

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT

ENDORSED  
First Judicial District Court

AUG 28 2015

(M)

Santa Fe, Rio Arriba &  
Los Alamos Counties  
PO Box 2268  
Santa Fe, NM 87501-2268

NOV 06 2015-00478

v.

Dianna J. Duran, Defendant.

**CRIMINAL COMPLAINT AND REQUEST FOR SUMMONS**

**CRIMES:**

Ethical Principles of Public Service. Embezzlement (over \$250.00 but not more than \$500.00). Fraud (over \$250.00 but not more than \$500.00). Money Laundering. Embezzlement (over \$500.00 but not more than \$2,500.00). Fraud (over \$500.00 but not more than \$2,500.00). Embezzlement (over \$2,500.00 but not more than \$20,000.00). Fraud (over \$2,500.00 but not more than \$20,000.00). Computer access with the intent to defraud or embezzle. Conspiracy to commit embezzlement. Conspiracy to commit fraud. Embezzlement (under \$250.00). Violation of Campaign Practices Act. Campaign Funds Limitation on Expenditures. Tampering with public records. Theft of identity. Violation of Campaign Practices Act. Filing a False Campaign Report: separate bank account required. Violation of Campaign Practices Act. content of report violation

The undersigned, under penalty of perjury, complains and says that on or between the 22<sup>nd</sup> day of March, 2010 and 29<sup>th</sup> day of December, 2014, in the State of New Mexico, the above-named defendant(s) did:

**Investigation:**

In July 2014, the New Mexico Office of the Attorney General received a confidential tip regarding the personal bank account of Dianna J. Duran. The information in the tip advised that there were numerous cash deposits made into bank accounts of Dianna J. Duran. The cash deposits appeared to be incongruent when compared to known sources of income.

There has been a pattern of observed behavior demonstrated by Dianna J. Duran during the course of this investigation. The pattern appears to center around, among other things, deposits of large amounts of cash as well as campaign contributions into financial accounts, both personal and campaign, controlled by Dianna J. Duran. This behavior has been observed to often be followed by the subsequent transfer of funds between financial institutions including personal and campaign accounts controlled by Dianna J. Duran. This behavior often culminates in large debits for cash expenditures occurring at casinos throughout the State of New Mexico.

## **Identification of Bank Accounts Controlled by Dianna J. Duran:**

### **Wells Fargo Bank:**

Account # 2094526783 (hereinafter referred to as "2010 SOS campaign account"), opened March 8, 2010 by Dianna Duran as the sole signer; the account was opened as the campaign account for the 2010 Secretary of State election. In the July 2011 statement, Wells Fargo Bank notified Dianna J. Duran that effective September 12, 2011, the account would be designated as "Wells Fargo Personal Checking" account. The checks drawn against this account bear the name: "Dianna J. Duran for Secretary of State Campaign Account". The only authorized signer on this account is Dianna J. Duran.

### **First National Bank:**

First National Bank is a New Mexico company with locations in five New Mexico towns in the southern portion of the state, serving Otero, Lincoln and Eddy counties. If a transaction was conducted at a First National Bank branch location, it was conducted within the State of New Mexico.

Account# 0028028306 (hereinafter referred to as "joint personal checking"), opened August 9, 2007 by Dianna J. Duran and Rosaleo "Leo" N. Barraza; the account was opened as a "First Club 50", joint ownership, checking account.

Account# 0021225320 (hereinafter referred to as "joint personal savings"), opened September 2, 1992, by Rosaleo "Leo" N. Barraza; Dianna J. Duran is listed as a joint signer; the account is listed as a savings account.

Account# 0010162101 (hereinafter referred to "2014 SOS campaign account"), opened September 13, 2013 by Grace M. Gonzalez; the account is titled "Dianna J Duran for Secretary of State" and is the registered campaign account for the 2014 Secretary of State election. Dianna J. Duran is also listed as a signer on the account; she signed the signature card on September 20, 2013. This account is the only registered account for the 2014 Secretary of State election.

