicago so serious it would "take down the contract and most likely the company," the corporate chiefs turned to the national law firm Quarles & Brady for help.

The result was a three-week, Quarles-led internal investigation that would mostly clear its client and end without a hint to stockholders — or to City Hall — that there might be a problem. For the next two years, millions of dollars continued to flow to Redflex Holdings Ltd. from its Chicago contract, the Australian company's largest and most lucrative camera program.

Those days are now long gone.

In the aftermath of Chicago Tribune reports last year about the close relationship between the company, its Chicago operations consultant and the former city official who oversaw its decadelong contract, Redflex now says the Chicago program was likely built on a \$2 million bribery scheme and that the company-initiated internal investigation in 2010 was "clearly inadequate."

Those were the findings of a second law firm hired by the company in October following the newspaper reports, which also prompted Mayor Rahm Emanuel to accuse Redflex of deceiving City Hall and call for an investigation by the city's inspector general.

The starkly contrasting conclusions of two different law firms investigating the same claims have some

legal experts scratching their heads.

"There is definitely a tale to be told there," said James Grogan, chief counsel of the state Attorney Registration and Disciplinary Commission. "There's no way to really know without all the facts, but much of it has to do with the nature of the relationship between the law firm and corporation.

"I mean, if you are hamstrung, limited on the people you are allowed to interview, the availability of records from outside the country, noncooperative employees, you might be stuck because of the limitations set by the company itself," he said. "The bottom line is they have a duty of competency, and to do as exacting a job as permissible under the conditions of that relationship.

"Sometimes the law firms themselves are the victims of a conspiracy."

John W. Daniels Jr., chairman of Milwaukee-based Quarles & Brady LLP, referred all questions to Redflex at the request of the company. Redflex representatives declined to comment.

"Quarles & Brady LLP provides excellent, timely and appropriate legal work for its clients, including completing internal investigations within the confines of the projects clients retain us to perform in any matter," the firm said in a statement to the Tribune. "The ethical rules that govern our conduct limit what we may say about our representation in any particular case without first receiving approval from our client."

In October, one of the law firm's longtime Chicago partners, Sanford Stein, accompanied the general counsel of Redflex's Phoenix subsidiary — Redflex Traffic Systems Inc. — to the Tribune's offices to be interviewed about the company's response to a 2010 whistle-blower letter. The letter, sent to the board of directors of the Australia-based parent company, detailed how the company plied former Chicago transportation official John Bills with "non reported lavish vacations" and the "illegal transfer of 'commission'" to him through its Chicago consultant.

Bills and the consultant, Marty O'Malley, have denied any wrongdoing.

Both Stein and then-Redflex General Counsel Andrejs Bunkse discredited the allegations during the October interview. They told the newspaper the Quarles & Brady review found no merit to the accusations, aside from one inadvertent \$910 hotel stay for Bills at the Arizona Biltmore paid by a top company salesman who was disciplined with anti-bribery training.

"When I read the letter I expected to find a great deal more," Bunkse said in the interview. "And we dug in very deeply, exhaustively into the expense reports and records of the company to the point of extreme redundancy, and the issue — the one instance of a problem — was this one instance where there were no meals reimbursed, there was no flight reimbursed and a two-day hotel stay was found.

"In every other instance, nothing else came up that was problematic," Bunkse said.

Stein even staked his firm's 120-year reputation on it.

"It's our reputation that we put on the line every day for every client. But it is our reputation of our law firm that is far more important — and our service — that supersedes everything," Stein said toward the beginning of the interview. "So we are happy to say that our investigation, which Andy will talk about, is consistent with the high quality standards that we support."

Later in the interview, Stein sought to reinforce that the results were trustworthy because of the firm's involvement.

"It was one incident, and never repeated and it's — you know — it is what it is. We can't make that fact disappear, but it is what it is. And it's not a series of events," Stein told the newspaper. "I am telling you that our reputation is such that you can count on that."

Stein declined to comment for this story.

In October, the attorneys also detailed what Bunkse described as a "deep dive" investigation.

"We, Quarles & Brady, reviewed exhaustively expense reports, interviewed every individual that is affiliated that is an employee of our company that is mentioned in this letter, asked questions directly related to allegations contained in the letter, particularly about Chicago, went through all of the company's records relating to the Chicago contract and came up with one instance of an oversight and a lapse," Bunkse said.

"We spent nearly \$100,000 in an investigation in which our CEO — imagine how uncomfortable this is — our CEO sat off to the side because of all the things raised in this letter," Bunkse said. "It was taken quite seriously, and I will tell you again when I read the letter for the first time I thought that there was a lot more to it than there actually was after this big effort, I mean a big shut-down-the-company effort that occurred."

After the Emanuel administration began to take actions against the company last year and city investigators issued subpoenas, the company hired a second law firm, Sidley Austin LLP, to "conduct a new, independent and unrestricted investigation" into the allegations, according to the company's summary filed publicly March 4 with the Australian Securities Exchange.

The Sidley team, led by former city inspector general and federal prosecutor David Hoffman, dove deeper. After four months and upward of \$2.5 million in legal costs, the Sidley team reported that the allegations in the whistle-blower memo "did, in fact, have merit."

Hoffman's team found the company plied Bills with 17 trips, including hotels, flights, rental cars, meals and golf outings, according to the summary report. It also found that the \$2.03 million in company

compensation to the Redflex consultant was likely part of a bribery scheme that would have made "any reasonable person highly suspicious."

The Hoffman findings also criticized the 2010 investigation and the company's oversight.

"The investigation consisted of interviews of three Redflex officials, no email review and very limited document review," a summary of the findings stated. "There was no attempt to interview the consultant. Some of those interviewed by the law firm did not provide complete and truthful information."

According to Hoffman's findings, the first investigation "was conducted in a manner that was clearly inadequate to determine whether the allegations were true, and there was inadequate oversight." He also found that some of the company's disclosures to the Tribune and to City Hall in October were "inaccurate and misleading."

"Among other things, it was improper for them to describe the 2010 investigation and the associated expense review as 'thorough, complete or exhaustive.'"

Redflex recently told its employees that the Phoenix office of Quarles & Brady led the first investigation of the whistle-blower letter, which in addition to the bribery allegations also made broad accusations of mismanagement by company executives. The investigation was led by an employment lawyer, which was not the proper approach given the allegations, the company told employees.

While not commenting on the specifics of Redflex's relationship with Quarles & Brady, legal experts interviewed said there are sometimes reasons to question internal investigations conducted by law firms that already have an ongoing client relationship with the corporation, which Quarles & Brady had with Redflex.

"This skepticism is based on the fear that regular corporate counsel may have a motive to avoid criticizing, and thus alienating, senior management, the source of perhaps sizable past and future law firm revenues," wrote David M. Brodsky, a New York lawyer who wrote a manual on internal investigation conduct for the American College of Trial Lawyers.

But Jim Fieweger, a former federal prosecutor and partner at the Chicago firm Williams, Montgomery & John Ltd., said large and diversified firms such as Quarles & Brady are often able to overcome such perceived conflicts by assigning different lawyers.

"You have to assume that Quarles & Brady was acting in good faith," Fieweger said. "There are rules that say you have to be competent and diligent. That doesn't mean you can't ever do a bad job. People are fallible, of course."

Mark Rotert, another former federal prosecutor and partner at Stetler, Duffy & Rotert Ltd., said law

firms that feel thwarted by corporate officials who they are investigating are ethically bound to address it.

"I call a halt to the investigation and I go directly to the audit committee and I tell them I am getting the runaround," Rotert said. "These people are supposed to be big boys who are ready to accept bad news."

In the case of Redflex, two members of the parent company's audit committee, including the chairman of the board, resigned in the wake of the findings from Sidley, which has headquarters in Chicago and New York. In addition, the U.S. subsidiary's president, chief financial officer and Bunkse also resigned, and the executive vice president accused of putting the city official's trips on his expense account was fired.

Rotert said the mass departures suggest the company might be more responsible for the outcome of the first investigation.

"Those guys are good lawyers. They are not crazy," Rotert said of Quarles & Brady. "And if they came into your office and were willing to put their stamp of approval on something like this, that tells me that they were probably thoroughly deceived. I cannot imagine that they would have gone to the mat to defend the integrity of something if they had any qualms about it."

<http://www.chicagotribune.com/news/local/ct-met-redflex-internal-investigations-20130315,0,2869882.story?dssReturn>





## **Pensacola Taking Bids from Bribery-Scandalized Red-Light Camera Company**

March 15, 2013

Just days after [the Orlando Sentinel reported](#) that [Orange County is preparing to contract with a red light camera company embroiled in bribery scandals](#) in at least three different jurisdictions, Sunshine State News has discovered the same company is bidding for a contract with the city of Pensacola.

[City records show](#) that, as of 2:30 p.m. on Jan. 13, 2013, Redflex Traffic Systems had joined four other companies in placing bids to install the controversial enforcement devices at several of the Gulf Coast cultural capital's intersections.

Redflex recently [lost its Chicago contract](#) after [a year-long \(and continuing\) investigation by the Chicago Tribune](#) implicating the company in a \$2 million bribery scheme involving at least one city official.

At the Tribune's instigation, Redflex conducted its own internal audit, canned some of its top executives, and is now exploring possible bribery in two other unnamed "geographies that raise concern," Michael McConnell, interim board chairman of Redflex Holdings, has reportedly told stakeholders.

"Regarding the bidding process, examining a vendor's track record and reputation is always part of our due diligence process in determining the 'lowest and most responsible' bidder," Derek Cosson, the Pensacola's public information officer, tells SSN. "Our efforts regarding red light camera enforcement are essentially on hold due to the uncertainty about the issue [with the current legislative session](#). We will not be moving forward with [deciding on a vendor] until after the session at the earliest."

Rep. Frank Artiles, R-Miami, [who has introduced legislation to make it tougher](#) to enforce red light violations caught by traffic cameras, expresses dismay that Redflex is a serious contender for obtaining contracts from Florida cities and counties.

"I think it's ridiculous that this company is actually being considered as a front-runner with all the bribery scandals and everything that comes with that," he tells SSN. "It's a shame that a bribery scandal in Chicago is trickling down to Florida. I believe in a free market and competition, but when someone has a track record of bribery and backdoor dealings, that has to be taken into consideration, and not just the price [of the bid]."

"I sure hope elected local officials take this into consideration when selecting a company."

Asked for comment on [the Orange County developments](#), Redflex directed SSN to the following statement by Robert T. DeVincenzi, president and CEO of Redflex Holdings and CEO of Redflex Traffic Systems:

"We recently announced new leadership and a comprehensive series of system improvements in our business to support the highest ethical standards. Those actions marked the dividing line between the past and where our company is headed. Each of the changes follows information uncovered during an internal investigation by the law firm of Sidley Austin.

"We gave the firm unfettered access to our people and our records and directed that its inquiry run without limitation. While we may discover additional information, we have already learned enough to take the previously-announced steps that were necessary to change our company. We are working, each day, to recapture the trust of our clients, the public and our own employees. This day, and every day, we intend to be a constructive force in the industry, meeting the needs of communities across the country and serving the public interest."

Cosson tells SSN the city of Pensacola has installed the red light cameras only at one intersection as part of a pilot program. The City Council unanimously voted to approve the cameras in 2010.

<http://www.sunshinestateneews.com/story/pensacola-taking-bids-bribery-scandalized-red-light-camera-company>

# Chicago Tribune

## **Ald. Burke calls for hearings on Redflex bribery questions**

March 13, 2013

The chairman of the City Council's **Finance Committee** today called for hearings into allegations that Chicago's red-light camera contract was likely built on a \$2 million bribery scheme.

The company, Redflex Traffic Systems Inc., already is under investigation by Chicago **Inspector General** Joseph Ferguson and has been banned by Mayor Rahm Emanuel from competing for its soon-to-expire red-light contract. The Emanuel administration ordered an audit of that contract and also blocked Redflex from competing for the mayor's upcoming speed camera program.

The actions were prompted by Chicago Tribune reports questioning the relationship between Redflex's Chicago consultant and the former city transportation manager who oversaw the growth of the contract into the company's largest North American enforcement program. Redflex admitted in a filing with the Australian **Securities Exchange** that an internal investigation found that an arrangement that included more than \$2 million in company compensation to the consultant would likely be considered bribery by authorities.

Now Ald. Edward Burke, 14th, says he wants to conduct his own fact-finding hearings.

"I think somebody ought to be looking at whether the company is responsible for what happened, and not just blame city employees, but see whether this company actually is a fit company to do business here or anywhere else in the country," Burke said after introducing a City Council resolution requesting city officials to appear at hearings.

[http://articles.chicagotribune.com/2013-03-13/news/chi-ald-burke-calls-of-hearings-on-redflex-bribery-questions-20130313\\_1\\_red-light-camera-contract-million-bribery-scheme-camera-program](http://articles.chicagotribune.com/2013-03-13/news/chi-ald-burke-calls-of-hearings-on-redflex-bribery-questions-20130313_1_red-light-camera-contract-million-bribery-scheme-camera-program)

## Chicago bribery investigation puts brakes on Orange Co. red light camera install

March 12, 2013

ORANGE COUNTY, Fla. —

[Orange County](#) is putting the brakes on plans to install dozens of new red light cameras.

The decision comes in part because one of the companies that want the contract is at the center of a bribery scandal in Chicago.

Channel 9's Racquel Asa obtained a letter the company wrote explaining its past problems to [Orange County](#) leaders.

Questions were raised after commissioners received the letter from Redflex Traffic Systems, informing the county of the company's internal investigation into bribery allegations.

"This letter is indicative of a serious, serious problem in this company," said County Commissioner Fred Brummer.

In the letter, the company said it has made changes to its leadership and added anti-bribery training for its employees.

"I literally just received it this morning, so I think it would be premature for me to comment," said [Orange County](#) Mayor Teresa Jacobs.

Channel 9 learned that the project is now pushed back at least two weeks. That means the first 10 cameras likely won't be installed until June.

The county has already identified where it wants to install the 80 cameras. Now the issue is not where they would go, but a matter of which company would put them in.

Existing cameras have already decreased crashes by 35 to 78 percent, according to the county.

Jacobs said she is concerned that the scandal in Chicago will overshadow how effective the cameras are.

"When you see situations like this, it certainly raises the concern with those who think it's all about money," said Jacobs.

<http://www.wftv.com/news/news/local/chicago-bribery-investigation-puts-brakes-orange-c/nWp9b/>

# Orlando Sentinel

## Leader in Orange red-light camera deal snared in Chicago scandal

March 11, 2013

The leading candidate to land Orange County's \$16 million red-light-camera expansion is a company engulfed in a scandal involving a similar system in Chicago.

A series of Chicago Tribune reports and an internal investigation paid for by Redflex Traffic Systems Inc. indicates the company might have built its business in Chicago through a \$2 million bribery scheme involving a former city official who oversaw the program.

The allegations have triggered the departure of top executives at the Phoenix-based company.

Despite the controversy, Redflex stands the best chance to win the contract to expand Orange County's red-light camera program, having outscored other competitors in early staff reviews of bids.

On Monday, county officials also received written assurance from Redflex that "Orange County is not the subject of our ongoing internal investigative activity," referring to two other unspecified "geographies" that have emerged from the Chicago scandal.

"If it's an isolated incident, I'm not concerned about it," said Commissioner Ted Edwards, the elected official assigned to the bid review.

A vote by the board to pick a winner for the expansion contract was slated for Tuesday. But late last week officials delayed that vote until possibly next month, partly at the request of a competing company.

Redflex and its local lobbyist, Holland & Knight attorney Tommy Boroughs, declined requests for interviews.

