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PRESS RELEASE

I have been asked by the news media whether traffic charges will be placed against either of the two drivers involved in the November 27, 2007 accident on Lakeside Drive in which one of the vehicles struck and damaged a propane tank. I have met with the two members of the Lynchburg Police Department Traffic Unit who investigated the accident. I also have read all the police reports filed in the case.

FACTS

Any criminal charge, whether in this matter or any other case, must be based on facts. Those facts must be of sufficient cumulative weight that they will probably convince a judge or jury beyond a reasonable doubt that the defendant has engaged in conduct that violates the criminal or traffic laws of Virginia. Anything less is not enough.

Unfortunately, in this case, the facts are in equipoise. Both drivers, in their statements to the investigating officers, placed the blame on the other. What few other witnesses there were only saw the aftermath and not what caused the collision.

In order to place or prosecute a charge, there must be probable cause to believe that an offense took place and that the accused did it. While probable cause exists to believe that an offense took place, there is no factual way to break the tie as to who committed it. If we cannot determine who was at fault when the standard is probable cause, there is no way a judge could determine anyone's guilt beyond a reasonable doubt. Additionally, Rule 3.8 of the Rules of Professional Conduct states: "A lawyer engaged in a prosecutorial function shall not file or maintain a charge that the prosecutor knows is not supported by probable cause." The Rules of Professional Conduct are a mandatory guide to my conduct as an attorney.

CONCLUSION

As a result, I have instructed the investigating officers that we will not be pursuing charges in this matter. This decision to not place any traffic charge in no way interferes with any party's right to proceed civilly, if they are so inclined.