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

FILED

2012 APR 30 PM 1:52

STATE OF NEW MEXICO

DISTRICT COURT
DONA ANA COUNTY, NM

v.

CR-12-497

No.

Fernando R. Macias

DANIEL SALINAS, Defendant

DOB: [REDACTED]

SSN: [REDACTED]

ADDRESS: [REDACTED] Sunland Park, NM [REDACTED]

CRIMINAL COMPLAINT

CRIME: Fraud (Over \$2500); Conspiracy to Commit Fraud (Over \$2500); Making or Permitting False Public Vouchers; Conspiracy to Commit Making or Permitting False Public Vouchers; Receiving an Illegal Kickback; Soliciting an Illegal Kickback; Conspiracy to Commit Receiving and/or Soliciting an Illegal Kickback; Violation of Ethical Principles of Public Service; and Prohibited Official Acts for Personal Financial Interest

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

Fraud (Over \$2500) on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant, by words or conduct misrepresented a fact intending to deceive or cheat the City of Sunland Park, and because of the City of Sunland Park's reliance on the misrepresentation, the defendant obtained a cash payment of more than \$2,500.00 and/or services and goods valued at more than \$2,500.00, a third degree felony, contrary to NMSA 1978 Sections 30-16-6(D) and 30-1-13.

COUNT 2

Conspiracy to Commit Fraud (Over \$2,500), in that on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant did combine with another, for the purpose of committing a felony, to wit: Fraud (Over \$2,500) in reference to the per diem and expenses associated with the Border Legislative Conference in Saltillo, Coahuila de Zaragoza, Mexico, a fourth degree felony, contrary to

NMSA 1978 Sections 30-38-2 and 30-16-6((D)).

COUNT 3

Marking or Permitting False Public Vouchers, on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant did knowingly, intentionally or willfully made, caused to be made or permitted to be made, a false material statement upon any public voucher, or invoice supporting a public voucher, to wit: Diaz Consultants, invoice number 1004, dated February 6, 2012, for "Analysis 32.5 hours", intended that the voucher or invoice be relied upon for the expenditure or public money, a fourth degree felony, contrary to NMSA 1978 Sections 30-23-3 and 30-1-13.

COUNT 4

Conspiracy to Commit Making or Permitting False Public Vouchers, in that on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant did combine with another, for the purpose of committing a felony, to wit: Making or Permitting False Public Vouchers in reference to an invoice submitted in connection to "Analysis 32.5 hours", a fourth degree felony, contrary to NMSA 1978 Sections 30-38-2 and 30-23-3.

COUNT 5

Soliciting an Illegal Kickback, on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant did knowingly solicit monies from Luis Rene Diaz of Diaz Consultants for the purpose of obtaining payment for a video produced by Jose "Pepe" Reyes in the form of a kickback, directly or indirectly, overtly or covertly, in cash or in kind, from Luis Rene Diaz of Diaz Consultants in return for the furnishing or arranging for the furnishing of any item or service, to wit: additional monies and a continued contract with the City of Sunland Park, for which payment may be made in whole or in part with public money, a fourth degree felony, in violation of NMSA 1978 Sections 30-41-1 and 30-1-13

COUNT 6

Receiving an Illegal Kickback, on or between 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant did knowingly receive monies from Luis Rene Diaz of Diaz Consultants for the purpose of obtaining payment for a video produced by Jose "Pepe" Reyes in the form of a kickback, directly or indirectly, overtly or covertly, in cash or in kind, from Luis Rene Diaz of Diaz Consultants in return for the furnishing or arranging for the furnishing of any item or service, to wit: additional monies and a continued contract with the City of Sunland Park, for which payment may be made in whole or in part with public money, a fourth degree felony, in violation of NMSA 1978 Sections 30-41-1 and 30-1-13

COUNT 7

Conspiracy to Commit Soliciting and/or Receiving an Illegal Kickback, in that on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant did combine with another, for the purpose of committing a felony, to wit: Conspiracy to Soliciting and/or Receiving an Illegal Kickback in reference to the billing and receiving of cash, a fourth degree felony, contrary to NMSA 1978 Sections 30-38-2 and 30-41-1.

COUNT 8

Violation of Ethical Principles of Public Service, in that on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant was a public officer or employee for the City of Sunland Park and he did knowingly and willfully use the powers and resources of public office to obtain personal benefits or pursue private interests and he failed to make reasonable efforts to avoid exerting undue influence and abuse of office and/or he did request or receive any money, thing of value or promise thereof that was conditioned upon or given in exchange for promised performance of an official act, a fourth degree felony, in violation NMSA 1978 Sections 10-16-3 and 30-1-13.

COUNT 9

Violation of Ethical Principles of Public Service, in that on or between February 6, 2012 and February 16, 2012, in Dona Ana County, New Mexico, the above-named defendant was a public officer or employee for the City of Sunland Park and he did knowingly and willfully use the powers and resources of public office to obtain personal benefits or pursue private interests and he failed to make reasonable efforts to avoid exerting undue influence and abuse of office and/or he did request or receive any money, thing of value or promise thereof that was conditioned upon or given in exchange for promised performance of an official act, a fourth degree felony, in violation NMSA 1978 Sections 10-16-3 and 30-1-13.