But in a written statement to the Orlando Sentinel, the president and CEO of Redflex Holdings Limited, Robert T. DeVincenzi, said that "over the last four months, we have conducted an internal investigation, published a candid summary of our findings, made decisive leadership changes and enacted comprehensive compliance improvements in our business."

Red-light cameras have been a lightning rod for controversy in Florida.

Advocates say they cut down on dangerous accidents caused by drivers blowing through intersections. Critics question their effectiveness, bemoan the invasion of drivers' privacy and regard the cameras as a way for local governments to generate revenue.

Legislation has been filed this year that would ban the cameras and block cities and counties from issuing \$158 fines to motorists.

Last year, 71 cities and counties deployed red-light cameras at intersections, sending \$51 million to the state's general-revenue pot and additional revenues to trust funds that help pay for trauma and brain and spinal-cord injury centers.

Because of legislative opposition in recent years, Orange moved cautiously in launching its initial 10-intersection system in early 2011.

In picking a company to handle its latest expansion to 80 more intersections, Orange used several technical, pricing and other measures to rate the bidders. Redflex scored better than three other companies, including the one running the county's current system, American Traffic Solutions, or ATS.

In December, ATS protested the scores, arguing that its own point totals were too low and ignored the work it had done on the existing system. But after a subsequent round of scoring, Redflex's lead over ATS actually grew slightly, records [show](#).

At a bid protest meeting on Feb. 11, Redflex Traffic System CEO Karen Finley made a pitch for her company. A few weeks later, amid the mushrooming Chicago scandal, Finley resigned.

Soon after, Redflex's parent company laid out to shareholders an outline of "an alleged bribery scheme the company said was 'apparently proposed' by the former city official who oversaw its contract," according to the Chicago Tribune, a sister [newspaper](#) of the Sentinel.

The controversy cost Redflex its Chicago contract, and Mayor Rahm Emanuel banned the company from competing on an upcoming speed-camera system, the Tribune reported.

"I have to tell you I think that we are being rightly punished, given the findings that we uncovered here," Michael McConnell, interim board chairman of Redflex Holdings Ltd., told shareholders recently.

Responding to a question about how long the internal probe would last, McConnell said, "We found two other geographies that raised concern, and those investigations are considerably smaller than the one that just ended."

County officials asked the company if Orange was one of those two locales, and in a letter dated Friday, the company assured them it was not.

County Administrator Ajit Lalchandani said the county's procurement process is based on technical criteria but also includes references from others who have done business with the outfit. The issues that have emerged in Chicago are something commissioners could consider, he said.

[http://articles.orlandosentinel.com/2013-03-11/news/os-red-light-contract-orange-20130311\\_1\\_red-light-camera-american-traffic-solutions-redflex-traffic-systems](http://articles.orlandosentinel.com/2013-03-11/news/os-red-light-contract-orange-20130311_1_red-light-camera-american-traffic-solutions-redflex-traffic-systems)



## Hayward, California Dumps Redflex And Red Light Cameras

Posted By Stephen Frank On 03/08/2013 @ 8:49 pm

Great news for honesty in government. The Bay Area City of Hayward is getting rid of its red light camera's. Why? Because the real owners of the lights are being investigated for a series of bribes to officials to get and keep the contracts in various cities.

Oh, and the lights proved to be the CAUSE of auto accidents in Hayward. "In five out of eight Hayward intersections, rear ends increased. B Street and Second Street saw the largest spike, a 75 percent jump. Urban believes engineering alternatives to cameras can help. At Winton and Hesperian, the yellow signal timing increased from 3.8 to 4.0 seconds, and at B and 2nd, it went from 3.2 to 3.5 seconds."

Redflex Traffic Systems is losing another customer. On Tuesday, Hayward, California's city council voted 6-1 to end the use of red light cameras at the earliest possible opportunity, joining thirty-four other California cities that have decided to abandon automated ticketing. Hayward's decision comes at a time when the Australian-based company is reeling from investigations of its involvement in [bribery schemes in Chicago, Illinois and two other cities](#) [2].

Between 2008 and 2012, Redflex issued 14,536 tickets worth \$489 each in Hayward. Of these, 59 percent went not to motorists running through a red light, but to those who made a rolling right-hand turn. When motorists brought their complaints about the system to court, judges threw out the ticket 57 percent of the time. Police Chief Diane E. Urban took these factors into account in recommending elimination of the program, but she gave particular attention to the failure of the cameras to reduce accidents.

"Rear end accidents increase significantly because people come to a screeching halt," Urban said. "There's no proven correlation between red light camera systems and consistently decreasing crashes."

In five out of eight Hayward intersections, rear ends increased. B Street and Second Street saw the largest spike, a 75 percent jump. Urban believes engineering alternatives to cameras can help. At Winton and Hesperian, the yellow signal timing increased from 3.8 to 4.0 seconds, and at B and 2nd, it went from 3.2 to 3.5 seconds.

"It's been six weeks or so that the yellow light has been increased," Urban said. "We expect this will make a positive difference."

Urban also wants to redeploy the two community service officers dedicated to the camera program. They each earn \$107,748 in salary and benefits, and Urban believes their time could be better spent on community-oriented policing.

"That personal approach, that ability to really make a difference by having that personal contact, it's immeasurable," Urban said. "And I think people find it a lot more palatable... rather than receive something in the mail weeks after it happened. Because ultimately the idea is to change behavior."

Urban raised concern that Redflex would charge at least \$108,000 if the council attempted to end its camera contract immediately. In a report filed with the council, [Safer Streets LA](#) [3] Executive Director Jay Beeber calculated the city would actually pocket \$151,748 in profit if it terminated the contract by June 30.

"Once Hayward Council accepted that there is no provable safety benefit they became much easier to convince to 'get out now' — sooner rather than later," local activist Roger Jones told TheNewspaper.

<http://capoliticalnews.com/2013/03/08/hayward-california-dumps-redflexand-red-light-cameras/>



## Redflex expanding investigation into its conduct

March 6, 2013

The internal probe into whether Chicago's red light camera company bribed a City Hall official has raised concerns that caused the firm to examine its conduct in two other locations, the chairman of Redflex Holdings Ltd. told shareholders.

Michael McConnell, interim board chairman of the Australian company, made the remark late Monday while answering pointed questions from stockholders about the company's future and what he described as "extremely troubling and disappointing" revelations that have cost the company its Chicago business.



[Redflex outlines bribe probe in Chicago contract](#)



[PDF: Redflex internal investigation summary](#)



[Tribune Coverage: Stories highlight City Hall ties](#)

One stockholder on the international conference call asked when the company-funded investigation — prompted by Chicago Tribune reports last year — might finally end.

"That's a fair question. This was going on in Chicago. Might it have been going on somewhere else?" responded McConnell, who took over as interim chair this year. "We found two other geographies that raised concern, and those investigations are considerably smaller than the one that just ended."

Company executives contacted Tuesday refused to elaborate.

The stockholder briefing followed company filings Monday at the Australian Securities Exchange acknowledging that the Chicago contract with its subsidiary, Redflex Traffic Systems Inc., was likely built on a \$2 million bribery scheme involving the former Chicago official who oversaw the red light program for a decade.

That was the conclusion of a company-funded internal investigation by the Chicago law firm Sidley Austin LLP, which was hired by Redflex to investigate allegations reported by the Tribune in October about the close ties between the company, its Chicago consultant, and the now-retired city official.

The parent company's chairman and another director resigned last month amid the investigation led by former city

inspector general and federal prosecutor David Hoffman. The president, chief financial officer and top lawyer at Phoenix-based Redflex Traffic Systems resigned last week and the company fired its former top salesman.

Mayor Rahm Emanuel's administration is dropping Redflex's contract when it expires in June. The program, with 384 cameras, has raised about \$100 million for the company and \$300 million for the city. Emanuel also barred the company from competing for a new speed camera program.

"I have to tell you I think that we are being rightly punished, given the findings that we uncovered here," McConnell told shareholders.

He said the objective of the Sidley Austin investigation was "to understand what happened in the past and then, based on that full understanding, to consider and take the necessary actions that give this company the best possibility to move forward. What we learned was extremely troubling and disappointing.

"I anticipate the next six months to be challenging as the organization confronts its past and begins to rebuild its future," McConnell continued. "Your board and management will lead us through these challenging circumstances with a clear focus on the restoration of our ethical compass and the firm's integrity. ... Our objective is to first stabilize the business."

McConnell told stockholders he expects a final report from Sidley Austin on all the outstanding issues under investigation by the end of March.

Redflex will pay Sidley as much as \$2.5 million in legal fees, McConnell said.

Company stock was trading Wednesday in Australia at 98 cents per share, down from \$2.10 in October, before the scandal broke. Some on the call raised concerns about whether banks holding the company's \$24 million in loans might move to recall the cash.

"If we are charged with anything, under the legal authorities etc., then that might trigger some sort of review, but at this stage we haven't been charged with anything," said Ron Johnson, the company's chief financial officer.

A company spokesman would not identify the "two geographies" McConnell referenced, but the Tribune earlier reported that federal corruption investigators in Louisiana had subpoenaed Redflex in 2010 for thousands of records involving its procurement of a contract in the suburbs of New Orleans.

The same Chicago consultant allegedly involved in the Chicago bribery scheme also introduced Redflex to a Louisiana lobbyist involved in the probe there.

Hoffman's findings marked a stark contrast from the company's assertions last year to the Tribune and City Hall in response to a Tribune inquiry about a 2010 whistle-blower memo that outlined the alleged bribery scheme and "lavish vacations" for the city's former managing deputy commissioner of transportation, John Bills.

Bills has denied wrongdoing.

In October, company lawyers described the whistle-blower allegations as the fiction of a disgruntled employee. They said the allegations were thoroughly investigated by another law firm and found to be without merit, except for one inappropriate hotel bill.

<http://www.chicagotribune.com/news/local/ct-met-redflex-red-light-cameras-investigation-20130306,0,6709823.story>

# Chicago Tribune

## Redflex outlines bribe probe in Chicago contract



Redflex Traffic Systems Inc. has installed more than 380 red light cameras in Chicago since 2003. (Chris Sweda, Chicago Tribune / March 1, 2013)

6:46 a.m. CST, March 4, 2013

In a release Sunday to Australian authorities and shareholders, the parent company for Chicago's red-light camera vendor outlined a series of its own failures and misdeeds involving an alleged bribery scheme the company said was "apparently proposed" by the former city official who oversaw its contract.

The internal probe was commissioned after disclosures by the Chicago Tribune in October. The findings, many of which first were disclosed in Sunday's newspaper, concluded that Redflex Traffic Systems Inc. paid \$2.03 million to the consultant on its Chicago contract with some of the money intended for the city official.

The then-president and then-executive vice president of the Phoenix-based subsidiary "had knowledge that would have made any reasonable person highly suspicious that this was a bribery scheme, and they acted improperly in allowing this arrangement to occur," the Australian parent company, Redflex Holdings Ltd., said in the summary filed with the Australian Securities Exchange.

The probe also found that the subsidiary falsely told the Tribune and city officials last year that it had thoroughly investigated allegations of wrongdoing after the Tribune obtained a two-year-old whistle-blower letter by a company employee. The subsidiary said it hired Chicago-based law firm Sidley Austin LLP to do this latest probe after "the Chicago Tribune published an article casting doubt on the prior investigation's conclusion."

The disclosures were contained in a five-page summary of an internal investigation dated March 4 and filed publicly with the Australian Securities Exchange to coincide with the opening of trading Monday in that country. Redflex stock had been on a trading halt since last week pending the announcement.

The filing follows Friday's announcement that the president, chief financial officer and the top lawyer for the U.S. subsidiary had resigned amid the escalating scandal. Also on Friday, company lawyers privately briefed City Hall on the company's findings.

"We recently announced new leadership and a comprehensive series of system and process improvements in our business to support the highest ethical standards," Redflex Holdings President and CEO Robert DeVincenzi said in a statement to the newspaper. "Those steps marked the dividing line between the past and where our company is headed."

"Our investigation into our Chicago contract revealed unacceptable conduct and we are working, every day, to recapture the trust of our clients, the public and our own employees," said DeVincenzi, who took over as president of the U.S. subsidiary as the company tries to get back on track.

The company's internal investigation, headed by former city inspector general and federal prosecutor David Hoffman, also took the departing company executives to task for their "clearly inadequate" oversight and "inaccurate and misleading" statements to City Hall and the Tribune as the story broke in October.

Hoffman and his team at Sidley Austin were hired by Redflex last year in the wake of Tribune reports on a 2010 internal company memo written by a former vice president who alleged the company hired a Chicago consultant as a way to transfer bribe money to John Bills, a top city transportation manager who oversaw the red-light program since it began in 2003.

Bills, who retired in 2011, has denied any wrongdoing.

The whistle-blower also alleged that the company plied Bills with lavish vacations to Arizona and California. Company officials in October told the Tribune that the whistle-blower's allegations were investigated and discounted as fiction from a disgruntled employee.

The company acknowledged paying for only one inadvertent \$910 hotel tab for Bills, a miscue for which the company was reimbursed and an employee punished with "anti-bribery" training, the former general counsel told the Tribune in October.

The summary of Hoffman's findings provides a starkly contrasting version of events, outlining \$2.03 million in "highly suspicious" payments to the Chicago consultant, whom the company has previously acknowledged was Marty O'Malley, a longtime Bills friend from the South Side.

"The arrangement was likely intended to be one in which some of the payments to the consultant would be paid to the city program manager, an arrangement apparently proposed by the city program manager," the report says.

"In summary, the investigation concluded that the whistle-blower allegations did, in fact, have merit," the filing states. "The arrangement between the city program manager, the consultant, and Redflex will likely be considered bribery by the authorities."

"Redflex did provide vacation-related expenses and other items of value to the city program manager in violation" of Chicago's ethics ordinance, the document continues.

Hoffman's findings also criticized Redflex's now ex-president and the company's former executive vice president, who was fired last month, for their roles in the scandal.

Neither former President Karen Finley nor former Executive Vice President Aaron Rosenberg returned telephone messages Sunday.

Hoffman's findings outline 17 company-paid trips for Bills between 2003 and 2010, including airfare, hotels, golf outings, rental cars and meals. The report also says the executive vice president or the consultant — previously identified as Rosenberg and O'Malley, respectively — "purchased a computer, Chicago-area golf games and meals for the city program manager and was reimbursed by Redflex. These improper expenses totaled approximately \$20,000."

O'Malley couldn't be reached for comment.

Also criticized in the filing was the company's handling of the 2010 whistle-blower allegations. Redflex ex-General Counsel Andrejs Bunkse told the Tribune and City Hall in October that Redflex took the allegations seriously and hired the Chicago law firm Quarles & Brady to conduct an "exhaustive" three-week investigation.

Bunkse, one of the Redflex executives whose resignation was announced Friday, told the Tribune that the whistle-blower allegations were unfounded except for the one reimbursed hotel stay, which he described as a billing error.

Hoffman's summary said: "The investigation was concluded in a manner that was clearly inadequate to determine whether the allegations were true, and there was inadequate oversight. It was improper for them to describe the 2010 investigation and the associated expense review as 'thorough,' 'complete,' or 'exhaustive.'"

Bunkse couldn't be reached.

The scandal has cost Redflex its Chicago contract, which provided about 13 percent of the Australian company's annual revenue and has been worth nearly \$100 million over its lifetime.

In addition, Mayor Rahm Emanuel banned Redflex from competing for the city's upcoming speed camera program. Redflex had been considered a top contender, and the scandal delayed the progress of the program, which Emanuel is counting on for revenue in this year's budget.

The escalating scandal, which now threatens to consume the multinational company, had already prompted the resignations of the parent company's chairman of the board and another board member this year. Before last week's halt in trading, company stock was trading at \$1.13 per share, just more than half its value from last year before the scandal broke.

