

STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT

FILED

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DISTRICT COURT
DONA ANA COUNTY, NM

ENDORSED

STATE OF NEW MEXICO,

Plaintiff,

vs.

No. D-307-CV-2012- 515

SUNLAND PARK MUNICIPAL GOVERNMENT
BY AND THROUGH ELIZABETH GAMEZ,
CITY CLERK OF SUNLAND PARK,

Defendant.

THIS CASE HAS BEEN ASSIGNED TO
MANUEL I. ARRIETA

**VERIFIED EMERGENCY PETITION TO ENJOIN SUNLAND PARK CITY CLERK
FROM CONDUCTING THE MARCH 6, 2012 MUNICIPAL ELECTION**

COMES NOW, Amy L. Orlando, District Attorney for the Third Judicial District, State of New Mexico, appearing as a party and as representative of Dianna J. Duran, Secretary of the State of New Mexico and Chief Election Officer of the State of New Mexico, and, Bobbi Shearer, Director of the Bureau of Elections for the State of New Mexico who represent the interests of the qualified electors of Sunland Park, and petitions this Court to enjoin and to otherwise suspend the regular municipal election now scheduled for March 6, 2012 in Sunland Park, New Mexico and in support of said petition.

JURISDICTION

The secretary of state is the chief election officer who through the attorney general or the district attorney having jurisdiction brings such actions as deemed necessary and proper for the enforcement of the provisions of the Election Code. *See* NMSA 1978 §1-2-1; *see also* §3-8-6.1. Further, the attorney general and the several district attorneys of the state upon request of the

secretary of state shall provide to the secretary of state legal advice, assistance, services and representation as counsel in any action to enforce the provisions of the Election Code. *See* NMSA 1978 §1-2-1.1(A).

Chapter 1 NMSA 1978 is cited as the "Election Code." It is the purpose of the Election Code to secure the secrecy of the ballot, the purity of elections, guard against the abuse of the elective franchise and to provide for efficient administration and conduct of elections. *See* NMSA 1978 §1-1-1.

Chapter 3, Articles 8 and 9 NMSA 1978 is cited as the "Municipal Election Code". The purpose of the Municipal Election Code to secure the secrecy of the ballot, the purity of elections, guard against the abuse of the elective franchise and to provide for efficient administration and conduct of elections. *See* NMSA 1978 §3-8-1(B). Further, the Municipal Election Code governs all aspects of municipal elections except if the Municipal Election Code is silent or in conflict with the Election Code, then the state Election Code governs. *See* NMSA 1978 §3-8-1(E).

VENUE

The City of Sunland Park was incorporated in 1983 and is located in Dona Ana County. The City of Sunland Park is within the jurisdiction of the Third Judicial District of New Mexico. The matters alleged herein under the Election Code and Municipal Election Code are properly within the venue of the Third Judicial District Court. *See* NMSA 1978 §1-1-1 *et seq*, §3-8-1 *et seq*, and §3-9-1 *et seq*.

BACKGROUND OF THE INVOLVEMENT OF THE DISTRICT ATTORNEY'S OFFICE

The District Attorney received complaints of possible Election Code violations and

allegations of extortion involving city officials and candidates for office on or before February 16, 2012.

The District Attorney and their law enforcement designees from several different agencies were assigned to the Secretary of State for purposes of investigation and enforcement of the Election Code. In addition to this investigation, the District Attorney and its designated investigators began a parallel criminal investigation which led to the arrest of Sunland Park City Councilor, Mayor Pro Tem and mayoral candidate, Daniel Salinas; City Manager Jaime Aguilera and Human Resources Assistant Martah Alondra Lozano as well as an arrest warrant for the Public Works Director Jesus Dario Hernandez.

The actions of the Mayor Pro-Tem, City Manager, Public Works Director and the Human Resources Assistant evidence a concerted, calculated and deliberate plan to undermine the integrity of the March 6, 2012 Sunland Park municipal election. These arrests and the investigation that resulted in those arrests revealed facts and allegations that focused attention on the propriety of the election process and which caused further review of the Sunland Park City Hall election processes and ability to hold a fair and legal election on March 6, 2012. *See* attached State's Exhibits B - J.

BACKGROUND OF THE INVOLVEMENT OF THE SECRETARY OF STATE

Pursuant to §1-2-1 thru §1-1-25, NMSA 1978 comp, the Secretary of State and her designees have spent the last two and half days in Sunland Park, New Mexico investigating the Sunland Park Clerk's Office, the Sunland Park City Hall and to some extent, the entire election process in Sunland Park for the upcoming election. They have completed their investigation and review and their

findings are attached as State's Exhibit A. ¹ *See also* State's Exhibit K.

The Secretary of State has reported her findings of possible violations of the Election Code of which the Secretary of State has knowledge to the district attorney for prosecution. *See* NMSA 1978 §1-2-2(D). Further criminal investigation and prosecutions will proceed accordingly, however, as a result of the findings, it is clear in the mind of the Secretary of State, the District Attorney of the Third Judicial District and the Director of the Bureau of Elections that the March 6, 2012 municipal election *should not proceed* because of the numerous failings of the processes, the fraudulent registration of voters and the evidence that many who have already voted, cannot under New Mexico Law. It is clear from the evidence uncovered to this point, the integrity of the election process is so compromised that there is *no confidence* that the election will accurately reflect the wishes of the qualified electorate of Sunland Park.

STATUTORY REQUIREMENTS

Constitutional and statutory provisions calculated to protect the secrecy and purity of the ballot are to receive favorable consideration. See ex rel. Read v. Crist, 25 N.M. 175, 179 P. 629 (1919). The statutes cited in State's Exhibit A are as follows:

1-20-3. Registration offenses.

Registration offenses consist of performing any of the following acts willfully and with knowledge and intent to deceive any registration officer or to subvert the registration requirements of the law or rights of any qualified elector:

A. signing or offering to sign a certificate of registration when not a qualified elector;

¹While a two and a half day investigation and review is significant, their findings indicate such a systemic failure that a significantly more thorough inquiry is required to assure the public that democratic and fair elections in the future will result.

- B. falsifying any information on the certificate of registration;
- C. soliciting, procuring, aiding, abetting, inducing or attempting to solicit, procure, aid, abet or induce any person to register or attempt to register with the name of any other person, whether real, deceased or fictitious; or
- D. destroying the certificate of registration of any qualified elector, or removing such certificate from its proper binder or file, except as provided in the Election Code.

Whoever commits a registration offense is guilty of a fourth degree felony.

3-8-75. False voting; falsifying election documents; false swearing; penalty.

A. False voting consists of:

- (1) voting or offering to vote with the knowledge of not being a qualified elector;
- (2) voting or offering to vote in the name of any other person;
- (3) knowingly voting or offering to vote in any precinct except that in which one is registered;
- (4) voting or offering to vote more than once in the same election;
- (5) inducing, abetting or procuring or attempting to induce, abet or procure a person known not to be a qualified elector to vote; or
- (6) inducing, abetting or procuring or attempting to induce, abet or procure a person who has voted once in any election to vote or attempt to vote again at the same election.

B. A person who commits false voting is guilty of a fourth degree felony.

C. Falsifying election documents consists of performing any of the following acts willfully and with knowledge and intent to deceive or mislead any voter, precinct board, municipal clerk or other election official:

- (1) printing, causing to be printed, distributing or displaying false or misleading instructions pertaining to voting or the conduct of the election;

(2) printing, causing to be printed, distributing or displaying any official ballot, absentee ballot, sample ballot, facsimile diagram, ballot sheet or pretended ballot that includes the name of any person not entitled by law to be on the ballot or omits or defaces the name of any person entitled by law to be on the ballot or otherwise contains false or misleading information or headings;

(3) defacing, altering, forging, making false entries in or changing any election document, including election returns, a certificate of election registration record or signature rosters, affidavits, certificates or any other election document except as authorized in the Municipal Election Code [Chapter 3, Articles 8 and 9 NMSA 1978];

(4) withholding any certificate of election, registered voter list, signature roster, election return or any other election document required by or prepared and issued pursuant to the Municipal Election Code; or

(5) preparing or submitting any false certificate of election, signature roster, registered voter list, election return or any other election document.

D. A person who falsifies election documents is guilty of a fourth degree felony.

E. False swearing consists of knowingly taking or giving any oath required by the Municipal Election Code with the knowledge that the thing or matter sworn to is not a true and correct statement.

F. A person who falsely swears is guilty of a fourth degree felony.

1-20-8.1. Conduct of election; fraudulent and double voting.

Every person not entitled to vote who fraudulent votes, and every person who votes or offers to vote more than once at any one election, is guilty of a fourth degree felony.

3-9-13. Voting in person prohibited.

A. No person who has been issued an absentee ballot shall vote in person at the person's regular precinct polling place on election day except as otherwise provided in the Municipal Election Code [Chapter 3, Articles 8 and

9 NMSA 1978].

B. At any time prior to 5:00 p.m. on the Friday immediately preceding the date of the election, any person whose absentee ballot application has been accepted and who was mailed an absentee ballot but who has not received the absentee ballot may execute, in the office of the municipal clerk of the municipality where that person is registered to vote, a sworn affidavit stating that the person did not receive or vote his absentee ballot. Upon receipt of the sworn affidavit, the municipal clerk shall issue the voter a replacement absentee ballot.

C. The municipal clerk shall prescribe the form of the affidavit and the manner in which the municipal clerk shall void the first ballot mailed to the applicant.

3-9-8. Care of absentee ballots; destruction of unused ballots by municipal clerk.