**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 X ; Not Found _____

(If not found, complaint dismissed & defendant released)

Date: April 20, 2012

Judge JACOB PALMISTO

JUDGE

Ricky Herrera, NMSP

Agent NMSP
Approved / Title

STATE OF NEW MEXICO
COUNTY OF DONA ANA

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DISTRICT COURT
DONA ANA COUNTY, NM

STATE OF NEW MEXICO

v.

No. CR-12-497

DANIEL SALINAS, Defendant

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or between the 6th day of February 2012 and the 16th day of February 2012, in the County of Dona Ana, State of New Mexico, the above-named defendant did commit the crime of:

- 1) **Fraud (Over \$2500)**
- 2) **Conspiracy to Fraud (Over \$2500)**
- 3) **Making or Permitting False Public Vouchers**
- 4) **Conspiracy to Commit Making or Permitting False Public Vouchers**
- 5) **Receiving an Illegal Kickback**
- 6) **Soliciting an Illegal Kickback**
- 7) **Conspiracy to Commit Receiving and/or Soliciting an Illegal Kickback**
- 8) **Violation of Ethical Principles of Public Service; and**
- 9) **Prohibited Official Acts for Personal Financial Interest**

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:

The Affiant, Ricky Herrera, is a full time salaried law enforcement officer who has been employed by the New Mexico State Police for a period of approximately six (6) years. Affiant has received specialized training in criminal investigations through the New Mexico Law Enforcement Academy, the New Mexico State Police Academy. Affiant has received training in the investigation of various criminal activities. Affiant has conducted numerous criminal investigations that led to the arrest and conviction of persons in violation of New Mexico State Statutes.

As part of an ongoing investigation involving the City of Sunland Park the Affiant learned the following.

On March 6, 2012 Jaime Aguilera was interviewed at the Third Judicial District Attorney's Office in the presence of his attorney, Herman Ortiz. Also present was New Mexico State Police Agent Charles Boylston, Third Judicial District Attorney's Investigator Ricky Madrid, and Assistant District Attorney Steve Blankenship.

The Affiant learned that during the interview on March 6, 2012 that Jamie Aguilera advised Agent Boylston that Daniel Salinas had hired a lobbyist by the name of Rene Diaz in order to assist with the legislature. The Affiant later identified Rene Diaz as Luis Rene Diaz (hereafter referred to as Rene Diaz).

On March 7, 2012 Inv. Madrid, Agent Boylston, and ADA Blankenship continued interviewing Jaime Aguilera. During this interview Jaime Aguilera stated that Daniel Salinas had asked him to ask some individuals for campaign contributions. Jamie Aguilera stated he approached Jorge Angulo because he knew him and felt comfortable asking him for money, but he didn't feel comfortable asking any other people so he didn't. ADA Blankenship asked Jaime Aguilera if he knew of any other campaign contributions that Daniel Salinas received and didn't use towards his campaign. Jaime Aguilera stated he believed Rene Diaz gave him a contribution that was used to pay Jose "Pepe" Reyes for the extortion video. Jaime Aguilera stated Jose Reyes was pressuring Daniel Salinas to pay for the video. Jaime Aguilera stated that either he or Daniel Salinas asked Rene Diaz for "campaign contributions". Jamie Aguilera stated Rene Diaz then contacted him and handed him an envelope with money. Jaime Aguilera stated he then gave Daniel Salinas the envelope. ADA Blankenship asked Jamie Aguilera if Rene Diaz gave Daniel Salinas as much money as Jorge Angulo gave him. Jaime Aguilera stated Daniel Salinas needed \$2,000- \$3,000 to pay Jose Reyes, so he must have only gotten between \$2,000- \$3,000.

On April 25, 2012 Inv. Madrid, personnel with the New Mexico State Auditors Office, ADA Blankenship, and the Affiant interviewed Jaime Aguilera once again at the Third Judicial District Attorney's office in Las Cruces, NM. Jaime Aguilera's attorney, Herman Ortiz, was aware of the meeting and allowed us to interview Jaime Aguilera.

During this interview Jaime Aguilera was asked about Rene Diaz's hiring. Jaime Aguilera stated Rene Diaz was referred to Daniel Salinas. Rene Diaz was a political consultant who supposedly knew a lot of high ranking politicians at the State level, which would assist the city with funding. Jaime Aguilera stated Daniel Salinas asked him to hire Rene Diaz, but Daniel Salinas told him to skip the RFP process because he didn't want to explain to the public why Rene Diaz was being hired. The RFP (also known as a request for proposal) is not required for contracts less than \$20,000. A contract was reached with Rene Diaz shortly after Mayor Martin Resendiz failed to continue his duties as maory and Daniel Salinas assumed those responsibilities. Daniel Salinas told Jaime Aguilera to hire Rene Diaz at a level under the amount that would require an RFP. ADA Blankenship asked Jamie Aguilera what services Rene Diaz provided the city. Jaime Aguilera stated Rene Diaz never provided any service to the city. ADA Blankenship asked Jaime Aguilera if Rene Diaz ever submitted documentation to the city indicating what type of work he was doing. Jamie Aguilera stated Rene Diaz had submitted billings, but that he

did not provide anything of value to the city for those bills. Jaime Aguilera stated he approved them because Daniel Salinas asked him to approve them.