[www.chicagotribune.com/news/local/ct-met-red-light-camera-0304-20130304,0,3316886.story](http://www.chicagotribune.com/news/local/ct-met-red-light-camera-0304-20130304,0,3316886.story)

# Chicago Tribune

## Red light camera firm admits it likely bribed Chicago official

11:03 p.m. CST, March 2, 2013

Chicago's embattled red light camera firm went to City Hall on Friday in its latest effort to come clean, acknowledging for the first time that its entire program here was likely built on a \$2 million bribery scheme.

By its sheer size, the alleged plot would rank among the largest in the annals of Chicago corruption.

An internal probe of Redflex Traffic Systems Inc. and a parallel investigation by the city's inspector general — prompted by reports in the Chicago Tribune — have cost the company its largest North American contract and all of its top executives.

On Friday the company announced the resignations of its president, its chief financial officer and its top lawyer. The head of Redflex's Australian parent company conducted town hall meetings at the headquarters of its Phoenix-based subsidiary to tell employees there was wrongdoing in the Chicago contract and that sweeping reforms were being instituted to win back the company's reputation.

In separate, private briefings with the city inspector general and with Mayor Rahm Emanuel's top lawyer, Redflex attorneys acknowledged it's likely true that company officials intended to bribe a Chicago city official and that they also plied him with expenses-paid vacations.

The company's outside investigator, former city Inspector General David Hoffman, found that Redflex paid \$2.03 million to a Chicago consultant in a highly suspicious arrangement likely intended to funnel some of the money to the former city transportation official who oversaw the company contract, according to sources familiar with the investigation and the Friday briefings to city officials.

The arrangement among the city official, the consultant and Redflex — first disclosed by a company whistle-blower — will likely be considered bribery by law enforcement authorities, Hoffman found.

Without subpoena power, it was not possible to check personal financial records of the city official or the consultant, who refused to cooperate, according to the sources familiar with Hoffman's findings. But Hoffman, a former federal prosecutor, said that under applicable law, authorities could consider the arrangement to be bribery even if the payments were not made, the sources said.

The bulk of the consultant's fees — \$1.57 million — were paid during a four-year period beginning in 2007, the years the program really expanded in Chicago, Hoffman found.

In addition, the city transportation official was treated to 17 trips, including airfare, hotels, rental cars, golf outings and meals, the sources said. Most of those expenses were paid by the company's former executive vice president, Hoffman found. That official was fired late last month and blamed by the company for much of the Chicago problem.

But Hoffman found that Redflex's president also had knowledge of the arrangement that would have made any reasonable person highly suspicious that it was a bribery scheme, the sources said.

Hoffman also found that Redflex did not disclose its knowledge about the improper arrangement to City Hall until confronted by the Tribune in October. Even then, Hoffman found, company officials lied to Emanuel's administration about the extent of the wrongdoing.

Redflex's Australian parent company was expected to post a summation of Hoffman's findings in a Monday filing with the Australian Securities Exchange that will include the resignations announced to employees Friday.

"Today's announcement of executive changes follows the conclusion of our investigation in Chicago and marks the dividing line between the past and where this company is headed," Robert DeVincenzi, president and CEO of Redflex Holdings Ltd., said in a statement to the newspaper. "This day, and each day going forward, we intend to be a constructive force in our industry, promoting high ethical standards and serving the public interest."

The company will also announce reforms including installing new requirements to put all company employees through anti-bribery and anti-corruption training, hiring a new director of compliance to ensure employees adhere to company policies, and establishing a 24-hour whistle-blower hotline.

The actions mark the latest changes in the company's evolving accounts of the scandal.

Officials at the firm had repeatedly dismissed allegations of bribery in the Chicago contract since they were made in a 2010 internal complaint obtained last year by the Tribune. In October the Tribune disclosed the whistle-blower letter by a company executive and first brought to light the questionable relationship between former city official John Bills and the Redflex consultant, Marty O'Malley, who are longtime friends from the South Side.

Bills and O'Malley have acknowledged their friendship but denied anything improper about their handling of the Redflex contract.

"Totally false, but I appreciate you calling me," Bills told the Tribune on Friday when informed of the Hoffman findings. O'Malley did not return calls.

In the four-month investigation, Hoffman and his team conducted 58 interviews and reviewed more than 37,000 company documents including email traffic among company officials, sources said. Hoffman concluded that company officials used poor judgment and a serious lack of diligence in investigating the allegations contained in the whistle-blower memo.



Now the company is struggling to get in front of a scandal that threatens to consume it.

The company has lost nearly half its value since the scandal broke in October and its stock was at \$1.13 a share on the Australian Securities Exchange when the company suspended trading last week for the second time in a month.

The chairman of the board of Redflex Holdings and another Australian board member resigned in February. On Friday, Redflex announced the resignations of three top executives in Phoenix: Karen Finley, the company's longtime president and chief executive officer; Andrejs Bunkse, the general counsel; and Sean Nolen, the chief financial officer.

Finley did not return a telephone message; Bunkse and Nolen could not be reached.

Emanuel has already fired Redflex from its city contract, which ends in June, and barred it from competing for an even more lucrative speed camera contract. The Chicago red light program has been the company's largest in North America and is worth about 13 percent of worldwide revenue for Redflex Holdings. Since 2003 it has generated about \$100 million for Redflex and more than \$300 million in ticket revenue for the city.

The company's fate was foretold more than two years ago in the whistle-blower letter sent to the Australian board of directors. The executive who wrote it said many in the company were aware of hundreds of thousands of dollars in consulting fees from O'Malley that were intended for Bills, the city official, along with lavish, company-paid vacations for Bills.

"The level of this insider fraud would take down the contract and most likely the company," the former Redflex Traffic Systems vice president said in the five-page letter on company stationery dated Aug. 24, 2010.

The letter was written by Robert Feiler, then executive in charge of the Chicago contract at the U.S. company's Phoenix headquarters. At the time, Feiler faced internal allegations of expense report abuse that led him to quit just weeks later.

He didn't mention his own troubles in the wide-ranging critique of his U.S. superiors, but cited whistle-blower laws and declared in his opening paragraphs that Redflex executives knew "our most successful program" came "via illegal transfer of 'commission' and RTSI expensed favors to Chicago municipal leadership."

At the center of those allegations are two old friends, Bills and O'Malley.

Bills, 51, retired from the city in 2011 after a 32-year career in which he rose through the ranks of City Hall to become the managing deputy commissioner in the city's Department of Transportation. There, he played a key role in the Redflex contract since its inception.

O'Malley, 72, told the Tribune last year his familiarity with Chicago and its politics enabled him to negotiate a consulting contract with Redflex worth \$50,000 a year, plus a \$1,500 commission for each Redflex camera installed in Chicago.

The success of Redflex in Chicago — more than 380 cameras since 2003 — translated to more than \$570,000 in commissions for O'Malley, the company told the Tribune last year. But the letter alleged that money was really intended for Bills.

"Our historical ledgers will show a commission for every new build in Chicago going to a Mr. Marty O'Malley," Feiler wrote. "This employee of Redflex serves no useful function. Does not report to our Office in Chicago and has been the joke of that program from inception.

"Marty came to us 'with the program,' our leadership would say. He is tied to Mr. John Bills who runs the program for the city of Chicago."

Feiler named other executives he thought were aware of the special treatment.

"Mr. John Bills enjoys non reported lavish vacations in Arizona and California directly on the expense report of (executive vice president) Aaron Rosenberg," Feiler continued. "This alone would nullify our contract arrangement with Chicago. All the discussion around these arrangements and Marty's 'commissions' are not directly discussed with the Executive Team. They are neatly swept under the rug ... and any point of discussion is met with fearful dismissal."

Feiler, contacted by telephone, acknowledged he was interviewed by inspector general investigators about the allegations in the letter but declined to elaborate.

Confronted with the allegations by the Tribune in October, Redflex sent Bunkse to answer the newspaper's questions. Bunkse said that despite Feiler's own problems, his allegations shook the company. It immediately hired the Chicago law firm Quarles & Brady to conduct what he described as a "deep dive" investigation.

Bunkse said the probe found only one instance of impropriety, a single \$910.71 reimbursement submitted by the company's head of sales, Rosenberg, for a two-day stay at the Arizona Biltmore hotel by Bills. Bunkse said Rosenberg was sent to "anti-bribery training" and that his company's failure to report to City Hall that one of its top transportation officials had accepted an improper gift was "a regrettable lapse and an oversight."

Bunkse acknowledged that the probe was completed without conducting interviews with Feiler, Bills or O'Malley.

Rosenberg did not return a phone message Friday.

Following the Tribune report in October, Emanuel quickly moved to disqualify Redflex from bidding on his new speed camera initiative, citing the hotel stay and the company's failure to report it. The matter — along with Feiler's letter — was referred to city Inspector General Joseph Ferguson for further

investigation.

That's when Redflex hired another Chicago law firm — Sidley Austin — to re-examine the allegations. The Sidley partner assigned was Hoffman, a former city inspector general. Last month, Hoffman presented company board members with an interim report that provided a starkly different version of events than presented by the company just months earlier, including that Bills was treated to expensive trips.

Hoffman's briefing last month preceded the resignation of the board members and the first trading halt.

On Feb. 8 the Emanuel administration announced that Redflex would not get to keep its current contract in Chicago, citing Tribune reports and the company's initial attempts to inaccurately "minimize" its relationship to Bills.

Bills, who also was a longtime top precinct captain for House Speaker Michael Madigan, D-Chicago, resigned from his job in 2011 and took a consulting job with a Redflex-funded traffic safety group run by Resolute Consulting LLC, a firm owned by longtime Emanuel political ally Greg Goldner. Bills said he left that job last year.

In an October interview, Bills said he was unaware O'Malley was working for Redflex until he showed up one day at City Hall when Bills was still managing the contract.

"I can tell you he worked his butt off for them, so this notion that he didn't do anything just isn't true," Bills said.

"Please be fair to me, don't ruin a 33-year career," Bills said. "I am telling you I didn't do this. This is not me."

O'Malley told the Tribune last year that he had never heard of the allegations until a phone call from the paper, but that he is not surprised Redflex never investigated or asked him. "They knew better," he said in an October interview. "If anybody should know they should know."

Asked if any of his commissions went to Bills, or whether he has any financial arrangement with Bills at all, O'Malley said, "No way, that is absurd. John (Bills) would never allow it."

Bunkse said in October that O'Malley was hired because the company needed someone familiar with Chicago to serve as an operations liaison with City Hall but said he was unaware of any connection with Bills.

Bunkse credited O'Malley with being a key component of the company's success in Chicago. Bunkse described O'Malley's role as "primary interface" with City Hall on all operations issues, whenever conduit had to be replaced or camera evidence delivered, "making sure the program is run in a manner that is not embarrassing for the city and would cause issue for us as a vendor," Bunkse said.

"Our relationship with Marty O'Malley from our perspective is entirely appropriate," the lawyer said in October. "The contract we have with him is entirely appropriate and our CFO will confirm that the payment we have made to him is entirely appropriate."

<http://www.chicagotribune.com/news/local/ct-met-chicago-red-light-scandal-0303-20130303,0,3857195.story>

# Chicago Tribune

## 3 more Redflex execs out as fallout continues for city's red light camera firm

11:45 pm, March 1, 2013

The president, chief financial officer and top lawyer for Chicago's red light camera company resigned this week amid an escalating corruption scandal that has cost Redflex Traffic Systems Inc. its lucrative, decadelong relationship with the city.

The resignations came as Redflex said it was winding down a company-funded probe into allegations of an improper relationship between the company and the former city transportation manager who oversaw its contract until 2011, a relationship first disclosed by the Tribune in October. A longtime friend of that city manager was hired by Redflex for a high-paid consulting deal.

The company recently acknowledged it improperly paid for thousands of dollars in trips for the former city official, the latest in a series of controversial revelations that have shaken Redflex from its Phoenix headquarters to Australia, the home of parent company Redflex Holdings Ltd.

Mayor Rahm Emanuel's administration banned the company from competing for the upcoming speed camera contract and went further last month by announcing that Redflex would lose its red light contract when it expires in June. The Chicago program, with more than 380 cameras, has been the company's largest in North America and is worth about 13 percent of worldwide revenue for Redflex Holdings. Since 2003 it has generated about \$100 million for Redflex and more than \$300 million in ticket revenue for the city.

In an email addressed to all company employees, Redflex Holdings CEO and President Robert T. DeVincenzi announced the resignations of three top executives in Phoenix: Karen Finley, the company's longtime president and chief executive officer; Andrejs Bunkse, the general counsel; and Sean Nolen, the chief financial officer. Their exits follow those of the chairman of the board of Redflex Holdings, another Australian board member and the company's top sales executive who Redflex has blamed for much of its Chicago problems.

"Today's announcement of executive changes follows the conclusion of our investigation in Chicago and marks the dividing line between the past and where this company is headed," said DeVincenzi, who took over as CEO of the Phoenix company. "This day, and each day going forward, we intend to be a constructive force in our industry, promoting high ethical standards and serving the public interest."

The company also held town hall meetings in Arizona to unveil reforms, including new requirements to put all company employees through anti-bribery and anti-corruption training,

hiring a new director of compliance to ensure that employees adhere to company policies and establishing a 24-hour whistle-blower hotline.

The resignations and a second consecutive halt to public trading of the company's stock are the latest in a string of events that followed Tribune reports last year regarding 2-year-old internal allegations of corruption in the Chicago contract that the company previously said were investigated and discounted.

The scandal now enveloping the company centers on its relationship to former Chicago transportation official John Bills, who retired in 2011 after overseeing the company's contract since it began in 2003.

A whistle-blower letter obtained by the Tribune said Bills received lavish vacations directly on the expense report of a company executive and raised questions about improper ties between Bills and a Redflex consultant who received more than \$570,000 in company commissions.

Bills and the consultant, a longtime friend, have denied wrongdoing.

The company told the Tribune in October that its investigation into the 2010 letter found only one instance of an inadvertent expenditure for Bills, a two-day hotel stay at the Arizona Biltmore expensed by the executive. Redflex lawyer Bunkse told the newspaper that the company responded by sending the executive to "anti-bribery" training and overhauling company expense procedures.

But after additional Tribune reports, the company hired a former Chicago inspector general, David Hoffman, to conduct another investigation. Hoffman made an interim report of his findings to company board members this month. That report prompted the company officials to acknowledge a much deeper involvement with Bills, including thousands of dollars for trips to the Super Bowl and White Sox spring training over many years.

The chairman of the company's Australian board of directors resigned, trading on company stock was temporarily suspended and the company acknowledged that it is sharing information with law enforcement.

Trading was halted again this week pending more details about the company's latest actions.

<http://my.chicagotribune.com/#section/-1/article/p2p-74640001/>

## **Suburbs on the fence over Redflex scandal**

February 23, 2013

Red-light camera vendor Redflex's fall from grace in Chicago hasn't escaped the notice of local mayors and police chiefs whose municipalities have contracts with the troubled firm.

But it's unclear if the scandal involving inappropriate perks will affect the company's future in the suburbs.

Chicago is dumping Redflex in the wake of evidence a retired city transportation manager received perks such as vacations from a company executive.

Redflex officials said they are cooperating with the city's inspector general and are conducting an internal investigation into the alleged improprieties. Meanwhile, high-level shake-ups are ongoing at the company, which operates 384 cameras in Chicago.

Redflex has contracts with a number of suburbs, including Aurora, Carol Stream, Geneva and Gurnee, although the Geneva cameras will be discontinued next month subsequent to a decision by the Kane County Board.

Carol Stream's contract with Redflex expires in December, Police Chief Kevin Orr noted, adding that he was sure the Chicago problems would figure in renewal discussions.