A. The municipal clerk shall mark on each completed official outer envelope the date and time of receipt in the municipal clerk's office, record this information in the absentee ballot register and safely and securely keep the official outer envelope unopened until it is delivered on election day to the proper precinct board or until it is canceled and destroyed in accordance with law. Once a ballot is officially accepted by the municipal clerk and recorded in the absentee ballot register, it cannot be returned to the voter for any reason.

B. The municipal clerk shall accept completed official outer envelopes received by mail or delivered in person to the municipal clerk's office by the voter signing the official outer envelope, by a member of the voter's immediate family or by the caregiver to the voter until 7:00 p.m. on election day. Any completed outer envelope received after that time and date shall be marked as to the time and date received, shall not be delivered to the precinct board and shall be preserved until the time for election contests has expired. In the absence of a court order, after the expiration of the time for election contests, the municipal clerk shall destroy all late official mailing envelopes without opening or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the municipal clerk shall count the numbers of late ballots from voters, overseas voters and federal qualified electors and record the number from each category in the absentee ballot register.

C. After 5:00 p.m. and not later than 8:00 p.m. on the Friday immediately preceding the date of the election, the municipal clerk shall record the

numbers of the unused absentee ballots and shall publicly destroy in the municipal clerk's office all unused ballots. The municipal clerk shall execute a certificate of such destruction, which shall include the numbers on the ballots destroyed, and the certificate shall be placed within the absentee ballot register.

D. At 7:00 p.m. on the day of the election, the municipal clerk shall determine the number of ballots that were mailed and have not been received and execute a "certificate of unreceived absentee ballots". The certificate shall be placed in the absentee ballot register and shall become an official part of the register. The municipal clerk shall determine the form of the certificate of unreceived absentee ballots.

3-9-7. Manner of voting; use of an electronic voting device.

C. When an electronic voting device is used by the voter to cast an absentee vote, the municipal clerk shall ensure that each absentee voting machine is located within the office of the municipal clerk. The area shall be secured by lock and key. Each day during the time the absentee voting machine is used for absentee voting, the municipal clerk shall, in the presence of one other employee of the municipality, unlock the office where the voting machine is located. Each day, at the close of regular office hours, the municipal clerk shall, in the presence of one other municipal employee, secure the office whether the voting machine is located. Each day immediately after unlocking or locking the office whether the voting machine is located, the municipal clerk and the employee present shall sign or initial the absentee voting daily report. The municipal clerk shall prescribe the form of the absentee voting daily report, which shall include the following information:

- (1) the voting machine serial number;
- (2) the beginning and ending public counter number for the day;
- (3) the beginning and ending protective counter number for the day;
- (4) the closing seal number, if any;
- (5) the total number of voters for the day; and
- (6) a place for the date and signature of the municipal clerk and the municipal employee.

3-8-19. Precinct boards; appointments; compensation.

C. Not less than thirty-five days before the day of the municipal election, the governing body shall appoint a precinct board for each polling place. The precinct board shall consist of no fewer than three members. Each board shall have no fewer than three election judges and no fewer than two election clerks. Election judges may also be appointed as election clerks. Not less than two alternatives shall be appointed show shall become either election judges or election clerks or both as the need arises. On the thirty-fifth day before the day of the election, the municipal clerk shall post and maintain in the clerk's office until the day of the election the names of the election judges, election clerks and alternates for each polling place. The posting of the names of the election judges, election clerks and alternates for each polling place may be proved by an affidavit signed by the municipal clerk. The municipal clerk shall, by mail, notify each person appointed, required a written acceptance and keep a record of all notifications and acceptances. The notice shall state the date by which the person must accept the appointment. If any person appointed to a precinct board, or as an alternate, fails to accept an appointment within seven days after the notice is sent, the position shall be deemed vacant and the position shall be filed as provided in this section.

3-9-9. Absent voter precinct.

For the purposes of absentee voting, the governing body shall create a special absent voter precinct, cause an absent voter precinct board to be appointed consisting of election judges and election clerks as providing in the Municipal Election Code [Chapter 3, Articles 8 and 9 NMSA 1978] and shall designate a polling place for the counting and tallying of absentee ballots in the election on election day. The municipal clerk shall administer the oath to the election judges. A regular precinct board may be designated to serve as the absent voter precinct board. Members of the absent voter precinct board shall receive the same compensation as other precinct board members, but in no case shall a precinct board member who also serve as a member of the absent voter precinct board be entitled to extra compensation for serving on the absent voter precinct board.

3-9-11. Handling absentee ballots by absent voter precinct boards.

A. Before opening any official mailing envelope, an election judge shall determine that the required signature has been executed on the reverse side of the official mailing envelope.

B. If the signature is missing, an election judge shall write "rejected" on the

front of the official mailing envelope. The election clerks shall write the notation "rejected - missing signature" in the "notations" column on the absentee voter list. An election judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots, seal the envelope, write the voter's name on the front of the envelope and deposit it in the locked ballot box.

C. Declared challengers certified by the municipal clerk may examine the official mailing envelope and may challenge the ballot of any absent voter for the following reasons:

- (1) the official mailing envelope has been opened prior to being received by the absent voter precinct board; or
- (2) the person offering to vote is not an overseas voter, federal qualified elector or voter as provided in the Municipal Election Code [Chapter 3, Articles 8 and 9 NMSA 1978].

Upon the challenge of an absentee ballot, an election judge shall generally follow the same procedure as when ballots are challenged when a person offers to vote in person. If a challenged ballot is not to be counted, it shall not be opened and shall be placed in an envelope provided for challenged ballots.

D. If the official mailing envelopes have properly executed signatures and the voters have not been challenged:

- (1) an election judge shall open the official mailing envelopes and deposit the ballots in their still sealed official inner envelopes in the locked ballot box; and
- (2) the election clerks shall mark the notation "AB" opposite the voter's name in the "notations" column of the absentee voter list.

E. Prior to the closing of the polls, an election judge may remove the absentee ballots from the official inner envelopes and either count and tally the results of absentee balloting by hand or register the results of each absentee ballot on a voting machine the same as if the absent voter had been present and voted in person. It shall be unlawful for any person to disclose the results of such count and tally or such registration on a voting machine of absentee ballots prior to the closing of the polls.

F. The municipal clerk shall, prior to the opening of the polls on election

day, notify the absent voter precinct board in writing whether absentee ballots are to be counted and tallied or registered on a voting machine. The procedures shall be such as to ensure the secrecy of the ballot.

G. Absent voter precinct polls shall be closed at 7:00 p.m. on the day of the election by the absent voter precinct board.

WHEREFORE, the State of New Mexico by and through the Third Judicial District Attorney, representing in fact, the interests of the New Mexico Secretary of State as Chief Elections Officer of the State who represents the interests of the qualified electors of Sunland Park, moves the Court to *enjoin and otherwise suspend* the Sunland Park Municipal election, now scheduled for March 6, 2012 and to make the following findings:

1. Clear and convincing evidence exists that the processes currently in place at Sunland Park City Hall are inadequate on their face, do not follow established election law precedent and are clearly in violation of the Election Code and Municipal Elections Code.

2. Clear and convincing evidence exists that non-residents of Sunland Park (i.e., residents of the State of Texas) have already voted in this election, and that more have been approved to vote on March 6, 2012 if this emergency motion to enjoin is not granted.


3. Clear and convincing evidence exists that the processes currently in place for the use of mailed ballots, absentee ballots, and "in lieu of mailed" ballots are so compromised that there are inadequate protections in place that prevent the same person from voting by mail and in person (i.e., double voting).

4. Clear and convincing evidence exists that no absentee precinct board has been appointed for the absentee ballot box pursuant to State Statute and as such, the integrity of this traditionally large cache of votes cannot be ensured.

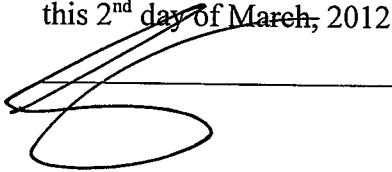
5. Clear and convincing evidence exists that secrecy envelopes in some instances are not being used at the ballot for in person voting and, as such, the secrecy of voting has been compromised to such a degree there is no confidence that person may cast his or her vote in secrecy.

Additionally, based on the foregoing, the State of New Mexico by and through the Third Judicial District Attorney, representing in fact, the interests of the New Mexico Secretary of State as Chief Elections Officer of the State who represents the interests of the qualified electors of Sunland Park, moves the Court to make the following order:

1. Enjoin or otherwise suspend the March 6, 2012 Sunland Park Municipal Election.
2. Authorize the Director of Bureau Elections, Bobbi Shearer, and the Secretary of State as the Chief Elections Officer, Dianna Duran, to appoint an election team to conduct the Sunland Park Municipal Election in the future and with the authority to appoint the Dona Ana County Clerk's Office and the Otero County Clerk's Office to assist in the orderly administration of the election.
3. Authorize the Secretary of State as the Chief Elections Officer to select a future date for the Sunland Park Municipal Election which allows for all of the statutory requirements contained in the Election Code and Municipal Elections Code to be complied with.


Amy L. Orlando
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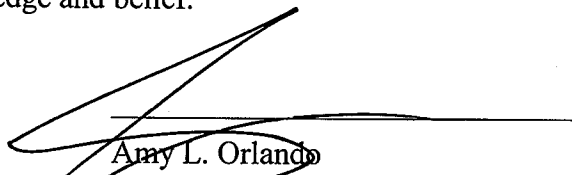
I certify that a copy of the foregoing pleading was provided to Frank Coppler, counsel for the City of Sunland Park this 2nd day of March, 2012.