## **Financial Analysis of Subpoenaed Material**

### **Known Sources of Income**

Examination of financial records, including bank statements and loan applications as well as joint tax returns revealed the known sources of income for Dianna J. Duran and her husband Rosaleo N. Barraza. The following table is representative of the examination:

<b>2010 Tax Year</b>	<b>Individual</b>	<b>Source</b>	<b>Reported Income</b>	<b>AGI Reported on 2010 Tax Return</b>
	Rosaleo Barraza	NM PERA	\$53,195.16	
	Dianna J. Duran	NM PERA	\$27,187.56	
	Rosaleo Barraza	Social Security	\$23,304.00	
	Dianna J. Duran	(Sch. C) State Senator	(\$6,554.00)	
	Barraza/Duran Joint	(Sch. E) Rental Income	(\$4,507.00)	
	Dianna J. Duran	Gambling Income	\$5,681.00	
				<b>\$93,526.00</b>
<b>2011 Tax Year</b>	<b>Source</b>	<b>Reported Income</b>	<b>AGI Reported on 2011 Tax Return</b>	
	Wages	\$53,848.00		
	Pensions	\$53,884.00		
	(Sch. E) Rental Income	(\$6,212.00)		
	Social Security Benefits	\$23,297.00		
	Gambling Income	\$719.00		
			<b>\$122,041.00</b>	
<b>2012 Tax Year</b>	<b>Source</b>	<b>Reported Income</b>	<b>AGI Reported on 2012 Tax Return</b>	
	Wages	\$50,643.00		
	Pensions	\$55,528.00		
	(Sch. E) Rental Income	(\$7,969.00)		
	Social Security Benefits	\$24,143.00		
	Gambling Income	\$0		
			<b>\$118,724.00</b>	
<b>2013 Tax Year</b>	<b>Source</b>	<b>Reported Income</b>	<b>AGI Reported on 2013 Tax Return</b>	

	Wages	\$55,352.00	
	Pensions	\$56,934.0	
	(Sch. E) Rental Income	\$0	
	Social Security Benefits	\$24,551.00	
	Gambling Income	\$4,513.00	
			<b>\$137,667.00</b>

### Expenses Observed

Further analysis of the financial accounts controlled by Dianna J. Duran revealed total expenditures per calendar year, which was compared to the known sources of income, as reported by Dianna J. Duran and her husband Rosaleo Barraza on their joint tax returns (2010 through 2013).

### Casino Cash Withdrawals

The following table represents electronic debits for cash from the accounts controlled by Dianna J. Duran at the following locations for the calendar years 2013 and 2014:

Casino	2013	2014
Buffalo Thunder Casino	\$600.00	\$6,300.00
Camel Rock Casino	\$28,000.00	\$34,300.00
Casino Apache	\$15,946.00	\$61,055.00
Inn of the Mountain Gods	\$800.00	\$15,875.00
Ohkay Casino	\$0	\$1,000.00
Ruidoso Downs	\$5,035.00	\$9,171.00
San Felipe Casino	\$1560.00	\$4,850.00
Sandia Casino	\$95,700.00	\$150,255.96
<b>TOTAL</b>	<b>\$147,641.00</b>	<b>\$282,806.96</b>

## **Reported Casino Activity**

On July 28, 2015, Special Agent S. Gloria obtained a Grand Jury Subpoena for multiple casinos where Dianna J. Duran withdrew cash

On August 18, 2015, Buffalo Thunder Casino responded to the subpoena by providing a summary of the gambling activity conducted by Dianna J. Duran. This summary included calendar years 2013 and 2014.

On August 11, 2015, Sandia Casino responded to the subpoena by providing a summary of the gambling activity conducted by Dianna J. Duran and activity on her casino player's card (#1900164205). This summary included calendar years 2013 and 2014.

The subpoenaed materials revealed there was gambling activity associated with Dianna J. Duran on or about the dates of cash withdrawals observed in the financial accounts controlled by Dianna J. Duran.

## **Background of Dianna J. Duran**

Dianna J. Duran is the current Secretary of State of New Mexico. In the 2010 election Dianna J. Duran ran for and won the election for Secretary of State. In 2014, Dianna J. Duran was re-elected as Secretary of State. During the 2014 campaign, Dianna J. Duran solicited contributions for her campaign from multiple New Mexico residents and businesses. The campaign reports of contributions and expenditures are governed by the New Mexico Campaign Practices Act (NMSA 1978, Sections 1-19-1 to -37). The reporting of campaign contributions and expenditures are overseen by the Office of the Secretary of State. Dianna J. Duran, as the New Mexico Secretary of State, assumes the role of state government ethics regulator.