The village contacted Redflex regarding the scandal, and "we received a letter from the CEO explaining their situation and their desire to basically fix it. and put in procedures so something like that doesn't happen again," Orr said.

On the whole, "from our standpoint, we have no issues with them ... they've always worked well with us and we've worked well with them," he added.

When it comes to fixing cameras and processing violations, Redflex has come through, Aurora Police Chief Greg Thomas said.

But there's more than just operating the system.

"When the contract comes up for renewal (in 2014), one thing we will have to consider is the character of the organization," Thomas said.

"We'll have to see what they did with the executive (accused of misdeeds), what organizational changes were made and what oversight there was to make things right."

Gurnee Mayor Kristina Kovarik said the village's contract with Redflex is handled by an independent committee so it's not a matter of an individual at the firm influencing a public employee.

So far, the company's performance has been satisfactory. "The program's been tweaked over the last few years," Kovarik said. "They've always worked with us, they've come to us with ideas for improvements ... it's an amicable relationship."

Chicago makes up 13 percent of Redflex's business. The city's contract with the firm will end in July.

"This company has pledged to take corrective action regarding unethical employee conduct in Chicago," Redflex Holding Global CEO Robert DeVincenzi said in a statement.

He added the company had fired Executive Vice President of Business Development Aaron Rosenberg "because our internal investigation revealed that he was violating company policies. Our inquiry is continuing and other corrective actions will be announced in the near future."

Rosenberg was the executive in the hot seat for the perks, which included trips to the Super Bowl and spring training, according to the Chicago Tribune.

<http://www.dailyherald.com/article/20130223/news/702239921/>



# Chicago Tribune

## Red-light camera firm fires VP, sues him over Chicago scandal

February 22, 2013



Embattled red-light camera vendor Redflex Traffic Systems Inc. fired its executive vice president Wednesday and accused him of misconduct involving the company's scandal-plagued Chicago contract.

Reeling from the crippling loss of that contract and the expanding corruption investigation, Arizona-based Redflex filed a lawsuit against the former top executive that lays much of the blame for the company's troubles on his "dishonest and unethical conduct" over a number of years.

The lawsuit marks a turnabout for Redflex officials, who dismissed similar allegations about Aaron Rosenberg after they were brought up more than two years ago in an internal letter to the board of directors for the company's Australian parent company.

Now they are acknowledging what the lawsuit calls a "protracted and covert scheme" to misappropriate company funds over a period of years.

Company officials have said an "exhaustive, deep dive" internal investigation in 2010 found no merit to the whistle-blower allegations that the executive lavished company-paid trips on the Chicago official who oversaw the Redflex contract as part of a broader attempt to improperly court favor.

But the company failed to tell City Hall about the accusations until last year, when the Chicago Tribune obtained the letter and began its own investigation. Even then, the company stood by the results of its internal probe and said the executive vice president had made a one-time mistake for which he was disciplined.

Those early revelations prompted Mayor Rahm Emanuel to ban Redflex from competing for a

new speed camera program and refer the matter to city Inspector General Joseph Ferguson.

Amid growing questions about the company's conduct, the Emanuel administration recently announced it would not renew Redflex's red-light contract, which accounts for about 13 percent of the company's worldwide revenue and will expire this summer. The company's stock price in Australia has plummeted since the first stories, and its leaders have promised to regain the trust of its largest North American client.

"This company has pledged to take corrective action regarding unethical employee conduct in Chicago," Robert DeVincenzi, CEO of parent company Redflex Holdings Ltd., said in a written statement to the Tribune late Wednesday explaining the firing.

"Today we terminated the employment of the executive vice president of business development because our internal investigation revealed that he was violating company policies," he said. "Our inquiry is continuing and other corrective actions will be announced in the near future."

DeVincenzi — who took over the company in September — declined to elaborate or respond to questions.

Rosenberg did not return telephone messages.

The scandal now enveloping the company centers on its relationship to former Chicago transportation official John Bills, who retired in 2011 after overseeing the company's contract since it began in 2003.

The internal letter said Bills received lavish vacations directly on the expense report of Rosenberg and raised questions about inappropriate ties between Bills and a Redflex consultant who received more than \$570,000 in company commissions.

Bills and the consultant, a longtime friend, have denied any wrongdoing.

The company told the Tribune in October that its investigation in 2010 found only one instance of an inadvertent expenditure for Bills, a two-day hotel stay at the Arizona Biltmore expensed by Rosenberg. Redflex general counsel Andrejs Bunkse told the newspaper that the company responded by sending Rosenberg to "anti-bribery" training and overhauling company expense procedures.

But after additional Tribune reports, the company hired a former Chicago inspector general, David Hoffman, to conduct another investigation. Hoffman made an interim report of his findings to company board members this month. That report prompted the company officials to acknowledge a much deeper involvement with Bills, including thousands of dollars for trips to the Super Bowl and White Sox spring training over many years.

The chairman of the company's Australian board of directors resigned, trading on company stock was temporarily suspended and the company acknowledged that it's sharing information with law enforcement.

The company informed employees of Rosenberg's departure in an internal memo Wednesday that asked them to cease further communication with him on company matters. The company also filed a lawsuit against Rosenberg in Arizona Superior Court in Phoenix seeking damages from the man it once credited for much of its expansion in the U.S.

"Mr. Rosenberg engaged in a protracted and covert scheme to misappropriate funds from Redflex through the submission to the company of false requests for expense reimbursement," the suit alleges. "Mr. Rosenberg's conduct was intentional, outrageous and committed with an evil mind with the intent of causing injury to and/or in deliberate disregard of the unjustifiably substantial risk of significant harm to Redflex."

The suit also alleged Rosenberg's "dishonest and unethical conduct has substantially harmed Redflex's business reputation and goodwill throughout the United States and has and will continue to cause Redflex significant damage."

The lawsuit also seeks relief from defamation claims it said Rosenberg has made privately to the company through his lawyers.

<http://www.chicagotribune.com/news/local/ct-met-redlight-executive-fired-20130222,0,2803221.story>



## Red Light Camera Company investigated

February 19, 2013

KISSIMMEE, Fla. -- A company that installs red light traffic cameras in Florida is being investigated for political corruption in Illinois. The Chicago Tribune reported that Redflex gave gifts to a now-retired Chicago city councilman who oversaw the operations. Chicago Mayor Rahm Emanuel won't allow the company to bid again to operate the cameras. Redflex says it's investigating itself to see what happened.

[http://www.actionnewsjax.com/content/topstories/story/Red-light-camera-company-investigated/uDS\\_eVbSOk22JaF5Lz7VAw.csp](http://www.actionnewsjax.com/content/topstories/story/Red-light-camera-company-investigated/uDS_eVbSOk22JaF5Lz7VAw.csp)



## **Red-Light Camera Firm Questioned Again**

February 14, 2013

(Chicago, IL) -- Controversial red-light cameras in Chicago and the firm that installed them are at the center of yet another debate. The "Tribune" says a group of city aldermen want embattled Redflex Traffic Systems to show proof its cameras were installed only to improve traffic safety and not in a devious effort to collect money from drivers. City Councilors introduced a resolution yesterday that calls for hearings on why specific intersections where cameras are located were chosen.

[http://www.1590waik.com/index.php?option=com\\_content&view=article&id=6278:chicago-area-news-from-metro-source-news-for-feb-14&catid=38:local-news](http://www.1590waik.com/index.php?option=com_content&view=article&id=6278:chicago-area-news-from-metro-source-news-for-feb-14&catid=38:local-news)



## **Aldermen want proof red light cameras are improving safety**

Feb. 14, 2013

CHICAGO (FOX 32 News) - A group of Chicago aldermen wants proof that red light cameras are improving traffic safety in Chicago – not just making money.

The aldermen are concerned that the cameras were only installed by Redflex Traffic Systems to collect lots of money by ticketing drivers.

They have introduced a resolution calling for city officials to explain what role Redflex played in deciding where the cameras went.

The resolution would also see whether revenue projections were considered in choosing the locations.

<http://www.myfoxchicago.com/story/21199156/aldermen-want-proof-red-light-cameras-are-improving-safety-redflex-traffic-systems>

## Aldermen call for hearings on red-light cameras

By John Byrne and Hal Dardick, Chicago Tribune reporters  
8:07 p.m. CST, February 13, 2013

A group of aldermen wants proof that the embattled company that installed red-light cameras at intersections across Chicago did so based on improving traffic safety, not just collecting lots of money from ticketing drivers.

A resolution introduced at Wednesday's City Council meeting calls for hearings to be held on how the sites were chosen for the cameras put up by Redflex Traffic Systems Inc.

Tribune stories that Redflex lavished sporting trips on a former city transportation official and lied about it to City Hall call into question the company's procedures for placing the cameras, said sponsoring Ald. John Arena.

"The original ordinance calls for better traffic safety, but we don't really know the standards they used," said Arena, 45th. "We want officials from (the Chicago Department of Transportation) to come in and give us specifics on the analysis and on whether these intersections are safer now."

The resolution calls for city officials to appear at a hearing to explain what role Redflex played in deciding where the cameras went and whether revenue projections were considered in choosing the intersections. Mayor Rahm Emanuel announced last week that Redflex would be dumped from the city's red-light camera contract.

<http://www.chicagotribune.com/news/local/ct-met-city-council-0214-20130214,0,7554964.story>



## Redflex out as Chicago red-light camera operator

Staff

Chicago Business Journal

Feb. 11, 2013

Redflex Traffic Systems, the current operator of Chicago's red-light traffic cameras, will not be allowed to bid on the next service contract with the city, according to a report by the Chicago Tribune.

Mayor Rahm Emanuel took that step after Redflex's Australian parent company, Redflex Holdings, announced resignations from its board chairman and another board member, and requested a halt in trading of its stock, the Tribune said. Though the company did not explain the resignations, it did say that stopping trading was due to an investigation in the United States, according to the report.

DNAinfo Chicago passed on a statement from Redflex CEO Robert DeVincenzi, in which he said the company was conducting a thorough investigation, and that it had already found shortcomings in its employees' actions. DeVincenzi also said the company is cooperating with law enforcement, DNAinfo reported.

Redflex has been in hot water with the city since a Tribune report stating that the company had bestowed expensive gifts upon John Bills, the now-retired city official who oversaw the camera operations. Since 2003, the traffic camera contract has been worth about \$100 million to Redflex.

[http://www.bizjournals.com/chicago/news/2013/02/11/redflex-out-as-chicago-red-light-camera.html?ana=e\\_du\\_pap](http://www.bizjournals.com/chicago/news/2013/02/11/redflex-out-as-chicago-red-light-camera.html?ana=e_du_pap)





## **Emanuel cuts cord with besieged red-light camera firm**

**Mayor bars company from bidding on new contract in light of disclosures of lavish gifts to ex-city official and of a cover-up**

**By David Kidwell, Chicago Tribune reporter  
February 9, 2013**

Mayor Rahm Emanuel's administration dumped the city's longtime red-light camera vendor Friday following a Tribune report about new allegations that the company gave lavish sporting trips to a former city official and then lied about it to City Hall.

The action came just hours after the newspaper reported that the board chairman of Australia-based Redflex Holdings Ltd. resigned and that trading on company stock was halted amid a deepening scandal involving ties between its U.S. subsidiary, Redflex Traffic Systems Inc., and former city transportation official John Bills.

The findings of a company-sponsored investigation — including that Redflex officials treated Bills to thousands of dollars in free trips to a Super Bowl and White Sox spring training — directly contradicted what company executives told City Hall in October after a Tribune investigation forced them to acknowledge internal allegations of corruption.

"Redflex attempted to minimize its relationship with Mr. Bills and characterized the wrongful behavior as an isolated payment for one hotel stay," Emanuel's chief procurement officer, Jamie Rhee, wrote Friday in a letter to Redflex lawyers.

"It now appears that many of the statements made by Redflex to the city about this issue were not accurate," Rhee continued, citing the Tribune's disclosure of new revelations by investigators.

Emanuel, who inherited the red-light contract when he took office in 2011, had already disqualified Redflex from bidding on his new speed camera initiative after the October disclosures. The new announcement means Redflex will lose what it has described as its largest North American contract.

The mayor's office gave the company a six-month extension on the red-light business last month while it opened the contract to bids, but at that time it did not announce whether Redflex could compete to keep the business.

"Given these more serious allegations, we are declaring Redflex not responsible to bid on the new red light (request for proposals) when it is issued," Emanuel spokeswoman Sarah Hamilton said in an email to the Tribune.

The administration is also hiring an outside firm to audit Redflex books "for all past and ongoing activities to ensure Chicago taxpayers are not cheated in any way," Hamilton said in the email.

"If there are any findings of illegal conduct or improprieties that show Chicago taxpayers were defrauded, the city will seek penalties to the fullest extent of the law."

The Redflex internal probe and a parallel investigation by city Inspector General Joseph Ferguson are also raising more questions about the company's hiring of a longtime Bills friend who received more than \$570,000 in company commissions as a customer service representative in Chicago, sources said.

Bills did not return calls but has adamantly denied any wrongdoing. "I would never have intentionally accepted a dime from Redflex, I wouldn't do that," he told the Tribune in October. The company did not immediately return calls.

On Wednesday, Redflex Holdings announced without explanation the resignation of board Chairman Max Findlay and another board director, Ian Davis, who were atop the list of recipients of the 2010 internal email that outlined allegations of wrongdoing in the company's relationship with Bills. On Thursday the company received a four-day suspension of trading on the Australian Securities Exchange "until the earlier of 10 a.m. on Monday 11 February 2013 or an announcement being made."

"The trading halt relates to an update regarding financial aspects and the ongoing investigation in the USA," wrote company secretary Marilyn Stephens. The company did not elaborate on the trading action.

Redflex lawyers told the Tribune in October that a previous company-sponsored investigation by an outside law firm in 2010 found no wrongdoing but for a single hotel stay one top executive paid for Bills. General Counsel Andrejs Bunkse also said that neither Bills nor his friend were interviewed as part of the company's probe. He acknowledged that the company's failure to notify the city of the allegations was a "lapse."

But in the wake of the newspaper's disclosure, the company announced it would pay for another outside review, this time by David Hoffman, a former city inspector general and federal prosecutor who is now a partner at the Chicago-based law firm Sidley Austin LLP.

Hoffman last week presented the audit committee of Redflex's board with a starkly different version of events, reporting that Bills received tickets to at least one Super Bowl and thousands of dollars in pricey hotel stays, including White Sox spring training trips, over the course of many years, according to sources. Hoffman's report implicated company executives in the wrongdoing and recommended that some be fired, the sources said.

<http://www.chicagotribune.com/news/local/ct-met-emanuel-drops-redflex-0209-20130209,0,2616767.story>



## **City drops red light cam vendor**

**City's contract with Redflex Traffic Systems expires in July**

**By Ward Room Staff**

**February 8, 2013**

A new company will soon take over the red light cameras throughout the city.

Mayor Rahm Emanuel on Friday said he would not renew the city's contract with Redflex Traffic Systems after an investigation revealed the company gave thousands of dollars in free trips to former city transportation official John Bills, who oversaw the decade-long program.

The company's contract with the city expires in July. The company last month was given a six month extension on that expiring contract but officials at the time didn't say whether or not Redflex would be allowed to re-bid.

The city's action this week negates that.

"Given these more serious allegations, we are declaring Redflex not responsible to bid on the new red light RFP when it is issued," Emanuel spokeswoman Sarah Hamilton said in an email to the Chicago Tribune, which first reported the news.

Because of the investigation, Emanuel last October barred the company from putting in a bid on the city's speed cameras.

The chairman of Redflex's Australian parent company resigned this week.

Red light cameras first appeared in Chicago in 2003. Now numbering close to 400, they've generated millions of dollars for the city and for the company.

Testing on speed cameras began at four locations last December.