VERIFICATION

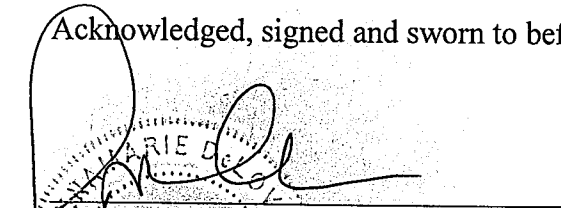
State of New Mexico)
Dona Ana County) ss.

Amy L. Orlando, District Attorney, being of lawful age and first duly sworn upon her oath hereby deposes and states that she has read the forgoing pleading and the statements contained therein are true and correction to the best of my knowledge and belief.



Amy L. Orlando
District Attorney

Acknowledged, signed and sworn to before me this 2nd day of March, 2012 by Amy L. Orlando.



Anna Marie DeLovato
Notary public

My commission expires: June 14, 2013



STATE OF NEW MEXICO
DIANNA J. DURAN
SECRETARY OF STATE

NEW MEXICO SECRETARY OF STATE'S OFFICE
FINDINGS ON SUNLAND PARK MUNICIPAL ELECTION - 2012

Section 3-8-6.1 NMSA 1978 (1991) provides that "the secretary of state shall investigate complaints concerning the conduct of elections held pursuant to the Municipal Election Code and issue the findings to the appropriate law enforcement authority."

Beginning in January, 2012, the Secretary of State's office began receiving complaints regarding the conduct of the Sunland Park, New Mexico municipal election, which is scheduled to occur on March 6, 2012.

For this election, absentee voting by mail began on January 31, 2012. Early voting (in person) began on February 15, 2012.

On February 28th and 29th and March 1, 2012, the Secretary of State, Dianna J. Duran, traveled to the City of Sunland Park, accompanied by, Deputy Secretary of State Mary Quintana and Bobbi Shearer, Director of the Bureau of Elections, for the purpose of investigating the complaints received by her office.



SCOPE OF THE INVESTIGATION

1. The Secretary and her staff reviewed:
 - A. The City's Absentee Ballot Register, which tracks the names and numbers of voters each day during the absentee and early voting periods;
 - B. Copies of voter registration applications contained in the statewide voter file for voters in the Sunland Park municipal election;
 - C. The original absentee ballot applications signed by voters who voted early and absentee in the municipal election through February 29, 2012;
 - D. Documents seized by the 3rd Judicial District Attorney's office pursuant to a search warrant executed for the home and vehicle of mayoral candidate Daniel Salinas;
 - E. Documents obtained by the Dona Ana County Chief Deputy Clerk, Mario Jimenez, regarding voter registrations in the State of Texas for individuals listed on the Sunland Park voter list for the 2012 municipal election.

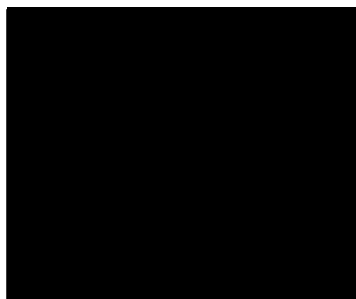
At the time of reviewing these documents, the Secretary also interviewed the Village Clerk, Liz Gamez, regarding the procedures used to conduct the municipal election.

FINDINGS

1. [REDACTED] is an employee of the City of Sunland Park who resides at [REDACTED] Sunland Park, New Mexico.

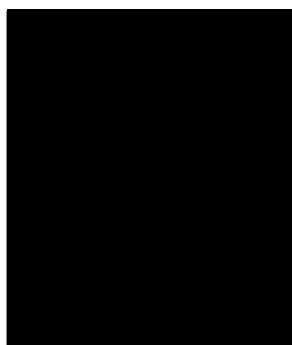
2. There are thirteen (13) individuals registered to vote who have listed their address as [REDACTED] Sunland Park, NM. The following six (6) individuals were registered to vote at [REDACTED] between January 5, 2012 and February 7, 2012:

- A.
- B.
- C.
- D.
- E.
- F.



3. The other individuals registered to vote at [REDACTED] are:

- A.
- B.
- C.
- D.
- E.
- F.
- G.



4. The last date to register to vote in the Sunland Park municipal election was February 7, 2012.

5. Investigators for the 3rd Judicial District Attorney's office interviewed [REDACTED] who stated that, except for herself, the only other individual residing at [REDACTED] is [REDACTED]. The investigation conducted by the District Attorney's office indicates Mr. [REDACTED] is a resident of Texas. Mr. [REDACTED] is an employee of the City of Sunland Park. Mr. [REDACTED] registered to vote in New Mexico on February 7, 2012.

6. [REDACTED] voted in the Sunland Park municipal election as an early voter, in person, on February 16, 2012.

7. Based on the evidence cited above, Mr. [REDACTED] is not a qualified elector in New Mexico, and his vote appears to violate Sections 1-20-8 and 1-20-8.1 NMSA 1978. His certificate of registration appears to violate Section 1-20-3 NMSA 1978.

8. [REDACTED] also voted in the Sunland Park municipal election as an early voter, in person, on February 16, 2012. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Mr. [REDACTED] does not reside at [REDACTED], and is not a resident of Sunland Park, New Mexico.

9. Based on the evidence cited above, Mr. [REDACTED] is not a qualified elector in New Mexico, and his vote appears to violate Sections 1-20-8

and 1-20-8.1 NMSA 1978. His certificate of registration appears to violate Section 1-20-3 NMSA 1978.

10. [REDACTED] also voted in the Sunland Park municipal election by return of an absentee ballot by mail on February 21, 2012. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Ms. [REDACTED] does not reside at [REDACTED], and is not a resident of Sunland Park, New Mexico.

11. Based on the evidence cited above, Ms. [REDACTED] is not a qualified elector in New Mexico, and her vote appears to violate Sections 1-20-8 and 1-20-8.1 NMSA 1978. Her certificate of registration appears to violate Section 1-20-3 NMSA 1978.

12. [REDACTED] voted in the Sunland Park municipal election by return of an absentee ballot by mail on February 21, 2012. [REDACTED] also appears to be registered to vote in El Paso County, Texas. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Ms. [REDACTED] does not reside at [REDACTED], and is not a resident of Sunland Park, New Mexico.

13. Based on the evidence cited above, Ms. [REDACTED] is not a qualified elector in New Mexico, and her vote appears to violate Sections 1-20-8

and 1-20-8.1 NMSA 1978. Her certificate of registration appears to violate Section 1-20-3 NMSA 1978.

14. [REDACTED] voted in person as an early voter on February 14, 2012. She appears to be registered to vote in El Paso County, Texas. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Ms. [REDACTED] does not reside at [REDACTED] and is not a resident of Sunland Park, New Mexico.

15. [REDACTED] voted in person as an early voter on February 14, 2012. Mr. [REDACTED] appears to be registered to vote in El Paso County, Texas. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Mr. [REDACTED] does not reside at [REDACTED] and is not a resident of Sunland Park, New Mexico.

16. [REDACTED] is registered to vote in New Mexico using the address of [REDACTED] where she does not reside. She also appears to be registered to vote in the state of Texas. Ms. [REDACTED] has not voted in the Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

17. [REDACTED] is registered to vote in New Mexico using the address of [REDACTED] where he does not reside. He also appears to be

registered to vote in the State of Texas. Mr. [REDACTED] has not voted in the Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

18. [REDACTED] is registered to vote in New Mexico using the address of [REDACTED] where he does not reside. He also appears to be registered to vote in the State of Texas, by registration dated September, 2011. Mr. [REDACTED] has not voted in the Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

19. [REDACTED] is registered to vote in New Mexico using the address of [REDACTED], where she does not reside. She also appears to be registered to vote in the State of Texas. Ms. [REDACTED] has not voted in the Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

20. [REDACTED] is a former city councilor who resigned from office on February 10, 2012. Acting as a third party voter registration agent, [REDACTED] [REDACTED] assisted sixteen (16) people to register to vote, whose registrations were processed on the last day to register for the Sunland Park municipal election, February 7, 2012.

21. [REDACTED] resides at [REDACTED] Sunland Park, New Mexico and is registered to vote at that address.

22. Four (4) of the individuals who were assisted by [REDACTED] in registering to vote also listed their addresses as [REDACTED], Sunland Park, New Mexico, as follows:

- A.
- B.
- C.
- D.



23. [REDACTED] is an employee of the city of Sunland Park. All of Ms. [REDACTED] documentation of residence on file with the City of Sunland Park reflects that she is a resident of El Paso, Texas. Ms. [REDACTED] appears to be registered to vote at the residence of [REDACTED], in El Paso County, Texas. Ms. [REDACTED] voted in the Sunland Park municipal election in person, as an early voter on February 17, 2012.

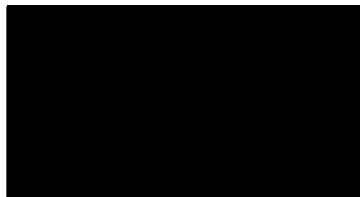
24. [REDACTED] voted in the Sunland Park municipal election in person, as an early voter, on February 17, 2012. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Mr. [REDACTED] does not reside at [REDACTED] and is not a resident of Sunland Park, New Mexico.

25. [REDACTED] appears to be registered to vote at [REDACTED] [REDACTED] in El Paso County, Texas. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Ms. [REDACTED] does not reside at [REDACTED] [REDACTED] and is not a resident of Sunland Park, New Mexico. Ms. [REDACTED] has not voted in the Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

26. [REDACTED] appears to be registered to vote at [REDACTED] in El Paso County, Texas. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Mr. [REDACTED] does not reside at [REDACTED] and is not a resident of Sunland Park, New Mexico. Mr. [REDACTED] has not voted in the Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

27. Four (4) individuals who were assisted by [REDACTED] in registering to vote just prior to the municipal election also listed their addresses as [REDACTED], Sunland Park, New Mexico, but listed their mailing addresses as [REDACTED] as follows:

- A.
- B.
- C.
- D.