ADA Blankenship asked Jaime Aguilera if Rene Diaz gave Daniel Salinas any campaign contributions. Jaime Aguilera stated there were no contributions but, rather, "there was money under the table" from Rene Diaz to Daniel Salinas. ADA Blankenship asked Jaime Aguilera to give us more details on the money exchanged between Rene Diaz and Daniel Salinas. Jaime Aguilera stated Rene Diaz gave him an envelope with money that Daniel Salinas had asked him for in order to pay Jose Reyes for filming the extortion video. ADA Blankenship asked Jaime Aguilera how much money was in the envelope. Jaime Aguilera stated he thought it was \$3000. Inv. Madrid asked Jaime Aguilera if Rene Diaz knew what that money was for. Jaime Aguilera stated yes, he was told it was for a video. Inv. Madrid asked Jaime Aguilera who told Rene Diaz what the money was for and Jaime Aguilera stated that both he and Daniel Salinas told Rene Diaz it was for paying a private investigator (Jose Reyes) that had come up with a video and that they needed to pay the private investigation. Rene Diaz told them he didn't have the money, but he would come up with it. Jaime Aguilera stated Rene Diaz then submitted a request for payment of services and two days later Rene Diaz gave the money to Daniel Salinas to pay Jose Reyes. Inv. Madrid asked Jaime if the payment request submitted by Rene Diaz was for \$3,000. Jaime Aguilera stated he thought the amount of the invoice was for approximately \$4,999 or something like that, but that it was under \$5,000. Inv. Madrid asked Jaime Aguilera if he remembered the date this all happened. Jaime Aguilera stated that approximately four days before the extortion (February 16, 2012) Rene Diaz requested the payment for services and two days (February 14, 2012) before the extortion Rene Diaz gave Daniel Salinas \$3,000.

The Affiant asked Jaime Aguilera why it was important to be under \$5,000. Jaime Aguilera stated if it was over \$5,000 dollars it has to go through city council. Inv. Madrid asked Jaime Aguilera if Daniel Salinas knew that Rene Diaz was going to make a payment request to the city. Jaime Aguilera stated Rene Diaz told Daniel Salinas he was going to have to bill the city and Daniel Salinas told him it was fine. The State Auditors asked if he knew of any other similar transactions. Jaime Aguilera stated Rene Diaz had billed the city previously, but he did not know what the money was used for. Jaime Aguilera stated that he was told by Daniel Salinas "on occasion he's (Rene Diaz) buying dinner and he certainly has charged us enough for it". Inv. Madrid asked Jaime Aguilera to elaborate more on the dinners and drinks he mentioned Rene Diaz had bought earlier in the interview. Jaime Aguilera stated most of the time they had dinner at Montana's Steak house. Jaime Aguilera stated Rene Diaz must have known the owner because on a couple of occasions Rene Diaz never showed up the owner advised them Rene Diaz was taking care of the tab. Inv. Madrid asked Jaime Aguilera how many times did these dinners occur. Jaime Aguilera stated approximately three to five times. Inv. Madrid asked Jaime Aguilera who was present at the dinners. Jaime Aguilera stated sometimes it was people involved in the campaign, Father for the church, Christian Lira, Jessica Avila, Angelica Marquez, and spouses. Inv. Madrid asked Jaime Aguilera if he knew how much the tabs were. Jaime Aguilera stated he did not, but he estimated it was around \$50 per person and there were always six to ten people there. Inv. Madrid asked if it could be

matched with invoices billed to the city. Jaime Aguilera stated no, he just knew it was coming from the bills Rene Diaz was submitting because of what Daniel Salinas told him. I asked Jaime Aguilera if anyone else knew where the money was coming from. Jamie Aguilera stated no.

On April 27, 2012 The Affiant reviewed Diaz Consultant's invoices and found and invoice # 1004 form Diaz Consultants to the City of Sunland Park, which is the payment request Jaime Aguilera referenced above involving the \$3,000 payment for the extortion video. The invoice was dated for February 6, 2012 and it was for the amount of \$4,998.75. The description of the work done stated "01/06/2012-01/24/2012 Analysis 32.25 hrs". Check # 000206 was issued to Diaz Consultants by the City of Sunland Park on February 13, 2012 for the amount of \$4,998.75.

Affiant believes that probable cause exists for the arrest of the defendant.

Agent Ricky Herrera NMSP
(print/type) Affiant's Name

Signature of Affiant

Official Title (if any)

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

Subscribed and sworn to
before me in the above-named
(county) (city) of the State
of New Mexico this _____
day of _____, _____.

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.