<http://www.nbcchicago.com/blogs/ward-room/chicago-red-light-cameras-190492161.html>



## **City bars red-light camera company from contract amid allegations**

By Fran Spielman  
February 8, 2013

Mayor Rahm Emanuel on Friday ordered an independent audit of Chicago's red-light camera contractor — and barred the Arizona company from competing for the new contract — amid allegations that Redflex Traffic System showered more free trips than first believed on a former city official who oversaw the contract.

Emanuel wasted no time in punishing Redflex after reports that the company's internal investigation had concluded that Redflex paid to send former city transportation official John Bills to the Super Bowl and other sporting events and allegedly concealed those favors from the city.

Former Chicago Inspector General David Hoffman of the law firm Sidley Austin was hired by Reflex to investigate the company's relationship with Bills, as well as Redflex's decision to pay Bills' associate more than \$500,000 in commissions.

Contacted Friday, Hoffman, a mayoral appointee to the board overseeing Emanuel's Infrastructure Trust, refused to comment on his investigation. Other sources confirmed that Redflex had paid to send Bills on multiple trips to sporting events.

"Immediately upon learning of impropriety by Redflex, the mayor took action and declared the company to be a non-responsible bidder on future city work and referred the matter to the inspector general," Sarah Hamilton, Emanuel's communications director, wrote in an e-mail to the Chicago Sun-Times.

"Given these more serious allegations, we are declaring Redflex not responsible to bid on the new red light RFP when it is issued. The city is also engaging an independent firm immediately to audit the Redflex contract for all past and ongoing activities to ensure Chicago taxpayers are not cheated in any way. If there are any findings of illegal conduct or improprieties that show Chicago taxpayers were defrauded, the city will seek penalties to the fullest extent of the law."

Parent company Redflex Holdings Limited responded to Emanuel's punishment by revealing that it is "sharing information with law enforcement authorities" about the alleged wrongdoing by its employees.

"One month after I became CEO of Redflex Holdings last September, we engaged Sidley Austin to conduct an investigation into issues brought to light by a whistleblower and articles in the media. We gave Sidley unfettered access to our people and our records and directed that its

inquiry run without limitation,” CEO Robert DeVincenzi said in a prepared statement e-mailed to the Sun-Times.

“ While we still have more to analyze, we know that some Redflex employees did not meet our own principles, nor the standards that the City of Chicago deserves. We are sharing information with law enforcement authorities, will take corrective action and I will do everything in my power to regain the trust of the Chicago community.”

The company was barred from competing for yet another cash-rich contract — to install speed cameras around schools and parks — after the Chicago Tribune first disclosed the company’s relationship with Bills.

The Tribune initially reported that Redflex had given a lucrative contract to Bills’ friend and that the company had picked up the tab for Bills’ stay at a luxury hotel during the former city official’s annual trip to White Sox spring training.

The stories prompted Inspector General Joe Ferguson to open an investigation.

Last month, City Hall disclosed plans to re-bid the red-light contract but extend it six months to allow a “full procurement and selection process to take place.” At the time, spokesman Bill McCaffrey said the outcome of Ferguson’s investigation would determine whether Redflex would be allowed to bid.

Emanuel’s decision comes despite the company’s ties to several mayoral allies.

Redflex’s Illinois lobbying team includes Michael J. Kasper, a lawyer who defended Emanuel in efforts to knock him off the mayoral ballot. The firm’s city lobbyists include former Ald. Mark Fary (12th), husband of Rosemarie S. Andolino, Emanuel’s aviation commissioner.

Another Emanuel ally, public affairs consultant Greg Goldner, also has worked for Redflex.

Red-light cameras were gradually installed at accident-prone Chicago intersections, beginning in 2003. The cameras pumped out a high of 791,111 tickets in 2009 before dropping in recent years to 763,419 in 2010 and 662,046 in 2011.

The mayor’s decision marks the end of a lucrative relationship that has generated \$100 million in revenues for the company and \$300 million in fines for the city.

When red-light cameras were first installed, City Hall billed it as a safety measure, just as Emanuel is now touting speed cameras.

But with \$100 fines for every motorist who blows through a red light, Chicago’s 380 red-light cameras quickly became a cash cow for the revenue-strapped city.

<http://www.suntimes.com/18102101-761/city-bars-red-light-camera-company-from-contract-amid-allegations.html>



## Red-Light Camera Firm Gets 6-Month Reprieve

By David Kidwell, Chicago Tribune reporter  
9:14 AM CST, January 11, 2013

Chicago's embattled red-light camera operator got a six-month extension on its expiring contract while Mayor Rahm Emanuel's administration searches for a new vendor and awaits the results of a probe into the company's close relationship to the former city official who oversaw the program, the administration said Thursday.

Redflex Traffic Systems Inc., the Arizona-based company that has run the lucrative camera operation since it began in 2003, was strongly rebuked by the city late last year after the company's admission that it did not tell the city about internal allegations of corruption in the Chicago contract.

The city quickly barred the company from competing for the mayor's new speed camera initiative after Tribune disclosures about the company's relationship with city transportation official John Bills, who retired in 2011 and took a consulting job with a Redflex-funded marketing group.

Those allegations included the company paying for Bills' luxury hotel accommodations and giving a consulting contract worth more than half a million dollars to a Bills friend. Bills and his friend have denied any wrongdoing.

But the city has not decided whether it will also disqualify Redflex from competing to extend its five-year red-light camera contract that expires at the end of January.

"Given the information we had at the time, we took the step of prohibiting Redflex from bidding on the children's safety zone program," administration spokesman Bill McCaffrey said. "This was a substantial penalty and message to all contractors that we take matters of vendor conduct very seriously. As you know, the inspector general continues to review this matter, and we await his report before determining what action to take regarding the new red-light contract."

A draft copy of the city's "request for information" from potential bidders, expected to be sent out Friday, seeks "feedback from the vendor community" on any new equipment or technology, the transition process whether the city should own the new equipment, and any suggested performance standards under the new red-light contract. Answers will be due no later than Jan. 25.

McCaffrey said the city hopes to incorporate the information into its request for bids, which he said is expected to go out next month.

Meanwhile, the city is finalizing a decision on what company to hire for the speed camera initiative, which Emanuel is counting on for up to \$30 million this year. That program would

pepper the city with cameras to automatically tag speeders near public schools and parks.

The red-light camera program, which has grown to 384 cameras throughout the city since 2003, has raised more than \$300 million in ticket revenue for the city and nearly \$100 million in fees for the company. Experts have suggested the speed camera program could be worth more.

Redflex officials did not return calls for comment.

In October, the Tribune disclosed a 2010 internal memo written by a former Redflex vice president who made sweeping allegations about wrongdoing involving the Chicago contract. The company told the paper it sent one of its executives to "anti-bribery" training that year because he expensed a \$910 luxury hotel stay for Bills. The company also said a Chicago law firm it hired found no merit to more serious allegations surrounding Bills' neighborhood ties to a man the company hired as a customer service representative at a \$50,000 annual salary plus a \$1,500-per-camera commission totaling more than \$570,000.

In an Oct. 16 letter to Redflex, Emanuel's procurement director, Jamie L. Rhee, accused the company of covering up the 2-year-old breach in ethics and said the company's "failure to timely report this incident to the city is unacceptable behavior and is a failure by Redflex to act in the city's best interest."

After the Tribune reports, city Inspector General Joseph Ferguson opened an investigation, and Redflex's Australian parent company hired former city Inspector General David Hoffman to conduct another company probe of the allegations.

Redflex has employed a team of well-connected local lobbyists, including its lobbyist in Springfield, Chicago lawyer Michael Kasper, who represented Emanuel when his residency was challenged during his campaign for mayor.

<http://www.chicagotribune.com/news/local/ct-met-chicago-red-light-contract-0111-20130111,0,7134012.story>





## **Inspector General Subpoena in Red-Light Camera Probe**

By David Kidwell, Chicago Tribune reporter  
November 13, 2012

Chicago's inspector general has issued a subpoena for records to the bidders who lost the city's 2007 red-light camera competition to Redflex Traffic Systems Inc., which is under investigation over its close relationship to the former city official who oversaw the contract.

Meanwhile, Redflex's Australian parent company announced Monday that it has hired the Sidley Austin law firm to assist the company in cooperating with the city's investigation as well as conducting a new internal investigation into what happened at its Phoenix-based U.S. operation.

If either investigation "determines that any Redflex employees acted improperly, the board stands ready to take appropriate action to ensure that the company's commitment to moving forward based on the highest ethical standards is not compromised," said the statement by Redflex Holdings Ltd. filed with the Australian Securities Exchange.

Redflex already was disqualified from bidding on Mayor Rahm Emanuel's proposed new speed camera program. Now the company is focused on trying to keep the lucrative red-light contract with the city, its largest customer in North America. That contract is up Jan. 31.

The probes follow Tribune disclosures last month about Redflex's relationship to John Bills, who, until his retirement last year, was managing deputy director of the Chicago Department of Transportation and oversaw the Redflex contract since its inception. The company acknowledged in Tribune interviews that it had mistakenly paid for a luxury hotel stay for Bills but denied broader internal allegations of wrongdoing regarding Bills' longtime friendship to a company consultant who received more than \$570,000 in commissions in addition to his annual pay.

Inspector General Joseph Ferguson's office declined to comment on the ongoing investigation, but a spokesman for a Redflex competitor confirmed receiving an inspector general subpoena for all records regarding the 2007 contract process.

"We are cooperating with that request," said Charles Territo, a spokesman for American Traffic Solutions, one of three bidders for the red-light program. A third bidder, Nestor, has since been purchased by ATS. Territo said records from that company were also requested in the subpoena.

The allegations against Redflex surfaced after the Tribune obtained a copy of an internal document written by a former company executive who made allegations of improprieties in the Chicago contract involving Bills and the company consultant, as well as "lavish" hotel expenses paid for on a company expense account. That letter, dated Aug. 24, 2010, and addressed to the



entire board of directors of Redflex's Australian parent company, was authored by an executive who also was under investigation for expense account abuse.

Bills did not return telephone messages.

An Emanuel spokeswoman said the city will take no action on Redflex's current contract until the inspector general concludes the investigation of the broader allegations against Redflex and Bills.

"We await the results of the IG investigation, and it would be inappropriate to take any further action regarding their current contract prior to the conclusion of that review," said Sarah Hamilton, the mayor's communications director. "The current red-light contract expires on Jan. 31, 2013, and, as the city would do with any expiring contract, CDOT is developing a plan to continue program operations, including potentially issuing a new (request for proposal)."

Redflex describes its Chicago contract as the largest camera enforcement program in the world. It has been worth more than \$300 million in revenue for the city and nearly \$100 million in revenue for the company.

Monday's announcement marked the second time in two years that the company has hired an outside law firm to investigate the allegations about its Chicago program.

Redflex General Counsel Andrejs Bunkse said in a Tribune interview last month that the company's "exhaustive" 2010 investigation by a different outside law firm found no inappropriate financial relationship between Bills and its consultant, although neither man was interviewed as part of the inquiry. The company did not report its internal investigation to Chicago at that time, a lapse that Bunkse described as an oversight.

Last month, Emanuel's office labeled the company a "nonresponsible" bidder for paying for a \$971 hotel stay for Bills in 2010 and failing to report it to the city, even though the company sent the executive responsible to what they called "anti-bribery training." Emanuel's office also forwarded the allegations to Ferguson to be more fully investigated.

[http://articles.chicagotribune.com/2012-11-13/news/ct-met-redflex-chicago-investigation-20121113\\_1\\_red-light-camera-american-traffic-solutions-redflex-traffic-systems](http://articles.chicagotribune.com/2012-11-13/news/ct-met-redflex-chicago-investigation-20121113_1_red-light-camera-american-traffic-solutions-redflex-traffic-systems)



## **Redflex Consultant Also Has Ties to Controversy in Louisiana**

By David Kidwell, Chicago Tribune reporter  
October 22, 2012

A consultant for Chicago's embattled red-light camera vendor — under scrutiny for his \$570,000 in commissions and his relationship to the city manager who oversaw the contract — is also tied to another company deal investigated in an ongoing federal corruption probe in Louisiana, the Tribune has learned.

A federal grand jury in 2010 demanded records from Redflex Traffic Systems Inc. involving its 2007 deal to install red-light cameras in Jefferson Parish, a large suburban government just outside New Orleans, a company lawyer disclosed in a Tribune interview. The lawyer said company officials are confident nothing was improper.

"They asked questions about procurement arrangements and whether or not there had been any inappropriate conduct on behalf of Redflex," the company's general counsel, Andrejs Bunkse, said in a recent interview. "We gave them all our records and thoroughly complied, and haven't heard from them in close to two years."

The company's deal was among many government contracts that federal authorities examined in a wide-ranging probe of the parish, which functions much like a county. The investigation has led to several convictions including a guilty plea last month by the former parish council president, but none was related to Redflex's dealings in Louisiana.

The U.S. attorney for the Eastern District of Louisiana, Jim Letten, declined to discuss his office's ongoing investigation, including whether Redflex remains under scrutiny.

Federal authorities subpoenaed Redflex after disclosures about a lucrative commission deal the company gave to a lobbyist and former New Orleans city councilman who helped swing the votes for the multimillion dollar contract. The lobbyist's commission deal was worth about 3 percent of the contract.

Redflex was introduced to lobbyist Bryan Wagner by Marty O'Malley, a company consultant and its Chicago customer service representative, who used to work for an environmental company in Louisiana. Redflex and O'Malley came under scrutiny in Chicago this month amid Tribune inquiries into internal Redflex allegations about O'Malley's own large commission deal and his personal ties to former city manager John Bills. Bills oversaw the company contract for red-light cameras in Chicago.

In the wake of those reports, Chicago rejected Redflex's bid for a new speed camera program, Bills was asked to resign his post on a clout-heavy county panel and the city inspector general

opened an investigation that includes Redflex's relationship with Bills and O'Malley. Both Bills and O'Malley said they have done nothing improper.

O'Malley, 72, of Worth, was first hired by Redflex in 2003 to be the company's liaison to Chicago officials at the outset of its contract to install red-light cameras throughout the city. In a recent interview, O'Malley said he met Wagner years before when Wagner was lobbying for O'Malley's former employer.

"Yes, that's correct. I introduced them," O'Malley told the Tribune. "Bryan Wagner and I worked together when I worked for an environmental abatement company in Louisiana in the 1990s. I knew Redflex was having trouble making any headway there, so I mentioned that I knew somebody down there that might help if they were interested."

Wagner did not return telephone messages Friday.

On Sept. 24, U.S. Attorney Letten's office entered into a plea agreement with former Jefferson Parish president Aaron Broussard, who was indicted last year on charges involving bribery and wire fraud. He pleaded guilty to two counts, and agreed to cooperate with federal authorities in their ongoing probe. He is set to be sentenced Feb. 25. Two top parish aides and a contractor also have pleaded guilty to their roles in the conspiracy.

At a news conference the next day, FBI Special Agent Michael Anderson told reporters: "I know that there's more out there."

After disclosures in 2010 about Redflex's deal with Wagner, the Jefferson Parish council voted to suspend the contract. That move prompted a lawsuit from Redflex, seeking more than \$7 million in lost revenue and penalties. That litigation continues.

O'Malley said he tried to negotiate a similar deal when he went to work for Redflex in Chicago in 2003.

"I threw out the idea that I should get 3 percent of every ticket, but it was just laughed at," O'Malley said. "I tried to negotiate the best deal I could."

Instead, he received \$50,000 in annual pay and a \$1,500 commission for each of the 384 cameras that would be installed over the next seven years — collecting more than \$570,000. O'Malley said there was nothing inappropriate in his relationships with Wagner in Louisiana or Bills in Chicago.