28. [REDACTED] voted in person, as an early voter on February 22, 2012, in the municipal election. [REDACTED] appears to be registered to vote at [REDACTED] El Paso County, Texas. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Mr. [REDACTED] does not reside at [REDACTED] and is not a resident of Sunland Park, New Mexico.

29. [REDACTED] voted in person, as an early voter on February 17, 2012, in the municipal election. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Mr. [REDACTED] does not reside at [REDACTED] [REDACTED] and is not a resident of Sunland Park, New Mexico.

30. The investigation conducted by the 3rd Judicial District Attorney's office indicates that [REDACTED] does not reside at [REDACTED] and is not a resident of Sunland Park, New Mexico. Ms. [REDACTED] has not voted in the Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

31. The investigation conducted by the 3rd Judicial District Attorney's office indicates that Ms. [REDACTED] does not reside at [REDACTED] and is not a resident of Sunland Park, New Mexico. Ms. [REDACTED] has not voted in the

Sunland Park election as of the date of these findings, but remains eligible to vote on election day in the absence of any court order.

32. Prior to the start of early or absentee voting, the municipal clerk ordered supplies for the election, including blank absentee ballot applications.

33. The municipal clerk reported to the Secretary of State that the election supplies arrived at Sunland Park City Hall and were opened by either Daniel Salinas or Jaime Aguilera. Mr. Salinas and/or Mr. Aguilera removed all of the absentee ballot applications prior to the municipal clerk taking possession of the election supplies. There were 500 absentee ballot applications in the original order.

34. As a result, absentee ballot applications were not available to other candidates or voters when requested on January 30, 2012, until the clerk was able to obtain some of the applications back from Mr. Aguilera. As a result, candidates other than Daniel Salinas were limited in the number of absentee ballot applications they received prior to the election.

35. Section 3-9-13 NMSA 1978 provides that

A. No person who has been issued an absentee ballot shall vote in person at that person's regular precinct polling place on election day except as otherwise provided in the Municipal Election Code.

B. At any time prior to 5:00 p.m. on the Friday immediately preceding the date of the election, any person whose absentee ballot application has

been accepted and who was mailed an absentee ballot but who has not received the absentee ballot may execute, in the office of the municipal clerk of the municipality where that person is registered to vote, a sworn affidavit stating that the person did not receive or vote his absentee ballot. Upon receipt of the sworn affidavit, the municipal clerk shall issue the voter a replacement absentee ballot.

36. Numerous voters appeared at the Sunland Park municipal offices and stated that they had not received their absentee ballots in the mail. None of those voters were required to sign a sworn affidavit. Those voters were either issued a replacement absentee ballot, or allowed to vote early, in person.

37. Numerous voters filled out applications for absentee ballots, and listed mailing addresses where the absentee ballots were to be mailed. However, the municipal clerk instead mailed the absentee ballots to mailing addresses which were contained in the voter file. As a result, numerous absentee ballots appear to have been sent to invalid mailing addresses, and were not received by the voters.

38. For absentee ballots, section 3-9-8 NMSA 1978 requires that the municipal clerk shall "mark on each completed official outer envelope the date and time of receipt in the municipal clerk's office." The municipal clerk scanned the absentee ballot official outer envelopes so that the date and time scanned

was logged in the Autovote ballot printing system, but did not make any marks on each completed official outer envelope, as required by the statute.

39. With regard to early and absentee voting, section 3-9-7(C) provides, in pertinent part:

Each day, at the close of regular office hours, the municipal clerk shall, in the presence of one other municipal employee, secure the office where the voting machine is located. Each day immediately after unlocking or locking the office where the voting machine is located, the municipal clerk and the employee present shall sign or initial the absentee voting daily report. The municipal clerk shall prescribe the form of the absentee voting daily report, which shall include the following information:

1. the voting machine serial number;
2. the beginning and ending public counter number for the day;
3. the beginning and ending protective counter number for the day;
4. the closing seal number, if any;
5. the total number of voters for the day; and
6. a place for the date and signature of the municipal clerk and the municipal employee.

40. No absentee voting daily reports were prepared by the City of Sunland Park prior to February 28, 2012. The absentee ballot register does not contain the same number of entries for early voters as ballots cast on the M100 ballot tabulator. There are twelve duplicate entries in the absentee ballot register. It does appear that the overall number of absentee ballots received, and early votes cast match the total numbers on the absentee ballot register.

41. Absentee ballot applications were accepted for some voters where the address on the application did not match the address (either physical or mailing) of the voter on his or her voter registration application. These absentee ballot applications should have been rejected pursuant to state statute. Instead, they were accepted and issued ballots. The purpose of requiring matching address information is to verify the identity of the voter.

42. Section 3-8-19(C) NMSA requires the governing body of a municipality to appoint a precinct board for each polling place. The precinct board shall consist of at least three members. On the thirty-fifth day before the election, the municipal clerk is required to post and maintain in the clerk's office the names of the election judges, election clerks and alternates for each polling place.

43. Section 3-9-9 NMSA 1978 provides that the governing body shall create a special absentee voter precinct and cause an absent voter precinct board to be appointed consisting of election judges and election clerks as provided in Section 3-8-19, supra.

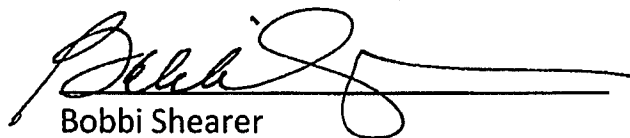
44. The municipal clerk advised the Secretary of State that her assistant clerk is the only person who has been appointed to serve as the absent precinct board, which is a violation of Sections 3-8-19 and 3-9-9 NMSA 1978, above.

45. With only a few days remaining before the municipal election, the governing body has missed the deadline for appointing a proper absent voter precinct board and publishing notice of the names to the public.

46. Under Section 3-9-11 NMSA 1978, the election judge and the election clerks of the absent voter precinct board have specific and separate duties with regard to the determination of whether absentee ballots shall be accepted or rejected. These duties cannot be handled by one person under the statute.

47. The City of Sunland Park has received in excess of three hundred (300) mail-in absentee ballots as of the date of these findings. It would be improper to allow the counting of all of those ballots in the absence of a properly appointed absentee voter precinct board.

The foregoing Findings are true and correct to the best of my knowledge and belief.

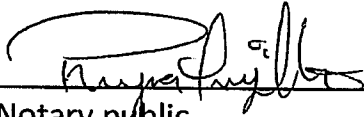
A handwritten signature in black ink, appearing to read 'Bobbi Shearer', written over a horizontal line.

Bobbi Shearer
Director, Bureau of Elections
New Mexico Secretary of State's office

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)

Subscribed and sworn to before me by Bobbi Shearer, as Director of the Bureau of Elections, New Mexico Secretary of State's office on March 2, 2012.





Notary public

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT

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FILED

2012 FEB 27 AM 8:54

DISTRICT COURT No. CR 2012-246
DONA ANA COUNTY, NM

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

STATE OF NEW MEXICO

v.

DANIEL SALINAS, Defendant

DOB: [REDACTED]

SSN: [REDACTED]

ADDRESS: [REDACTED]

CRIMINAL COMPLAINT

CRIME: Extortion; Conspiracy to Commit Extortion; Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony); and Conspiracy to Commit Tampering with Evidence

The undersigned, under penalty of perjury complains and says that in the County of Dona Ana, State of New Mexico, the above named defendant did:

COUNT 1

Extortion. On or between February 15, 2012 and February 24, 2012 the Defendant communicated or transmitted a threat to expose, or impute to Gerardo Hernandez any deformity or disgrace by any means whatsoever with the intent thereby to wrongfully obtain anything of value or to wrongfully compel the person threatened to do or refrain from doing any act against his will in violation of NMSA 1978 §30-16-9(C); a third degree felony;

COUNT 2

Conspiracy to Commit Extortion. On or between February 15, 2012 and February 24, 2012 the Defendant did knowingly combine with another to commit Extortion, a felony, in violation of NMSA 1978 §30-28-2 and §30-16-9(C), a fourth degree felony;

COUNT 3

Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony). On or about February 21, 2012 the Defendant did destroy, change, hide, place, or fabricate physical evidence, *to wit*: two laptop computers and/or a video and/or image(s) used in the extortion of Gerardo Hernandez, with the intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another in violation of NMSA 1978 §30-22-5(B)(2) and §30-16-9; a fourth degree felony; and,

COUNT 4

Conspiracy to Commit Tampering with Evidence. On or about February 21, 2012 the Defendant did knowingly combine with another to commit Tampering with Evidence

ENGAD 600-631-6969


STATE'S
EXHIBIT

3

(Highest Crime is a Third or Fourth Degree Felony), a felony, in violation NMSA 1978 §30-28-2 and §30-22-5(B)(2), a fourth degree felony.

SEE ATTACHED STATEMENT OF FACTS INCORPORATED HEREIN BY REFERENCE

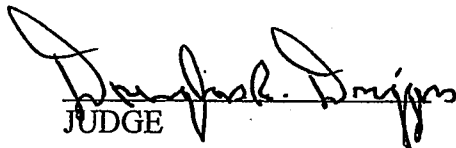
I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

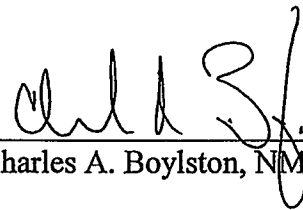


If Probable Cause Determination Required:
Probable Cause Found ; Not Found
(If not found, complaint dismissed & defendant released)

Date: _____

Judge _____


JUDGE


Charles A. Boylston, NMSP

AGENT
Approved / Title

ENDORSED COPY

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FILED

2012 FEB 27 AM 8:54

DISTRICT COURT
DONA ANA COUNTY, NM

No. CR 2012-246

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

v.