The allegations against O'Malley and Bills — along with a description of O'Malley's role in introducing Wagner to the company — were included in an Aug. 24, 2010, letter written by a Redflex executive who was under investigation for substantial abuse of the company expense account. After the letter was sent to the board of directors of Redflex's Australian parent company, company counsel Bunkse said an outside law firm discounted most of the allegations.

Bunkse said the independent review uncovered one instance in which the company paid for a two-day hotel tab for Bills at the Arizona Biltmore in March 2010. The company did not inform Chicago city officials of the allegations or its findings until Tribune inquiries this month.

That failure prompted the Emanuel administration last week to accuse the company of covering up the matter, and disqualifying it as a bidder in the mayor's plan to pepper up to half the city

with cameras to catch speeders near schools and parks. Redflex's role as operator of Chicago's red-light cameras — which have generated some \$300 million in ticket revenue for the city and more than \$97 million in fees for Redflex — is also in doubt pending the city's investigation.

The stakes are huge for the publicly traded company. It is bidding on camera projects across the nation, from Tacoma, Wash., to Baltimore, where this month it was chosen as a finalist for that city's speed camera program.

After Chicago's decision to label the company a "non-responsible bidder," Redflex Holdings Group made a filing to the Australian Securities Exchange announcing its troubles in Chicago — which the filing said represents 13 percent of the company's total revenue.

The filing notified stockholders that the company's bid on speed cameras has been rejected, and "the city has also notified the company that the current in-force contracts for red-light enforcement are in breach." By the close of the market Friday, Redflex stock had dropped more than 20 percent on the Australian exchange since the announcement — from \$2.10 to \$1.66 per share.

[http://articles.chicagotribune.com/2012-10-22/news/ct-met-red-light-probe-louisiana-20121022\\_1\\_red-light-camera-vendor-red-light-cameras-andrejs-bunkse](http://articles.chicagotribune.com/2012-10-22/news/ct-met-red-light-probe-louisiana-20121022_1_red-light-camera-vendor-red-light-cameras-andrejs-bunkse)

## City Axes Speed Camera Firm's Bid, Citing Delay in Reporting Ethics Case

By David Kidwell, Chicago Tribune reporter  
October 17, 2012

Accusing Chicago's red-light camera vendor of covering up a 2-year-old breach of ethics until a Tribune investigation brought it to light, Mayor Rahm Emanuel's office on Tuesday threw out the company's bid for a lucrative new speed camera contract.

The city also raised serious doubts about the future of Redflex Traffic Systems Inc.'s role as the longtime operator of Chicago's red-light camera program that since 2003 has generated some \$300 million in fines for the city and \$97 million in revenue for the publicly traded company, according to city records.

The decision to label Redflex ineligible for the pending city contract came two days after a Tribune report detailed how the company improperly paid a \$910 luxury hotel tab for the city official who oversaw its program and disciplined one of its own top executives but failed to tell the city about the 2010 incident until this month. The company also did not disclose its internal investigation of broader questions about the company's relationship with the city official.

"I find that Redflex's failure to timely report this incident to the city is unacceptable behavior and is a failure by Redflex to act in the city's best interest," Jamie L. Rhee, Emanuel's chief procurement officer, said in a letter sent to Redflex on Tuesday.

"It appears that a Redflex employee in a management position over a city contract violated, at a minimum, the city's ethics law, Redflex violated the city's ethics laws, and that Redflex in effect covered the matter up by failing to report it to the city for a period of two years," Rhee said in the letter.

In a statement issued late Tuesday by its Chicago public relations firm, the company said it accepts full responsibility for the hotel incident and has adopted sweeping internal reforms.

"Redflex determined this was, while regrettable, a single isolated incident," the company statement said. "We take the public's trust very seriously and apologize for this lapse."

Redflex, which won its current business under previous Mayor Richard Daley but also has ties to key Emanuel political allies, was considered a top contender for the controversial new camera program pitched by Emanuel as a way to protect schoolchildren from speeding motorists. Critics labeled it a money grab for a cash-starved city.

The swift rebuke by the mayor allows him to distance himself from the political criticism while potentially preserving the timeline of a November rollout for the new program, which Emanuel is counting on for up to \$30 million in next year's budget.

The stakes may be even bigger for Redflex, which is bidding for other contracts in cities throughout the country, from Tacoma, Wash., to Baltimore, where the company is among three finalists for that city's speed camera program.

The company's current Chicago business is the largest camera enforcement program in the world, according to Redflex. But that also may now be in question, pending an investigation by city Inspector General Joseph Ferguson.

The inspector general's office is looking at much broader allegations of wrongdoing involving the company's relationship with the former city manager in charge of the red-light program, said Sarah Hamilton, Emanuel's chief spokeswoman.

Those allegations center on John Bills, the former managing deputy commissioner in the city Transportation Department, and a Redflex contractor from Bills' Chicago neighborhood who received more than \$570,000 in commissions since the red-light program began. Both men have told the Tribune they have done nothing improper.

Redflex officials acknowledged the company paid for a two-day stay for Bills at the Arizona Biltmore. But they said an internal probe by a law firm discounted the broader allegations. Those allegations were made in an Aug. 24, 2010, letter — obtained by the Tribune — written to the board of Redflex's Australian parent company by a former company executive who was under internal investigation for substantial abuse of a company expense account.

In an interview last week, Redflex's general counsel Andrejs Bunkse told the newspaper its "exhaustive" probe of expense reports found only one improper expenditure for Bills, and as a result, the company overhauled its expense reporting policies and sent the executive vice president involved to "anti-bribery training." Bunkse said it was an "oversight" to not report the investigation or its findings to the city in 2010.

The company notified the city Board of Ethics of the investigation and its actions this month, after the Tribune's inquiries.

While commending the company for any actions it took to mitigate the misconduct, the mayor's office said Redflex's delay in notifying the city prevented it from launching its own probe or taking other action including "removing Mr. Bills from any position of management authority over the Redflex contract, disciplining Mr. Bills or any other employee involved in this matter and instituting additional controls and oversight regarding current Redflex contracts."

The letter from Rhee says the hotel incident alone "is a violation of city ethics laws and constitutes a breach of contract on Redflex's existing contracts with the city." The letter deemed Redflex a "non-responsible bidder" for the new contract.

Bills, 51, who oversaw the contract for the city since the program's inception, retired last year after a 32-year career with the city. In a proclamation by the City Council, he was referred to as the "champion" of the red-light program. He later went to work as a consultant at the Redflex-funded Traffic Safety Coalition.

That group, run by a longtime political ally of Emanuel's, backed the mayor's successful push last year to expand the city's red-light program to target speeders. The Emanuel administration

now has the authority to pepper half the city with cameras that could tag speeders in school and park "safety zones" for tickets as high as \$100.

Bills said he inadvertently accepted the hotel stay in 2010 during one of his annual trips to Arizona to see White Sox spring training and didn't realize the payment didn't show up on his own credit card. "I never would have intentionally accepted a dime from Redflex, I wouldn't do that," he said.

Bills acknowledged having personal ties to Marty O'Malley, 72, who was retained as a customer service representative by the company at the outset of the program. O'Malley told the newspaper he got the job after answering a classified ad and was able to negotiate compensation that included \$50,000 in annual pay and a \$1,500 commission for each of the 384 red-light cameras installed under the program.

Both Bills and O'Malley say their relationship had nothing to do with O'Malley's hiring and they never discussed it before O'Malley began work.

[http://articles.chicagotribune.com/2012-10-17/news/ct-met-emanuel-red-light-cameras-1017-20121017\\_1\\_camera-program-camera-contract-redflex](http://articles.chicagotribune.com/2012-10-17/news/ct-met-emanuel-red-light-cameras-1017-20121017_1_camera-program-camera-contract-redflex)





DEPARTMENT OF PROCUREMENT SERVICES  
CITY OF CHICAGO

SENT VIA U.S. FIRST CLASS MAIL AND FACSIMILE

October 15, 2012

Mr. Andrejs K. Bunkse, Esq.  
General Counsel  
Redflex Traffic Systems, Inc.  
23751 N 23<sup>rd</sup> Avenue  
Suite 150  
Phoenix, Arizona 85085

**Re: Rejection of Redflex Traffic Systems, Inc.'s Proposal for Spec. No. 105615 for Automated Speed Enforcement Program**

Dear Mr. Bunkse:

This letter is to inform Redflex that it has been deemed a non-responsible bidder in regards to Specification No. 105615 for Automated Speed Enforcement Program (the "Specification").

On or about September 7, 2012, Redflex Traffic Systems, Inc. ("Redflex") submitted a proposal for consideration by the City for the Specification. Subsequent to Redflex's submittal of its proposal, the City has learned that in 2010, Redflex paid for a two night stay at a hotel in Phoenix, Arizona for a City employee, John Bills. The stay was valued at \$910.71. Mr. Bills' responsibilities as a City employee included managing Redflex's red light camera contract. The City has not been told the purpose of Mr. Bills visit to Phoenix. Redflex states that it conducted an internal investigation and, as a result, adopted a number of internal measures in an effort to prevent reoccurrence of this misconduct, including: amending its travel booking policies, counseling the employee involved, requiring the approval of Redflex' General Counsel for all contracts involving third party municipal sales/lobbying, creating a Vice President of Account Management position, and creating a whistleblower hotline. Redflex states that it has adopted a number of anti-bribery measures in addition to the aforementioned changes.

I understand that Redflex has stated that it has taken steps to train employees and to protect against similar misconduct in the future. While I commend Redflex for any actions it may have taken to mitigate the misconduct that occurred, I want to be very clear on what Redflex did not do: notify the City of the incident in any kind of timely manner. It appears that Redflex disclosed the incident to the City only after it realized that the story was going to appear in the newspapers. In October 2012, Redflex tendered correspondence to the City's Board of Ethics stating that Redflex had completed its own internal investigation in October 2010, some two years ago. The time to have self reported the incident was, at a minimum, the point in time when the internal investigation was completed, not two years later. Additionally, it is not clear to me why the reimbursement request from Redflex to Mr. Bills was made in 2012 and not in 2010.

As a result of Redflex's delay, the City was prevented from doing a number of things, such as: contacting its Inspector General to investigate Mr. Bills' actions, removing Mr. Bills from any position of management authority over the Redflex contract, disciplining Mr. Bills or any other employee involved in this matter and instituting additional controls and oversight regarding current Redflex contracts. I find that Redflex's failure to timely report this incident to the City is unacceptable behavior and is a failure by Redflex to act in the City's best interest.

121 NORTH LASALLE STREET, ROOM 403, CHICAGO, ILLINOIS 60602



It appears that a Redflex employee in a management position over a City contract violated, at a minimum, the City's ethics law, Redflex violated the City's ethics laws, and that Redflex in effect covered the matter up by failing to report it to the City for a period of two years. It was only at a point in time when the facts were to be made public that Redflex disclosed anything to the City. The City's contracts with Redflex require compliance with all laws, including those found in Chapter 2-156 of the Municipal Code of Chicago. Redflex's current contracts, PO 16396 for Digital Automated Red Light Enforcement Program, Installation, Maintenance and Operational Support and PO 18031 Red Light Camera Traffic System, Equipment, Maintenance, Support and Repairs, have provisions that render them voidable for violations of Chapter 2-156 of the Municipal Code of Chicago. Providing a City employee with hotel accommodations in an amount of \$910.71 is a violation of the City's ethics laws and constitutes a breach of contract on Redflex's existing contracts with the City.

Illinois law requires that City contracts be awarded to responsible bidders. See 65 ILCS 5/8-10-3; *Walsh/II In One Joint Venture III v. MWRD*, 389 Ill. App. 3d 138, 147 (1<sup>st</sup> Dist. 2009). The term "responsible" means that the bidder can be trusted to adequately do the job, *S.N. Nielsen Co. v. Public Building Commission*, 81 Ill. 2d 290, 299 (1980), and that requirement comes from the Municipal Purchasing Act. 65 ILCS 5/8-10-3(a). Pursuant to 65 ILCS 5/8-10-11, in determining the responsibility of a bidder, the CPO "may take into account other factors in addition to financial responsibility, such as past records of transactions with the bidder, experience, adequacy of equipment, ability to complete performance within a specified time limit and other pertinent considerations."

The City has wide discretion to determine if a bidder is responsible. *Joseph J. Henderson & Son, Inc. v. Village of Crystal Lake*, 318 Ill. App. 3d 880, 885 (2<sup>nd</sup> Dist. 2001); *Armstrong v. Crystal Lake Park Dist.*, 139 Ill. App. 3d 991, 998 (2<sup>nd</sup> Dist. 1985); *Northwest Disposal Co. v. Village of Fox Lake*, 119 Ill. App. 3d 546, 551 (2<sup>nd</sup> Dist. 1983). The term "responsible bidder" is incapable of any exact definition, but it has been held that the term "responsible" includes the ability of the contractor to discharge his obligations in accordance with what may be expected under the terms of the contract. *Armstrong*, 139 Ill. App. 3d at 998; *Hallett v. City of Elgin*, 254 Ill. 343, 347 (1912). A public body possesses great discretion in determining the lowest responsible bidder. *Best Bus Joint Venture v. Board of Educ. of the City of Chicago*, 288 Ill. App. 3d 770, 778 (1<sup>st</sup> Dist. 1997) (quoting 10 McQuillin on Municipal Corporations ' 29.73a, at 429-30 (3d ed. 1966)). Financial responsibility and ability to perform are not the only relevant factors. *Id.* A contract may be awarded to another bidder, "where this is done in the public interest, in the exercise of discretionary power granted under the laws, without fraud, unfair dealing or favoritism and where there is sound and reasonable basis for the award as made." *Id.*

Therefore, pursuant to 65 ILCS 5/8-10-11, as a result of the above mentioned facts, I hereby find that Redflex is not a responsible vendor related to this Specification. I have therefore rejected Redflex's proposal for Specification No. 105615 pursuant to 65 ILCS 5/8-10-12.

Sincerely,



Jamie L. Rhee  
Chief Procurement Officer

cc: Stephen R. Patton  
Gabe Klein  
Lisa Schrader  
C. Christine Burns



## **City Red-Light Camera Vendor Under Scrutiny**

**Ties between ex-city official, contractor questioned; payment of \$910 hotel tab also at issue**

By David Kidwell, Chicago Tribune reporter  
October 14, 2012

Prompted by a Tribune investigation into allegations of wrongdoing in Chicago's red-light camera program, an Arizona-based firm has disclosed it paid a \$910 luxury hotel tab for the city official in charge of its contract and failed to tell City Hall about the ethics breach for two years.

Lawyers for Redflex Traffic Systems Inc. said the firm disciplined the executive vice president involved and sent him to "anti-bribery" training after the incident, but did not report the violation to the Chicago Board of Ethics until this month, after the newspaper's inquiries.

The company also acknowledged to the newspaper it did not disclose internal allegations about ties between the city official and a Redflex contractor who received more than \$570,000 in commissions — \$1,500 for each of the 384 cameras the company installed in Chicago.

The company said an exhaustive probe by an outside law firm found no evidence of an inappropriate relationship, although neither man was questioned in the probe. Both men told the newspaper they've done nothing improper.

The disclosures add to a growing list of questions about Redflex, including its relationship with John Bills, the man at City Hall who oversaw the company's biggest U.S. contract from its beginning in 2003. The Tribune previously disclosed that after retiring from the city last year, Bills went to work as a consultant for the Redflex-funded Traffic Safety Coalition.

That group, run by a political ally of Mayor Rahm Emanuel, backed the mayor's successful push to expand the city's camera program to target speeders. The Emanuel administration now has the authority to pepper half the city with cameras that could tag speeders in school and park "safety zones" for tickets as high as \$100. And Redflex is a top contender for the new business.