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

DANIEL SALINAS, Defendant

DOB: [REDACTED]

SSN: [REDACTED]

ADDRESS: [REDACTED]

WARRANT FOR ARREST

THE STATE OF NEW MEXICO
TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

- 1) Extortion
- 2) Conspiracy to Commit Extortion
- 3) Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony); and
- 4) Conspiracy to Commit Tampering with Evidence

BASED ON A FINDING OF PROBABLE CAUSE, YOU ARE COMMANDED to arrest the above-named defendant and bring the defendant without unnecessary delay before this court: to answer the charges of

1) **Extortion.** On or between February 15, 2012 and February 24, 2012 the Defendant communicated or transmitted a threat to expose, or impute to Gerardo Hernandez any deformity or disgrace by any means whatsoever with the intent thereby to wrongfully obtain anything of value or to wrongfully compel the person threatened to do or refrain from doing any act against his will in violation of NMSA 1978 §30-16-9(C); a third degree felony;

2) **Conspiracy to Commit Extortion.** On or between February 15, 2012 and February 24, 2012 the Defendant did knowingly combine with another to commit Extortion, a felony, in violation of NMSA 1978 §30-28-2 and §30-16-9(C), a fourth degree felony;

3) **Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony).** On or between February 21, 2012 and February 23, 2012 the Defendant did destroy, change, hide, place, or fabricate physical evidence, *to wit*: two laptop computers and/or a video and/or image(s) used in the extortion of Gerardo Hernandez, with the intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon



another in violation of NMSA 1978 §30-22-5(B)(2) and §30-16-9; a fourth degree felony; and,

4) **Conspiracy to Commit Tampering with Evidence.** On or between February 21, 2012 and February 23, 2012 the Defendant did knowingly combine with another to commit Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony), a felony, in violation NMSA 1978 §30-28-2 and §30-22-5(B)(2), a fourth degree felony.

THIS WARRANT MAY BE EXECUTED:

- in any jurisdiction;
- anywhere in this state;
- anywhere in this county;
- anywhere in this city.

The person obtaining this warrant shall cause it to be entered into a law enforcement information system:

- maintained by the state police.
- _____ (identify other law enforcement information system).

BOND: \$ 50,000 CASH ONLY

Rafael D. Diggins
Judge

2-25-12
Date

RETURN WHERE DEFENDANT IS FOUND

I arrested the above-named defendant on the 25 day of FEBRUARY, 2012, and served a copy of this warrant on the 25 day of FEBRUARY, 2012 and caused this warrant to be removed from the warrant information system identified in this warrant.

R. F. Robles
Signature

PTLM / NMSP
Title

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STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT COURT 2012 FEB 27 AM 8:54

DISTRICT COURT
DONA ANA COUNTY, NM

STATE OF NEW MEXICO

v.

No. CR 2012-246

DANIEL SALINAS, Defendant

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or between the 15th day of February 2012 and the 24th day of February 2012, in the County of Dona Ana, State of New Mexico, the above-named defendant did commit the crime of:

- 1) **Extortion**
- 2) **Conspiracy to Commit Extortion**
- 3) **Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony); and**
- 4) **Conspiracy to Commit Tampering with Evidence**

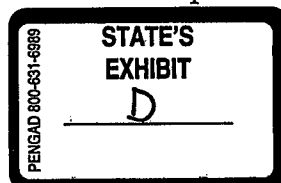
contrary to law of the State of New Mexico.

The undersigned further states the following facts on oath to establish probable cause to believe that the above-named defendant committed the crimes charged:

Affiant was assigned by New Mexico State Police Investigation Bureau Lieutenant Thomas Mora to investigate allegations related to the extortion of Sunland Park mayoral candidate Gerardo Hernandez occurring on or about February 16, 2012.

Affiant learned that Ricky Madrid who is a retired detective from the Las Cruces Police Department and who currently works as a contract investigator for the Third Judicial District Attorney's Office had been contacted on February 16, 2012 by Gerardo Hernandez. Gerardo Hernandez advised that he is a mayoral candidate for the City of Sunland Park.

Affiant learned that on February 16, 2012 Gerardo Hernandez was approached at his campaign camp in front of the Sunland Park City Hall by a male subject who had instructed him to withdraw his candidacy for the office of mayor for the City of Sunland Park. The male subject advised that the "merchants from the area" were interested in keeping the same administration that is currently running the City of Sunland Park and that this group wants Gerardo Hernandez to withdraw from the mayoral race. The subject then retrieved a photograph of Gerardo Hernandez which depicted him with a topless female. The subject told Gerardo Hernandez to withdraw his name from the mayoral race or that the picture would be published. The subject



then proceeded towards the campaign camp of Gerardo Hernandez's opponent, Daniel Salinas, on the other side of the City Hall parking lot where the subject then got into a vehicle and left the area.

Affiant learned that Gerardo Hernandez did recognize the image depicted in the photograph. Gerardo Hernandez explained that he had recently been approached by a Juarez, Mexico, reporter named Jose Reyes who wanted to discuss Gerardo Hernandez's plans for the future. Gerardo Hernandez stated that Jose Reyes showed up to the meeting and, apparently, had brought a female companion with him to the interview. Gerardo Hernandez further explained that during the course of the interview that Jose Reyes suddenly turned on music at which point his female companion took off her top. The female companion has not yet been identified.

Affiant learned that Mayor Pro-Tem Daniel Salinas is running for mayor against Gerardo Hernandez.

On February 21, 2012 members of the New Mexico State Police executed a search warrant on Sunland Park City Hall located at 1000 McNutt Road in Sunland Park, New Mexico.

Affiant learned that marked and unmarked law enforcement vehicles arrived at City Hall at approximately 4:25 p.m. As members of the execution team exited the vehicles and began to approach the entrance of City Hall when a Hispanic female approximately in her mid-to-late twenties was observed speaking on a cell phone, looking back at members of the execution team, and she entered City Hall in a hurried manner. Law enforcement followed behind this individual and attempted to clear and secure City Hall for purposes of preventing the destruction or tampering of evidence and to execute the search warrant.

Affiant learned that the Hispanic female that entered City Hall prior to law enforcement securing the facility had taken an immediate right towards the Mayor's office which is occupied at this time by Mayor Pro-Tem Daniel Salinas. This individual, upon taking the immediate right, began to run towards the Mayor's office as she continued to talk on her cell phone. These observations were further captured on surveillance video maintained by City Hall. This individual was later identified as Martah Alondra Lozano who is employed as temporary human resources assistant for City Hall. Martah Alondra Lozano then entered the Mayor's office, locked the door and quickly exited through a rear exit door located in the Mayor's office.

Affiant learned that law enforcement had attempted to open the door to the Mayor's office; however, were not initially able to enter the Mayor's office as it had been locked by Martah Alondra Lozano. Law enforcement did hear the rear exit door to the Mayor's office slam shot. Upon entry into the Mayor's office it was observed by Officer Robles that the Mayor's desk was in disarray, computer cables were left exposed and, apparently, one or more computer device had been taken in a hurried manner.

Affiant learned that Dario Hernandez who is employed as the Sunland Park Public Works Director was observed in the City Manager's office on surveillance cameras contemporaneously saying to the City Manager, Jaime Aguilera, "they are coming . . . get rid of the video" referring

to law enforcement's approach to the City Hall government building.

Affiant learned that on February 22, 2012 that Martah Alondra Lozano had stated to Ricky Madrid that she was in fact the person who was seen by Officer Robles and members of the search warrant execution team proceeding towards the Mayor's office. Martah Alondra Lozano stated that she had received a telephone call from Pro-Tem Mayor Daniel Salinas instructing her to grab the two laptop computers from his office which she stated were later provided to Pro-Tem Mayor Daniel Salinas and in his possession. Martah Alondra Lozano further advised that she had observed a video that was sexual in nature of the mayoral candidate Gerardo Hernandez.

Affiant learned that the subject video was released to media outlets by an anonymous individual on February 22, 2012 following the execution of the search warrant on City Hall. Portions of the video were aired on regional television outlets depicting mayoral candidate Gerardo Hernandez with a topless female. The investigation has revealed that the photograph that was displayed to Gerardo Hernandez on February 16, 2012 was a still shot taken from that video. Gerardo Hernandez indicated that there was a laptop computer present during the encounter with this topless female and he believed that the laptop was equipped with a video camera.

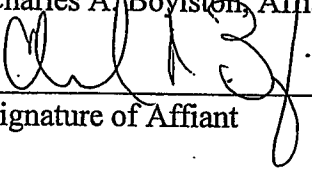
Affiant learned that on February 24, 2012, at approximately 7:04 a.m., New Mexico State Police executed a search warrant on the residence of [REDACTED] Sunland Park, NM [REDACTED] and multiple vehicles to include a 2010 silver Ford pick-up truck bearing NM plate [REDACTED] which were in the possession of Pro-Tem Mayor Daniel Salinas.

Affiant learned that Pro-Tem Mayor Daniel Salinas had stated to members of the search warrant execution team that he had the two laptops; however, that they were stolen from him on February 23, 2012 in Juarez, Mexico. The search of the items subject to the search warrant did not reveal the two laptops that were taken by Martah Alondra Lozano on the previous date and given to Pro-Tem Mayor Daniel Salinas.

Affiant learned on February 24, 2012 that an analysis was performed on the contents of Jaime Aguilera's office computer by Officer Michael Brookreson of the Las Cruces Police Department. Jaime Aguilera's City Hall computer revealed that the extortion video was on his computer on February 15, 2012. Officer Brookreson was able to determine that the extortion video depicting Gerardo Hernandez and a nude woman was opened with video editing software on Jaime Aguilera's computer. Further, a still image was taken from the video utilizing the video editing software on his computer. The still image was saved on the computer and it evidences that the user of the editing software had adjusted the lighting on the image to make the face of Gerardo Hernandez more readily transparent from the first image to the third image.

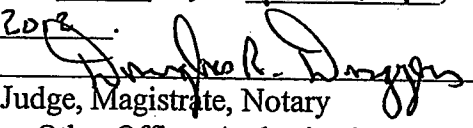
On February 24, 2012 Affiant observed surveillance video footage of City Hall covering the date of February 15, 2012. Affiant observed Mayor Pro-Tem Daniel Salinas enter Jaime Aguilera's office carrying a laptop computer. The video surveillance time stamp corresponds with a time stamp on Jaime Aguilera's computer that shows that Mayor Pro-Tem Daniel Salinas

was inside of Jaime Aguilera's office when Jaime Aguilera opened the video editing software, accessed the extortion video, and edited a still photo from the video. Further, information from these sources also evidence that Mayor Pro-Tem Daniel Salinas left Jaime Aguilera's office and provided his laptop to Martah Alondra Lozano. The still image was used the following date, February 16, 2012, in order to extort Gerardo Hernandez into withdrawing for the mayoral position of Sunland Park.

CHARLES A. BOYLSTON
Charles A. Boylston, Affiant

Signature of Affiant

AGENT
Official title (if any)

Subscribed and sworn to before
me in the above-named [county]
[city] of the State of New Mexico
this 25th day of FEBRUARY,

2012

Judge, Magistrate, Notary
or Other Officer Authorized
to Administer Oaths

NOTE: Article II, Section 10 of the New Mexico Constitution provides that an Arrest Warrant may issue on a sworn written statement of facts showing probable cause. This Affidavit is to be used only when the Complaint does not set forth sufficient facts to establish probable cause.

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2012-11778
2012-11778

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT

2012 FEB 27 AM 9:12

DISTRICT COURT
DONA ANA COUNTY, NM

STATE OF NEW MEXICO

v.

No. CR 2012-247

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

MARTAH ALONDRA LOZANO, Defendant

DOB: [REDACTED]

SSN: [REDACTED]

ADDRESS: [REDACTED]

CRIMINAL COMPLAINT

CRIME: Tampering with Evidence (Indeterminate); and Conspiracy to Commit Tampering with Evidence

The undersigned, under penalty of perjury complains and says that in the County of Dona Ana, State of New Mexico, the above named defendant did:

COUNT 1

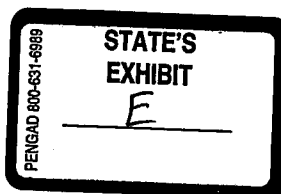
Tampering with Evidence (Indeterminate). On or about February 21, 2012 the Defendant did destroy, change, hide, place, or fabricate physical evidence, *to wit*: two laptop computers, with the intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another in violation of NMSA 1978 §30-22-5(B)(4); a fourth degree felony; and,

COUNT 2

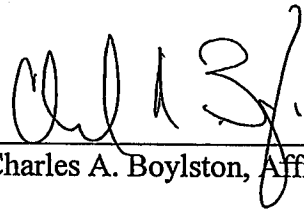
Conspiracy to Commit Tampering with Evidence. On or about February 21, 2012 the Defendant did knowingly combine with another to commit Tampering with Evidence (Indeterminate), a felony, in violation NMSA 1978 §30-28-2 and §30-22-5(B)(4), a fourth degree felony.

SEE ATTACHED STATEMENT OF FACTS INCORPORATED HEREIN BY REFERENCE

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.



Further, information from these sources also evidence that Mayor Pro-Tem Daniel Salinas left Jaime Aguilera's office and provided his laptop to Martah Alondra Lozano. The still image was used the following date, February 16, 2012, in order to extort Gerardo Hernandez into withdrawing for the mayoral position of Sunland Park.

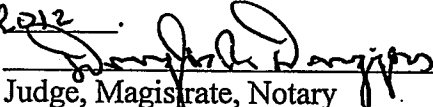


Charles A. Boylston, Affiant

CHARLES A. BOYLSTON
Signature of Affiant

AGENT
Official title (if any)

Subscribed and sworn to before
me in the above-named [county]
[city] of the State of New Mexico
this 25th day of FEBRUARY,

2012


Judge, Magistrate, Notary
or Other Officer Authorized
to Administer Oaths

NOTE: Article II, Section 10 of the New Mexico Constitution provides that an Arrest Warrant may issue on a sworn written statement of facts showing probable cause. This Affidavit is to be used only when the Complaint does not set forth sufficient facts to establish probable cause.

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO

v.

No. CR 2012-247

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

MARTAH ALONDRA LOZANO, Defendant

DOB: [REDACTED]
SSN: [REDACTED]
ADDRESS: [REDACTED]
HT: [REDACTED]

WARRANT FOR ARREST

THE STATE OF NEW MEXICO
TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

- 1) **Tampering with Evidence (Indeterminate); and**
- 2) **Conspiracy to Commit Tampering with Evidence**

BASED ON A FINDING OF PROBABLE CAUSE, YOU ARE COMMANDED to arrest the above-named defendant and bring the defendant without unnecessary delay before this court: to answer the charges of

- 1) **Tampering with Evidence (Indeterminate).** On or about February 21, 2012 the Defendant did destroy, change, hide, place, or fabricate physical evidence, *to wit*: two laptop computers, with the intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another in violation of NMSA 1978 §30-22-5(B)(4); a fourth degree felony; and,
- 2) **Conspiracy to Commit Tampering with Evidence.** On or about February 21, 2012 the Defendant did knowingly combine with another to commit Tampering with Evidence (Indeterminate), a felony, in violation NMSA 1978 §30-28-2 and §30-22-5(B)(4), a fourth degree felony.

THIS WARRANT MAY BE EXECUTED:

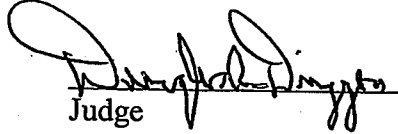
- in any jurisdiction;
- anywhere in this state;
- anywhere in this county;
- anywhere in this city.



The person obtaining this warrant shall cause it to be entered into a law enforcement information system:

- maintained by the state police.
- _____ (identify other law enforcement information system).

BOND: \$50,000 CASH ONLY


Judge

2-25-12
Date

RETURN WHERE DEFENDANT IS FOUND

I arrested the above-named defendant on the _____ day of _____, _____, and served a copy of this warrant on the _____ day of _____, _____ and caused this warrant to be removed from the warrant information system identified in this warrant.

Signature

Title

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT COURT

K
C
FILED

STATE OF NEW MEXICO

2012 FEB 27 AM 9:12

v.

DISTRICT COURT
DONA ANA COUNTY, NM

CR 2012-247

MARTAH ALONDRA LOZANO, Defendant

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or about the 21st day of February, 2012, in the County of Dona Ana, State of New Mexico, the above-named defendant did commit the crime of:

- 1) **Tampering with Evidence (Indeterminate); and**
- 2) **Conspiracy to Commit Tampering with Evidence**

contrary to law of the State of New Mexico.

The undersigned further states the following facts on oath to establish probable cause to believe that the above-named defendant committed the crimes charged:

Affiant was assigned by New Mexico State Police Investigation Bureau Lieutenant Thomas Mora to investigate allegations related to the extortion of Sunland Park mayoral candidate Gerardo Hernandez occurring on or about February 16, 2012.

Affiant learned that Ricky Madrid who is a retired detective from the Las Cruces Police Department and who currently works as a contract investigator for the Third Judicial District Attorney's Office had been contacted on February 16, 2012 by Gerardo Hernandez. Gerardo Hernandez advised that he is a mayoral candidate for the City of Sunland Park.

Affiant learned that on February 16, 2012 Gerardo Hernandez was approached at his campaign camp in front of the Sunland Park City Hall by a male subject who had instructed him to withdraw his candidacy for the office of mayor for the City of Sunland Park. The male subject advised that the "merchants from the area" were interested in keeping the same administration that is currently running the City of Sunland Park and that this group wants Gerardo Hernandez to withdraw from the mayoral race. The subject then retrieved a photograph of Gerardo Hernandez which depicted him with a topless female. The subject told Gerardo Hernandez to withdraw his name from the mayoral race or that the picture would be published. The subject then proceeded towards the campaign camp of Gerardo Hernandez's opponent, Daniel Salinas, on the other side of the City Hall parking lot where the subject then got into a vehicle and left the area.



Affiant learned that Gerardo Hernandez did recognize the image depicted in the photograph. Gerardo Hernandez explained that he had recently been approached by a Juarez, Mexico, reporter named Jose Reyes who wanted to discuss Gerardo Hernandez's plans for the future. Gerardo Hernandez stated that Jose Reyes showed up to the meeting and, apparently, had brought a female companion with him to the interview. Gerardo Hernandez further explained that during the course of the interview that Jose Reyes suddenly turned on music at which point his female companion took off her top. The female companion has not yet been identified.

Affiant learned that Mayor Pro-Tem Daniel Salinas is running for mayor against Gerardo Hernandez.

On February 21, 2012 members of the New Mexico State Police executed a search warrant on Sunland Park City Hall located at 1000 McNutt Road in Sunland Park, New Mexico.