The stakes are huge — the business could be worth tens of millions of dollars to vendors, and the city has already reaped more than \$300 million in camera fines since 2003. Emanuel is counting on up to \$30 million in revenue next year from the new speed cameras, which the city hopes to begin testing late this year.

Redflex describes its Chicago camera contract as the "largest enforcement program in the world" and holds it out as a model in efforts to expand across the country.

A spokeswoman for Emanuel said late Friday that the mayor ordered the corporation counsel to review the allegations "that occurred before he took office" and the matter was also reported to the city inspector general's office.

"If true, the city will pursue all remedies, including permanent debarment of Mr. Bills and Redflex from ever doing business with the city of Chicago on any current or future contracts," said spokeswoman Sarah Hamilton. "The mayor has zero tolerance for this type of misconduct — from an employee or contractor — and will act swiftly and harshly whenever abuse is uncovered to protect Chicago taxpayers."

Many of the questions about the Redflex success in Chicago revolve around the friendship between Bills, who was the \$138,000-a-year managing deputy commissioner for the city Transportation Department, and Marty O'Malley, who was retained by Redflex as its Chicago liaison at the outset of the red-light program in 2003.

The two men told the Tribune they were longtime acquaintances whose families lived in the same Southwest Side neighborhood near the St. Bede Catholic Church years ago. They said neither of them knew what the other's job was until they met in their official capacities with the fledgling Chicago program — Bills on one side as the overseer of the city contract and O'Malley on the other as the Redflex customer service representative.

Both Bills, 51, and O'Malley, 72, said their relationship played no role in O'Malley's hiring and in no way influenced Bills' management of the contract. Both said their friendship grew while working closely together on the program for nearly a decade.

Redflex general counsel Andrejs Bunkse said Thursday that the company was unaware the two men knew each other before O'Malley was hired. He said, "I do not know," when asked whether Bills played any role in O'Malley's hiring.

But in an Aug. 24, 2010, letter to the board of directors of the company's Australian parent company, a Redflex executive raised questions about Bills' relationship with O'Malley and said O'Malley's involvement in the program was unnecessary. The Tribune has obtained a copy of the letter, which alleged myriad internal problems at the company.

It also alleged Bills received "nonreported lavish" hotel accommodations "directly on the expense report" of Redflex Executive Vice President Aaron Rosenberg.

"This alone would nullify our contract arrangement with Chicago," the letter said.

Bunkse said the company was rocked by the serious allegations and the board of directors ordered an outside investigation by the Chicago law firm of Quarles & Brady. He said the three-week "deep-dive" probe included employee interviews and an extensive review of company expense reports. The investigation discounted most of the allegations in the letter, Bunkse said, with the notable exception of the one-time hotel tab for Bills.

Bunkse further cast doubt on the letter by claiming the executive wrote it while under investigation by the company for substantial abuse of a company expense account. Rosenberg was warned by Redflex's top executives "that this was a potential conflict of interest issue and a violation of company policy and a follow-up event would result in his termination," Bunkse said. "And we put him through anti-bribery training."

The company also overhauled its expense account procedures, including appointing an outside agent to handle travel and hotel arrangements.

"It was unacceptable, and we put in many more measures in addition to that as a result," said Bunkse. "But at the time we did not tell the Board of Ethics about it, it was an oversight and a lapse."

Allegations about an improper relationship between Bills and O'Malley were unfounded, Bunkse said. The company told the Tribune its investigators didn't interview Bills because he was a city employee and also didn't interview O'Malley. The firm said it spoke with O'Malley last week, after the newspaper's inquiries.

The company also sought reimbursement from Bills after the Tribune inquiry. The company declined to provide its 2010 investigative report, Rosenberg's expense reports or the filing last week to the city ethics board.

Bills, in an hourlong interview with the newspaper, said he first learned there was a problem when he received a call from Rosenberg in the first week of October.

"He told me there was some kind of internal audit and they discovered a discrepancy," Bills said. "Apparently they inadvertently paid some expenses for me, at a hotel, and he wanted me to take care of it."

Bills said he travels to Arizona at least once each year to watch the White Sox in spring training. In March 2010, he said all the rooms were booked.

"So I remember I called Aaron and asked if he could do anything," Bills said. "He said he would see what he could do. He called me back and said he booked me a room and that all I would have to do is pay for it."

Bills said he presented his credit card at the hotel and the room tax and incidental expenses were charged to it. He said he never noticed that the hotel room was never charged to his card. "It was a mistake," he said.

Bills acknowledged he told his ex-wife the Arizona trips were for business. "I might have told her that, just to stay out of trouble at home," he said.

Bills said he cut a check to reimburse Redflex after the call from Rosenberg and immediately reported himself to the ethics board. City ethics rules ban employees from taking such gifts or contractors from giving them.

"I never would have intentionally accepted a dime from Redflex, I wouldn't do that," said Bills. As to his relationship with O'Malley, Bills said, "I did not recommend him for the job at Redflex and had nothing to do with him getting hired.

"I have never taken a dime from Marty," Bills added. "I was a strong proponent of the system, it works. It was never about the money with me."

In a separate interview, O'Malley told the Tribune he was hired by Redflex after answering a classified employment ad for a customer service representative.

"They flew me out to Phoenix for the interview," said O'Malley, a resident of south suburban Worth who said his previous employment included work for an environmental abatement

company in Louisiana. "Redflex knew nothing about the city of Chicago. I don't know what they saw in me, but in the environmental business I negotiated a lot of high-priced contracts." O'Malley said the interview went well.

"I told them about Chicago, how it is a city of 50 aldermen and it is like an orchestra of soloists. You have to listen to each one or you don't have a chance," O'Malley said.

He attributed his lucrative pay arrangement to his negotiation skills.

"I have been a commission salesman a lot," O'Malley said. "I threw out the idea that I should get 3 percent of every ticket, but it was just laughed at. I tried to negotiate the best deal I could."

In the end, he said, he negotiated \$50,000 in annual pay and \$1,500 commission for every camera installed in the city. "I'm sure had they known at the time how big it was going to get they would have never given me so much," he said. "I made out pretty good."

Bunkse, the Redflex general counsel, said such a commission agreement is not unusual for the company.

"I know he's been paid a great deal of money; we've also generated a great deal of money from the program by a wide margin compared to any other program," Bunkse said.

O'Malley said his neighborhood ties to Bills had nothing to do with him getting the job and Bills' name never came up in the interview with Redflex.

"I never talked to him about it," O'Malley said, adding they didn't know each other well before working together on the contract.

"My wife's girlfriend's son ran around with John Bills," O'Malley said. "The name of the Bills family was familiar. We were in the same neighborhood, went to the same church, but I didn't really know them that well. It was proximity more than anything else."

Bills and O'Malley said there was never a financial connection between them, but they became good friends while working together on the contract.

"We worked together constantly every day, of course," O'Malley said. "Yes, I went to his daughter's graduation. I went to his father's wake. John has a real passion to make the program work. I had a passion to make the program work."

[http://articles.chicagotribune.com/2012-10-14/news/ct-met-chicago-red-light-cameras-1014-20121014\\_1\\_camera-program-red-light-camera-redflex-traffic-systems](http://articles.chicagotribune.com/2012-10-14/news/ct-met-chicago-red-light-cameras-1014-20121014_1_camera-program-red-light-camera-redflex-traffic-systems)



## **Mayor's speed cameras would help political ally**

**Longtime Emanuel backer consults for firm that stands to make millions from city's push for traffic devices**

By David Kidwell, Jeff Coen and Bob Secter, Chicago Tribune reporter  
March 13, 2012

When Rahm Emanuel was a first-time candidate for Congress, Greg Goldner was behind him, quietly marshaling the patronage troops that helped get him elected. When Emanuel ran for mayor, Goldner was there again, doling out campaign cash to elect Emanuel-friendly aldermen to City Council.

And when the rookie mayor was looking for community support for his school reform agenda, there was Goldner, working behind the scenes with the ministers who backed Emanuel's plan.

Now, it turns out the longtime allies share another interest — the installation of automated speed cameras in Chicago.

As consultant to the firm that already supplies Chicago its red-light cameras, Goldner is the architect of a nationwide campaign to promote his client's expansion prospects. That client, Redflex Traffic Systems Inc., is well-positioned to make tens of millions of dollars from Emanuel's controversial plan to convert many of the red-light cameras into automated speed cameras.

Emanuel is expected to present his speed camera proposal to City Council on Wednesday, and his aides began briefing aldermen on the plan Monday.

In an interview at his Resolute Consulting LLC offices, Goldner said there is no connection between his political support for Emanuel and the mayor's staunch support for speed cameras. He said he wasn't aware Emanuel was pushing a speed camera plan in his hometown until he read it in the Tribune in late October.

He acknowledged others may have a different perception.

"The fact is you guys are going to write your story, and you know, it's legitimate," Goldner said. "It's a legitimate news story. ... I can't dispute it."

In a city long defined by the intersection of political clout and business might, Emanuel campaigned on a pledge to change a culture where government is "an insider's game, serving primarily the lobbyists and well-connected." But the converging interests of the mayor, his political consultant and the camera company are likely to fuel more skepticism about an initiative already labeled by critics as a money grab for the cash-starved city.

Emanuel declined to answer questions about Goldner. But spokeswoman Sarah Hamilton said, "There is no connection.

"As the mayor has said, this is about doing the right thing for our children and keeping them safe," she said.

Goldner's unassuming style and California roots belie his critical role in the political careers of two consecutive Chicago mayors. A former campaign manager for former Mayor Richard Daley, Goldner helped command political street armies that also worked to elect Emanuel to Congress in 2002. Goldner was Emanuel's campaign manager in that race.

In late 2010, as Emanuel was launching his campaign to replace Daley, Goldner formed a political action committee, For a Better Chicago, to help elect a pro-Emanuel City Council. The lawyer who helped set up the PAC, Michael Kasper, was defending Emanuel against a ballot challenge that nearly knocked him out of the mayor's race.

Kasper is a state lobbyist for Goldner's camera client, Redflex, an Australian company that counts Chicago as is its largest U.S. customer.

After Emanuel's election, Goldner said, he began working on plans for legislation to legalize speed cameras statewide. To bolster his efforts, he said, in September he retained the services of a key Chicago traffic expert who had just left City Hall.

But Emanuel pre-empted any statewide effort with one just for Chicago. The mayor had a bill introduced in Springfield in October to let him transform much of the city's existing network of nearly 200 red-light cameras into the equivalent of automated radar guns near schools and public parks.

With the Chicago police chief and schools CEO fronting the effort, Emanuel pitched the plan as a child-safety initiative and rolled to a quick victory at the Statehouse, despite questions about the statistics the mayor used to justify the push.

Goldner and Kasper both said they never talked to Emanuel about the camera issue.

But by last fall the interests of Resolute, Redflex and Emanuel had officially converged — though it would be nearly impossible for the public to know.

The Emanuel administration has repeatedly denied Tribune requests for public records related to the speed-camera push, releasing a small fraction of the requested information months after the mayor's bill was passed by state lawmakers.

Redacted city email shows Kasper, Redflex's lobbyist, had suggested changes in the Emanuel speed-camera bill.

Resolute got on board with the mayor's push after he announced it, Goldner said. The firm said it has since provided the city with data and "talking points" on the issue.

But until now, Resolute's role as a primary player in the national traffic camera debate has been largely unpublicized — including its efforts here.



Most of the firm's work on the issue is done through the Traffic Safety Coalition, a group it created with funding from Redflex that seeks to establish support across the country by forging relationships with law enforcement, pedestrian-friendly groups and relatives of pedestrians killed by errant drivers. The coalition pushes for new camera laws, defends against regional uprisings to ban cameras and produces gut-wrenching video testimonials about fatal crashes.

Resolute Consulting was first hired by Redflex in late 2009 amid a successful effort to fend off a backlash in the Illinois Legislature that could have resulted in a statewide ban on red-light cameras.

In its filings with the Australian Securities Exchange, Redflex said, "In Illinois, a firm was engaged to manage the media interface, develop an advocacy to write letters to the editor, blog on a micro-site about street safety, and be ready to testify in committee hearings." The company confirmed that firm is Resolute.

Within weeks of being hired, Resolute was producing news releases sent out under the name of the Traffic Safety Coalition. The coalition is based at Resolute offices in Chicago, and Goldner confirmed Redflex is the coalition's sole financial supporter.

The news releases touted the effectiveness of automated traffic cameras and described the coalition as "a grass-roots organization comprised of public safety professionals, law enforcement officials, victim's advocates, health care professionals, academics and industry leaders."

The coalition soon began showing up in battleground states for traffic cameras, including Ohio, New Mexico and Texas.

Goldner acknowledged last week that the coalition's strategic model involves an early appearance in markets that interest Redflex, building community support, finding examples of children victimized by errant drivers, videotaping their parents and then asking sympathetic policymakers to file a bill or pass an ordinance in support of automated traffic cameras.

In other instances, Goldner said, Resolute and the coalition end up playing defense to tamp down proposed camera bans and other community opposition. Goldner acknowledged that the aim of all the coalition work related to the expansion of his client's business.

While Resolute was working to expand Redflex's business across the country, in fall 2010 Chicago was focused on the much-anticipated announcement of Emanuel's run for mayor. Goldner's attention likewise turned to local politics.

Goldner and his chief operating officer at Resolute, David Smolensky, formed For a Better Chicago in late 2010 and armed its political action committee with more than \$855,000 in donations from business interests the group was not required to disclose under the law. At Goldner's direction, the political action committee worked to elect aldermen who would support a pro-business, pro-Emanuel agenda on the City Council.

Goldner said none of the secret donations to For A Better Chicago came from Redflex.

"Not from the company or anyone associated with them in any way shape or form," he said.



Resolute stepped up its speed-camera campaign in 2011. Goldner and two other top Resolute executives from Chicago who manage the Redflex account formed the Texas Traffic Safety Coalition in that state in March. A day later, the coalition filed a lawsuit that helped stop a ballot initiative against red-light cameras in the Gulf Coast town of Port Lavaca.

Goldner said 2011 was also when he began speaking with Illinois lawmakers about an initiative to allow the use of speed cameras throughout the state.

By late May, less than two weeks after Emanuel was inaugurated, the city's transportation commissioner, Gabe Klein, sent the first of more than 500 city emails on the issue of speed cameras, according to a log provided to the Tribune.

One of Klein's top deputies at the time was John Bills, who ran the city's red-light camera program and played an instrumental role in Redflex's city contracts.

By late September, Bills had quit his city post and begun doing consulting work for Resolute and the Traffic Safety Coalition. Goldner acknowledged the perception of a conflict but said last week he would not have hired Bills had he known at the time the city was considering speed cameras.

"I would say in hindsight that if I knew this bill was going to pass and there might be a procurement coming out and would we still do the same thing with John Bills, probably not," he said. "I don't have the luxury of making decisions going in reverse."

By mid-September, though, Emanuel's proposal was already quietly under review in the Statehouse, the Tribune has learned. It wouldn't become public until October.

On Sept. 25, Resolute shot a series of videos at the annual Stop for Maya walk, marking the death of 4-year-old Maya Hirsch, run down in 2006 near Lincoln Park Zoo by a man accused of blowing the stop sign and who pleaded guilty to leaving the scene.

Goldner's For a Better Chicago co-sponsored the march, along with Goldner's Resolute Consulting and his client Redflex, which also had sponsored the event in 2010.

The mayor did not attend, but Senate President John Cullerton, D-Chicago, was there as the honorary chairman. On a Resolute video, Cullerton urged participants to go to Springfield and try "to pass legislation that can make a difference."

In late October, Cullerton officially filed Emanuel's bill.

In pushing state lawmakers to support speed cameras, Emanuel said he needed to move fast to save children's lives. It's an argument he continues to make, despite questions about the accuracy of safety statistics the mayor uses.