Affiant learned that marked and unmarked law enforcement vehicles arrived at City Hall at approximately 4:25 p.m. As members of the execution team exited the vehicles and began to approach the entrance of City Hall when a Hispanic female approximately in her mid-to-late twenties was observed speaking on a cell phone, looking back at members of the execution team, and she entered City Hall in a hurried manner. Law enforcement followed behind this individual and attempted to clear and secure City Hall for purposes of preventing the destruction or tampering of evidence and to execute the search warrant.

Affiant learned that the Hispanic female that entered City Hall prior to law enforcement securing the facility had taken an immediate right towards the Mayor's office which is occupied at this time by Mayor Pro-Tem Daniel Salinas. This individual, upon taking the immediate right, began to run towards the Mayor's office as she continued to talk on her cell phone. These observations were further captured on surveillance video maintained by City Hall. This individual was later identified as Martah Alondra Lozano who is employed as temporary human resources assistant for City Hall. Martah Alondra Lozano then entered the Mayor's office, locked the door and quickly exited through a rear exit door located in the Mayor's office.

Affiant learned that law enforcement had attempted to open the door to the Mayor's office; however, were not initially able to enter the Mayor's office as it had been locked by Martah Alondra Lozano. Law enforcement did hear the rear exit door to the Mayor's office slam shut. Upon entry into the Mayor's office it was observed by Officer Robles that the Mayor's desk was in disarray, computer cables were left exposed and, apparently, one or more computer device had been taken in a hurried manner.

Affiant learned that Dario Hernandez who is employed as the Sunland Park Public Works Director was observed in the City Manager's office on surveillance cameras contemporaneously saying to the City Manager, Jaime Aguilera, "they are coming . . . get rid of the video" referring to law enforcement's approach to the City Hall government building.

Affiant learned that on February 22, 2012 that Martah Alondra Lozano had stated to Ricky Madrid that she was in fact the person who was seen by Officer Robles and members of the search warrant execution team proceeding towards the Mayor's office. Martah Alondra Lozano stated that she had received a telephone call from Pro-Tem Mayor Daniel Salinas instructing her to grab the two laptop computers from his office which she stated were later provided to Pro-Tem Mayor Daniel Salinas and in his possession. Martah Alondra Lozano further advised that she had observed a video that was sexual in nature of the mayoral candidate Gerardo Hernandez.

Affiant learned that the subject video was released to media outlets by an anonymous individual on February 22, 2012 following the execution of the search warrant on City Hall. Portions of the video were aired on regional television outlets depicting mayoral candidate Gerardo Hernandez with a topless female. The investigation has revealed that the photograph that was displayed to Gerardo Hernandez on February 16, 2012 was a still shot taken from that video. Gerardo Hernandez indicated that there was a laptop computer present during the encounter with this topless female and he believed that the laptop was equipped with a video camera.

Affiant learned that on February 24, 2012, at approximately 7:04 a.m., New Mexico State Police executed a search warrant on the residence of [REDACTED] Sunland Park, NM [REDACTED] and multiple vehicles to include a 2010 silver Ford pick-up truck bearing NM plate [REDACTED] which were in the possession of Pro-Tem Mayor Daniel Salinas.

Affiant learned that Pro-Tem Mayor Daniel Salinas had stated to members of the search warrant execution team that he had the two laptops; however, that they were stolen from him on February 23, 2012 in Juarez, Mexico. The search of the items subject to the search warrant did not reveal the two laptops that were taken by Martah Alondra Lozano on the previous date and given to Pro-Tem Mayor Daniel Salinas.

Affiant learned on February 24, 2012 that an analysis was performed on the contents of Jaime Aguilera's office computer by Officer Michael Brookreson of the Las Cruces Police Department. Jaime Aguilera's City Hall computer revealed that the extortion video was on his computer on February 15, 2012. Officer Brookreson was able to determine that the extortion video depicting Gerardo Hernandez and a nude woman was opened with video editing software on Jaime Aguilera's computer. Further, a still image was taken from the video utilizing the video editing software on his computer. The still image was saved on the computer and it evidences that the user of the editing software had adjusted the lighting on the image to make the face of Gerardo Hernandez more readily transparent from the first image to the third image.

On February 24, 2012 Affiant observed surveillance video footage of City Hall covering the date of February 15, 2012. Affiant observed Mayor Pro-Tem Daniel Salinas enter Jaime Aguilera's office carrying a laptop computer. The video surveillance time stamp corresponds with a time stamp on Jaime Aguilera's computer that shows that Mayor Pro-Tem Daniel Salinas was inside of Jaime Aguilera's office when Jaime Aguilera opened the video editing software, accessed the extortion video, and edited a still photo from the video.

[Handwritten Signature]

If Probable Cause Determination Required:
Probable Cause Found ; Not Found
(If not found, complaint dismissed & defendant released)

Date: _____

Judge _____

[Handwritten Signature]
JUDGE

[Handwritten Signature]

Charles A. Boylston, NMSP

AGENT
Approved / Title

ENDORSED COPY

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT COURT

FILED

2012 FEB 27 AM 8:50

STATE OF NEW MEXICO

DISTRICT COURT
DONA ANA COUNTY, NM

No. CR 2012-245

v.

JAIME RAUL AGUILERA, Defendant

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

DOB: [REDACTED]

SSN: [REDACTED]

ADDRESS: [REDACTED]

CRIMINAL COMPLAINT

CRIME: Extortion; Conspiracy to Commit Extortion; Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony); and Conspiracy to Commit Tampering with Evidence

The undersigned, under penalty of perjury complains and says that in the County of Dona Ana, State of New Mexico, the above named defendant did:

COUNT 1

Extortion. On or between February 15, 2012 and February 24, 2012 the Defendant communicated or transmitted a threat to expose, or impute to Gerardo Hernandez any deformity or disgrace by any means whatsoever with the intent thereby to wrongfully obtain anything of value or to wrongfully compel the person threatened to do or refrain from doing any act against his will in violation of NMSA 1978 §30-16-9(C); a third degree felony;

COUNT 2

Conspiracy to Commit Extortion. On or between February 15, 2012 and February 24, 2012 the Defendant did knowingly combine with another to commit Extortion, a felony, in violation of NMSA 1978 §30-28-2 and §30-16-9(C), a fourth degree felony;

COUNT 3

Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony). On or about February 21, 2012 the Defendant did destroy, change, hide, place, or fabricate physical evidence, *to wit:* deleting and/or editing images and/or video used in the extortion of Gerardo Hernandez, with the intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another in violation of NMSA 1978 §30-22-5(B)(2) and §30-16-9; a fourth degree felony; and,

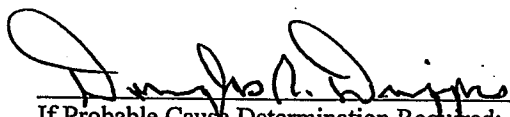


COUNT 4

Conspiracy to Commit Tampering with Evidence. On or between February 15, 2012 and February 21, 2012 the Defendant did knowingly combine with another to commit Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony), a felony, in violation NMSA 1978 §30-28-2 and §30-22-5(B)(2), a fourth degree felony.

SEE ATTACHED STATEMENT OF FACTS INCORPORATED HEREIN BY REFERENCE

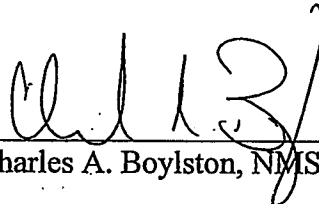
I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.



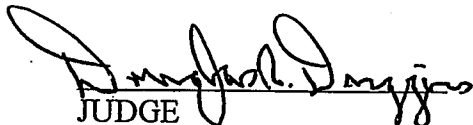
If Probable Cause Determination Required:
Probable Cause Found ; Not Found
(If not found, complaint dismissed & defendant released)

Date: _____

Judge _____


Charles A. Boylston, NMSP

AGENT
Approved / Title


JUDGE

ENDORSED COPY

FILED

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT COURT 2012 FEB 27 AM 8:50

DISTRICT COURT
DONA ANA COUNTY, NM

STATE OF NEW MEXICO

No. CR 2012-245

v.

JAIME RAUL AGUILERA, Defendant

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

DOB: [REDACTED]

SSN: [REDACTED]

ADDRESS: [REDACTED]

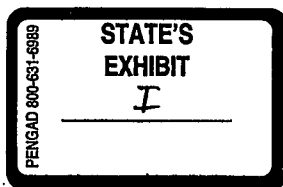
WARRANT FOR ARREST

THE STATE OF NEW MEXICO
TO ANY OFFICER AUTHORIZED TO EXECUTE THIS WARRANT:

- 1) **Extortion**
- 2) **Conspiracy to Commit Extortion**
- 3) **Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony); and**
- 4) **Conspiracy to Commit Tampering with Evidence**

BASED ON A FINDING OF PROBABLE CAUSE, YOU ARE COMMANDED to arrest the above-named defendant and bring the defendant without unnecessary delay before this court: to answer the charges of

- 1) **Extortion.** On or between February 15, 2012 and February 24, 2012 the Defendant communicated or transmitted a threat to expose, or impute to Gerardo Hernandez any deformity or disgrace by any means whatsoever with the intent thereby to wrongfully obtain anything of value or to wrongfully compel the person threatened to do or refrain from doing any act against his will in violation of NMSA 1978 §30-16-9(C); a third degree felony;
- 2) **Conspiracy to Commit Extortion.** On or between February 15, 2012 and February 24, 2012 the Defendant did knowingly combine with another to commit Extortion, a felony, in violation of NMSA 1978 §30-28-2 and §30-16-9(C), a fourth degree felony;
- 3) **Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony).** On or between February 15, 2012 and February 21, 2012 the Defendant did destroy, change, hide, place, or fabricate physical evidence, *to wit:* deleting and/or editing images and/or video used in the extortion of Gerardo Hernandez, with the intent to prevent the apprehension, prosecution or conviction of any person or to throw suspicion of the commission of a crime upon another in



violation of NMSA 1978 §30-22-5(B)(2) and §30-16-9; a fourth degree felony; and,

4) **Conspiracy to Commit Tampering with Evidence.** On or between February 21, 2012 and February 23, 2012 the Defendant did knowingly combine with another to commit Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony), a felony, in violation NMSA 1978 §30-28-2 and §30-22-5(B)(2), a fourth degree felony.