Goldner, who directed more than \$445,000 in campaign donations to City Council races last year, was adamant that neither he nor his operatives have had any contact with the aldermen he supported through For a Better Chicago.

"There's not one member of City Council that would ever say that I've called to lobby them on any of those issues," he said.

Goldner's resume in bare-knuckle Chicago politics dates to his time as a political aide for Daley. After leaving to form Resolute, Goldner was Daley's 2003 campaign manager and a consultant to the Hispanic Democratic Organization, a patronage army that provided campaign muscle for Daley.

In a federal investigation of City Hall hiring, a former high-ranking city official who admitted to running a patronage army testified in 2006 that he took election-season orders from Daley operatives including Goldner, whose firm was subpoenaed by prosecutors for records. He also testified that he led city patronage workers who helped elect Emanuel to Congress in 2002, with Goldner as the campaign manager.

About the time he was launching the PAC to support Emanuel's latest campaign, Goldner also dedicated some of his firm's resources to supporting a push for longer school days and more charter schools — key planks in Emanuel's school reform agenda.

Goldner recently acknowledged to the Tribune that he coordinated with ministers who have delivered busloads of witnesses to testify in favor of the mayor's proposals at public hearings.

But much as he explains his education work as nothing more than an interest shared with the new mayor, Goldner says his speed-camera campaign and the mayor's push are simply coincidence — parallel paths that didn't intersect until late last year.

"It wasn't until we read the media reports that we knew about Chicago," he said. "I don't know how to be any more clear than that. I just don't."

[http://articles.chicagotribune.com/2012-03-13/news/ct-met-resolute-emanuel-speed-cameras-20120313\\_1\\_speed-cameras-greg-goldner-red-light-cameras](http://articles.chicagotribune.com/2012-03-13/news/ct-met-resolute-emanuel-speed-cameras-20120313_1_speed-cameras-greg-goldner-red-light-cameras)

## Exhibit K

### Redflex Traffic Systems Related Lawsuits

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----- **2012 - 2014** -----

2012 - 2013

Chicago Media Coverage of Redflex, March 13, 2012 – August 12, 2013 (Compiled by other source without links) – See attached

March 21, 2013

[Redflex Execs in Phoenix Resign Over Corruption Investigation](#) – PHX New Times

July 19, 2013

[Red Light Firm Red in the Face](#) – The Austin Chronicle

June 4, 2014

[Traffic cameras in West Carrollton, Trotwood targeted in court](#) – Dayton Daily News

August 25, 2014

[Who watches the automated traffic watchmen?](#) – Washington Post

----- **2015** -----

March 11, 2015

[Louisiana Court Of Appeal Approves Anti-Redflex Lawsuit](#) - The Newspaper.com

June 19, 2015

[City Council President Andrew Ginther caught up in red-light camera bribe case](#) - The Columbus Dispatch

Ex-CEO of red light camera vendor pleads guilty to Ohio bribe scheme (see attachment) - Chicago Tribune

June 19, 2015

[Karen Finley, Ex-CEO of Redflex, Pleads Guilty to Bribery](#) – PHX New Times

July 15, 2015

[Columbus Terminates Red Light Camera Contract With Redflex](#) – WOSU (Ohio Public Radio)

July 28, 2015

[Editorial: Traffic camera scandal raises abuse concerns](#) – De Moines Register

August 19, 2015

[Were city officials bribed in 2007?](#) – Cincinnati Enquirer

August 31, 2015

Chicago sues red light camera firm for \$300 million (see attachment) - Chicago Tribune

October 28, 2015

[Garden Grove Council Bucks Trend, Votes to Keep Red Light Cameras](#) - Voice of OC (Orange County, CA)

----- 2016 -----

January 19, 2016

Redflex salesman testifies his role was 'to keep John Bills happy' (see attachment) - Chicago Tribune

January 27, 2016

[Red Light Cameras and Corruption: Ex-Chicago Official Convicted](#) - Governing

April 1, 2016

[Photo Enforcement Shut Down In Arizona](#) – The Newspaper.com

May 11, 2016

[Federal Appeals Court Rescues Red Light Camera Challenge](#) - The Newspaper.com

May 18, 2016

[Redflex Attacks Former Executive](#) - The Newspaper.com

May 21, 2016

[GoSafe speed camera firm in US lawsuit over alleged graft](#) – The Irish Times

June 9, 2016

[Redflex Lobbyist Sentenced In Ohio Bribery Scandal](#) – The Newspaper.com

June 29, 2016

[Texas Judge Declares Red Light Camera Program Illegal](#) - The Newspaper.com

August 9, 2016

[Federal Judge Issues Interim Ruling In Redflex Fraud Suit](#) - The Newspaper.com

August 29, 2016

[Chicago insider who took \\$2 million in bribes in red light camera scandal gets 10 years in prison](#) - Los Angeles Times

October 21, 2016

[Former Redflex CEO jailed 14 months for Ohio bribes](#) – The FCPA Blog

[Ex-Redflex CEO Karen Finley Sentenced to 30 Months in Speed-Camera Bribery Scheme](#) – PHX New Times

December 27, 2016

[Redflex to pay City of Columbus, avoid prosecution](#) – WBNS 10 (Columbus, OH)

[Redflex Traffic Systems Enters into Non-Prosecution Agreement with United States](#) – U.S. Attorney's Office, Southern District of Ohio (News Release)

December 28, 2016

[Red-light camera operator reaches deal in bribery scandal](#) - WTOP (D.C.)

----- **2017** -----

February 6, 2017

[Arizona-Based Redflex Photo Radar Firm to Pay \\$20 Million to Chicago for Bribery Scheme](#) - PHX New Times

[Chicago's Lawsuit Against Redflex Settled for \\$20M Following Red-Light Camera Scandal](#) - NBC 5 (Chicago)

Redflex to pay \$20 million to Chicago to settle lawsuit over red-light camera bribery (see attachment) - Chicago Tribune

February 18, 2017

[Town Ordered to Pay Back \\$3 Million in Traffic Camera Fines](#) - Fortune

June 25, 2017

[State government reserves decision on troubled road camera operator Redflex](#) - The Age (Australia)

July 20, 2017

City reaches \$38.75 million settlement in red light ticket lawsuit (see attachment) - Chicago Tribune

October 7, 2017

[Illinois Drivers Fight Back Against Red-Light Cameras](#) - Illinois Policy

October 10, 2017

[Texas Appeals Court Slaps Down Redflex In Class Action Suit](#) - The Newspaper.com

October 12, 2017

[Motorist gets green light to sue red light camera company](#) – The Texas Monitor

----- **2018** -----

February 19, 2018

[How an Oregon man's fight for traffic camera fairness reached a federal court](#) - Digital Trends

March 14, 2018

[Ohio town must pay back millions of fines collected from speed cameras, court rules](#) – FOX news

June 15, 2018

[Lawsuit against Denton's red-light camera program on its last breaths](#) - Denton Record-Chronicle (TX)

October 3, 2018

[Despite History Of Corruption, Chicago Suburbs Still Contracting With Disgraced Red-Light Camera Vendor](#) - Illinois Policy

October 30, 2018

[Redflex: More Red Light Camera Red Ink](#) – The Newspaper.com

12/19/2018

After setting up illegal speed trap, this Arizona city is repaying drivers nearly \$100K (see attachment) - AZ Republic

----- **2019** -----

January 15, 2019

[Drivers' Fight of Red-Light Cameras Likely Headed Into Skid](#) - Courthouse News Service

August 30, 2019

[State: The company that installed Denver's red-light cameras didn't have license](#) - 9 News (Denver)

February 13, 2019

[Local, state officials rethink stance on red-light cameras](#) -Community Impact Newspaper (Grapevine, TX)

March 30, 2019

[Woman wins \\$100,000 in suit claiming St. Peters police falsely arrested those ticketed by red light cameras](#) - St. Louis Post Dispatch

April 25, 2019

[Redflex to pay \\$20 million to Chicago to settle lawsuit over red-light camera bribery](#) - Hartford Courant (Connecticut)

May 28, 2019

[Denton Lawyer Who Sued Over Red Light Cameras Reacts to Pending Ban](#) - NBC 5 (Dallas/Fort Worth)

June 3, 2019

[North Texas Police Department Terminates Contract With Red Light Camera Company](#) - CBS 11 (Dallas/Fort Worth)

June 8, 2019

[Texas Is Latest State to Pump the Brakes on Red-Light Cameras](#) - New York Times

July 19, 2019

[Federal Appeals Court Rescues Red Light Camera Lawsuit](#) - The Newspaper.com

August 2, 2019

[Judge Temporarily Blocks State's New Red Light Camera Law](#) - WCBE/NPR (Ohio)

August 20, 2019

[Colorado Issues Cease And Desist Order To Redflex](#) - The Newspaper.com

August 29, 2019

[State Says Company That Installed Denver Red Light Cameras Was Unlicensed](#) - CBS 4 (Denver)

August 30, 2019

[State: The company that installed Denver's red-light cameras didn't have license](#) - 9 news (Denver)

October 30, 2019

[Redflex Paints \\$8.6 Million Loss As A Win](#) - The Newspaper.com



## Exhibit L

Danny



MAKING A **SAFER** WORLD.

RECEIVED

FEB 05 2014

January 28, 2014

Ed Zuercher  
City Manager  
City of Phoenix  
200 W Washington St  
Phoenix, AZ 85003

Dear City Manager Zuercher:

I'm writing you today because I want to inform you know about a story that ran in last week's *Chicago Tribune* about a counterclaim filed against Redflex Traffic Systems, Inc.

This counterclaim was filed by Aaron Rosenberg, a former Redflex executive vice president, who was terminated from the company last March after an internal investigation uncovered violations of company policies and procedures. Redflex denies the allegations in the counterclaim and will aggressively defend itself against the allegations as well as prosecute its claims against Mr. Rosenberg. As we have said previously, we shared the findings from our internal investigation with the appropriate authorities and will continue to cooperate as necessary.

We are prepared to address any questions regarding any aspect of Redflex or municipal employee conduct that elected officials or staff members may have. Upon request, we will provide an audit report of gifts and gratuities extended to any governmental official or employee since January 2013. We are proud of the steps we've taken, and challenge the rest of the industry to meet our standards.

Included with this letter is further information regarding the corrective actions we've implemented. If you have any questions about this issue, our corrective actions or any other aspect of our relationship, please contact me directly at [jsaunders@redflex.com](mailto:jsaunders@redflex.com).

Sincerely,

A handwritten signature in black ink that reads "James A. Saunders".

James A. Saunders  
President and Chief Executive Officer  
Redflex Traffic Systems, Inc.

**1. An extensive, voluntary and independent internal investigation was conducted.**

- Last year, Redflex conducted an extensive examination into our City of Chicago contract and other areas of our business, and transparently communicated our findings as well as our corrective actions.
- In January 2013, we implemented the TRACE International System in an effort to avoid any future issues. This system manages and tracks customer entertainment expenses and ensures we remain in compliance with municipal ordinances and regulations.
- We also adopted and implemented best-in-class anti-bribery and anti-corruption policies, training and procedures. A complete listing of the company's corrective and preventative actions is available on our website and upon request.
- We are committed to transparency and continue to cooperate with the authorities.

**2. We made aggressive changes to our executive leadership.**

- The changes we made to our executive leadership went beyond just one person.
- The individuals who engaged in, had knowledge of, or should have had knowledge of the inappropriate conduct – our former CEO, former Executive Vice President of Business Development, former General Counsel and former Chief Financial Officer – are no longer with the company.
- Leading the industry means more than just great products and great people – it also means an unwavering commitment to doing the right thing.

**3. We stand ready to collaborate with our customers.**

- We are prepared to address any questions regarding any aspect of Redflex or municipal employee conduct that any elected official or staff member may have.
- We are proud of the steps we've taken and challenge the rest of the industry to meet our standards.
- Upon request, Redflex will provide an audit report of gifts and gratuities extended to any governmental official or employee since January 2013.

**4. Protecting the Redflex brand.**

- As a matter of company policy, Redflex does not comment on pending litigation. However, Redflex denies the allegations in Aaron Rosenberg's counterclaim and will vigorously defend itself against those allegations. Additionally, it will continue to prosecute its claims against Mr. Rosenberg.
- For more than 25 years, Redflex has worked to make roadways safer across the country, and our focus remains on making a life-saving difference in all we do. We remain committed to our customers and their public safety goals. We are grateful for their ongoing support.
- We are pleased that the market has responded favorably to our corrective actions and our continuing commitment to customer service: since March we have signed, renewed or executed over 90 contracts.



## Exhibit M



### City of Phoenix

To: Ed Zuercher  
Assistant City Manager

Date: May 23, 2013

From: Bill Greene  
City Auditor

Subject: **REDFLEX CONTRACT PROCESS (3130008)**

#### BACKGROUND

At your request, we gathered information to answer the following questions concerning *Redflex*, a City of Phoenix contractor.

#### WHAT PROCESS WAS USED TO PROCURE THE REDFLEX CONTRACT?

The Finance Department's procurement division was responsible for procuring the *Redflex* contract for the requesting department (Police Department). The Police Department was responsible for monitoring the vendor's performance and approving payments.

The *Redflex* photo radar contract was procured through an *Invitation For Bid* (IFB) process which awards contracts to the lowest *responsible and responsive* (responsive) bidder. According to Administrative Regulation 3.10, a Request for Proposal (RFP) is used for soliciting competitive proposals. The RFP process permits negotiation of proposals and prices as distinguished from an IFB that does not permit negotiation of proposals and prices from responsive bidders. For the *Redflex* contract, there were three responsive bidders with one protest received from the prior vendor (American Traffic System). The Finance Department responded to the protest and supported the contract award to *Redflex* as the lowest responsive bidder.

The original contract, effective July 1 2009, was for a term of three years and included the option for two one-year renewals and was approved by City Council. The contract requires the City to pay the vendor a set fee per issued citation. *Redflex* is not paid until the City is paid by the violator; payment is based on a set fee for each citation.

#### Extensions

According to Finance procurement staff, City Council approval is not needed for contract extensions if there are no changes to the contract terms if the option to extend was approved in the original contract. Therefore, the first extension was executed on March 2, 2012 without additional City Council approval.

The second extension was executed on March 26, 2013 without additional City Council approval. According to the procurement file, Finance and Police staff were aware of the negative publicity surrounding the *Reflex* contract. The file also indicated that a "thorough

review of the contract and vendor" was to be completed prior to executing the second contract extension. Based on the assumption that a thorough review was completed, Finance executed the second extension.

WAS THE CONSULTANT WHO WAS INVOLVED WITH THE CITY OF CHICAGO REDFLEX CONTRACT, OR ANY OTHER PROCUREMENT CONSULTANT, INVOLVED WITH THE CITY OF PHOENIX PROCUREMENT?

Based on our interviews with all key City staff and our review of the procurement file, there was no indication that *Redflex* used a consultant to assist during the procurement process of the initial City contract or any of the subsequent extensions. We also contacted *Redflex* executive staff and confirmed that a consultant was not used to procure the Phoenix contract.

WERE ANY CITY EMPLOYEES DIRECTLY INVOLVED WITH THE REDFLEX PROCUREMENT OR CONTRACT MONITORING OFFERED GIFTS OR PAYMENTS FROM REDFLEX?

We interviewed all key City staff that were either involved in the initial procurement process and/or have continuing job duties related to the contract including: Finance procurement, Municipal Court (citation processing), and Police (reviewing and issuing citations, invoice review and payment approval, and budget). Each person we interviewed responded that they were not offered nor did they receive anything of value from *Redflex*. Each person interviewed also responded that they were not aware of anyone else being offered or receiving anything of value from *Redflex*.