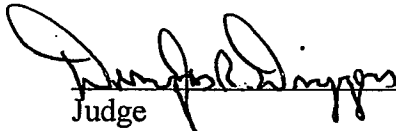
THIS WARRANT MAY BE EXECUTED:

- in any jurisdiction;
- anywhere in this state;
- anywhere in this county;
- anywhere in this city.

The person obtaining this warrant shall cause it to be entered into a law enforcement information system:

- maintained by the state police.
- _____ (identify other law enforcement information system).

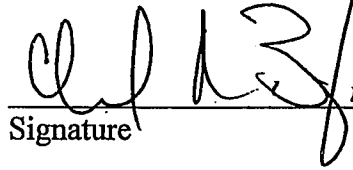
BOND: \$ 50,000 CASH ONLY


 Judge

2-25-12
 Date

RETURN WHERE DEFENDANT IS FOUND

I arrested the above-named defendant on the 25th day of FEBRUARY, 2012, and served a copy of this warrant on the 25th day of FEBRUARY, 2012 and caused this warrant to be removed from the warrant information system identified in this warrant.


 Signature

AGENT
 Title

ENDORSED COPY

STATE OF NEW MEXICO
COUNTY OF DONA ANA
IN THE THIRD JUDICIAL DISTRICT COURT

FILED

2012 FEB 27 AM 8:50

STATE OF NEW MEXICO

DISTRICT COURT
DONA ANA COUNTY, NM

v.

No. CR 2012-245

JAIME RAUL AGUILERA, Defendant

THIS CASE HAS BEEN ASSIGNED TO
LISA C. SCHULTZ

AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or between the 15th day of February 2012 and the 24th day of February 2012, in the County of Dona Ana, State of New Mexico, the above-named defendant did commit the crime of:

- 1) **Extortion**
- 2) **Conspiracy to Commit Extortion**
- 3) **Tampering with Evidence (Highest Crime is a Third or Fourth Degree Felony); and**
- 4) **Conspiracy to Commit Tampering with Evidence**

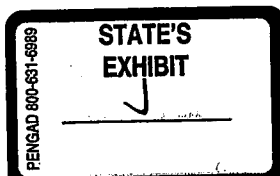
contrary to law of the State of New Mexico.

The undersigned further states the following facts on oath to establish probable cause to believe that the above-named defendant committed the crimes charged:

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Affiant learned that on February 16, 2012 Gerardo Hernandez was approached at his campaign camp in front of the Sunland Park City Hall by a male subject who had instructed him to withdraw his candidacy for the office of mayor for the City of Sunland Park. The male subject advised that the "merchants from the area" were interested in keeping the same administration that is currently running the City of Sunland Park and that this group wants Gerardo Hernandez to withdraw from the mayoral race. The subject then retrieved a photograph of Gerardo Hernandez which depicted him with a topless female. The subject told Gerardo Hernandez to withdraw his name from the mayoral race or that the picture would be published. The subject



then proceeded towards the campaign camp of Gerardo Hernandez's opponent, Daniel Salinas, on the other side of the City Hall parking lot where the subject then got into a vehicle and left the area.

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Affiant learned that the Hispanic female that entered City Hall prior to law enforcement securing the facility had taken an immediate right towards the Mayor's office which is occupied at this time by Mayor Pro-Tem Daniel Salinas. This individual, upon taking the immediate right, began to run towards the Mayor's office as she continued to talk on her cell phone. These observations were further captured on surveillance video maintained by City Hall. This individual was later identified as Martah Alondra Lozano who is employed as temporary human resources assistant for City Hall. Martah Alondra Lozano then entered the Mayor's office, locked the door and quickly exited through a rear exit door located in the Mayor's office.

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Affiant learned that Dario Hernandez who is employed as the Sunland Park Public Works Director was observed in the City Manager's office on surveillance cameras contemporaneously saying to the City Manager, Jaime Aguilera, "they are coming . . . get rid of the video" referring

to law enforcement's approach to the City Hall government building.

Affiant learned that on February 22, 2012 that Martah Alondra Lozano had stated to Ricky Madrid that she was in fact the person who was seen by Officer Robles and members of the search warrant execution team proceeding towards the Mayor's office. Martah Alondra Lozano stated that she had received a telephone call from Pro-Tem Mayor Daniel Salinas instructing her to grab the two laptop computers from his office which she stated were later provided to Pro-Tem Mayor Daniel Salinas and in his possession. Martah Alondra Lozano further advised that she had observed a video that was sexual in nature of the mayoral candidate Gerardo Hernandez.

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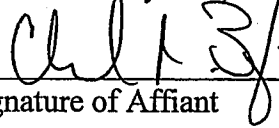
Affiant learned that Pro-Tem Mayor Daniel Salinas had stated to members of the search warrant execution team that he had the two laptops; however, that they were stolen from him on February 23, 2012 in Juarez, Mexico. The search of the items subject to the search warrant did not reveal the two laptops that were taken by Martah Alondra Lozano on the previous date and given to Pro-Tem Mayor Daniel Salinas.

Affiant learned on February 24, 2012 that an analysis was performed on the contents of Jaime Aguilera's office computer by Officer Michael Brookreson of the Las Cruces Police Department. Jaime Aguilera's City Hall computer revealed that the extortion video was on his computer on February 15, 2012. Officer Brookreson was able to determine that the extortion video depicting Gerardo Hernandez and a nude woman was opened with video editing software on Jaime Aguilera's computer. Further, a still image was taken from the video utilizing the video editing software on his computer. The still image was saved on the computer and it evidences that the user of the editing software had adjusted the lighting on the image to make the face of Gerardo Hernandez more readily transparent from the first image to the third image.

On February 24, 2012 Affiant observed surveillance video footage of City Hall covering the date of February 15, 2012. Affiant observed Mayor Pro-Tem Daniel Salinas enter Jaime Aguilera's office carrying a laptop computer. The video surveillance time stamp corresponds with a time stamp on Jaime Aguilera's computer that shows that Mayor Pro-Tem Daniel Salinas

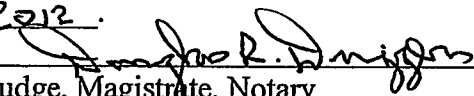
was inside of Jaime Aguilera's office when Jaime Aguilera opened the video editing software, accessed the extortion video, and edited a still photo from the video. Further, information from these sources also evidence that Mayor Pro-Tem Daniel Salinas left Jaime Aguilera's office and provided his laptop to Martah Alondra Lozano. The still image was used the following date, February 16, 2012, in order to extort Gerardo Hernandez into withdrawing for the mayoral position of Sunland Park.

CHARLES A. BOYLSTON
Charles A. Boylston, Affiant


Signature of Affiant

AGENT
Official title (if any)

Subscribed and sworn to before
me in the above-named [county]
[city] of the State of New Mexico
this 25th day of FEBRUARY,

2012.

Judge, Magistrate, Notary
or Other Officer Authorized
to Administer Oaths

NOTE: Article II, Section 10 of the New Mexico Constitution provides that an Arrest Warrant may issue on a sworn written statement of facts showing probable cause. This Affidavit is to be used only when the Complaint does not set forth sufficient facts to establish probable cause.



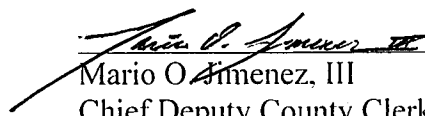
Doña Ana County

LYNN J. ELLINS - County Clerk

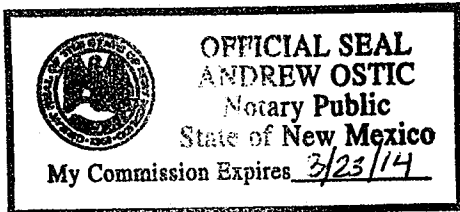
845 N. Motel Blvd., Room 1-200 • Las Cruces, New Mexico 88007 • (575) 647-7421

AFFIDAVIT OF MARIO O. JIMENEZ, III, CHIEF DEPUTY CLERK OF DONA ANA COUNTY

I, Mario O. Jimenez, III, the Chief Deputy County Clerk for Doña Ana County, witnessed the distribution of a ballot to an absentee in-person voter in the council chambers of the City of Sunland Park during the 2012 municipal election cycle. Sara Llamas, the city employee conducting the voting process at the time, issued a ballot as well as an outer envelope to a voter failing to provide the voter a secrecy envelope. Shortly after the voter had cast her ballot I explained to Ms. Llamas the importance of using an inner secrecy ballot anytime voters are voting absentee or absentee in-person ballots. After explaining to Ms. Llamas the proper steps to be followed when registrants are voting I notified her immediate supervisor Elizabeth Gamez (city clerk) of the failure to provide voter secrecy to their vote in which she ensured me that it would not continue and the proper steps for issuing a ballot would be followed.

 3-2-2012
Date

Mario O. Jimenez, III
Chief Deputy County Clerk
Dona Ana County
845 North Motel Blvd.
First Floor, Rm 200-1
Las Cruces, NM 88007
(575) 647-7421



Subscribed and sworn to before me this 2nd day of MARCH, 2012



Notary

my commission expires 3/23/14