During the course of this investigation, victims and/or contributors as well as the Campaigns to Elect Dianna J. Duran were identified. These victims and/or contributors were observed to be residents or located within the State of New Mexico. The Campaigns to Elect Dianna J. Duran were conducted in the State of New Mexico.

## **Specific Criminal Incidents:**

### **1. ETHICAL PRINCIPLES OF PUBLIC SERVICE**

On or between September 1, 2013 and August 28, 2015, Dianna J. Duran did use her powers and status as a public officer, employee and the office of the Secretary of State to obtain personal benefit or pursue private interests, or conducted herself in a manner that did not maintain the integrity, ethics, responsibilities of public service or failed to disclose real or potential conflicts of interests or requested or received money, a thing of value, and or promise conditioned on performance of an official act. All political campaigns in the State of New Mexico are governed by the recording, reporting and

spending provisions of the Campaign Practices Act, of which the New Mexico Secretary of State's office is the governing body.

Dianna J. Duran did violate the ethical principles of public service by:  
committing embezzlement (over \$250.00 but not more than \$500.00) by converting intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico to her own use; committing fraud (over \$250.00 but not more than \$500.00) by misappropriating intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico, with the intent to defraud the campaign or another; committed a violation of campaign funds limitation on expenditures by knowingly and willfully making an expenditure of campaign contributions for unauthorized purposes; committing money laundering by conducting, structuring, engaging in or participating in a financial transaction that she knew or believed to be proceeds of an unlawful activity; committing embezzlement (over \$500.00 but not more than \$2,500.00) by converting intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico, to her own use; committing fraud (over \$500.00 but not more than \$2,500.00) by misappropriating intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico, with the intent to defraud the campaign or another; committing embezzlement (over \$2,500.00 but not more than \$20,000.00) by converting intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico, to her own use; committing fraud (over \$2,500.00 but not more than \$20,000.00) by misappropriating intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico, with the intent to defraud the campaign or another; committing computer access fraud by knowingly, willfully accessed or caused to be accessed a computer, computer system, computer network or any part thereof with the intent to obtain, by means of embezzlement or false or fraudulent pretenses, representations or promises, money, property or anything of value (over \$2,500.00 but not more than \$20,000.00); committing conspiracy to commit a felony by conspiring with another, through words or acts to commit the crime of embezzlement (over \$2,500.00 but not more than 20,000.00), intending to commit embezzlement (over \$2,500.00 but not more than \$20,000.00); committing conspiracy to commit a felony by conspiring with another, through words or acts to commit the crime of fraud (over \$2,500.00 but not more than 20,000.00), intending to commit fraud (over \$2,500.00 but not more than \$20,000.00); committing embezzlement (under \$250.00) by converting intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico, to her own use; committing fraud (under \$250.00) by misappropriating intended campaign contributions for her candidacy for the office of Secretary of State of New Mexico, with the intent to defraud the campaign or another; committing tampering with public records by knowingly falsifying or falsely making any record or file, authorized or required to be kept by law; committing filing a false campaign report by a candidate or candidate's agent, knowingly and willfully filed a statement or report of expenditure and contribution that contained false or incomplete information; committing theft of identity by willfully obtaining, recording or transferring personal identifying information of another, without the authorization or consent of that person and with the intent to defraud that person or

another: committing a violation of the Campaign Practices Act, separate bank account required by a candidate for public office and making an expenditure and or solicited or accepted a contribution for a political purpose without establishing a single bank account, in which all receipts of money contributions were deposited and all expenditures were disbursed: committing a violation of the Campaign Practices Act, content of report violation by filing a campaign report that did not include the full name of an entity.

## **2. SHOATS and WEAKS, INCORPORATED**

On December 22, 2014, Shoats and Weaks, Incorporated issued a check to "CTE Diana Duran" (=3741, dated December 22, 2014, \$500.00, from their US Bank account). The check was endorsed "Dianna Duran 28028306": the endorsement appears to be the legal signature of Dianna J. Duran. The check was deposited into the First National Bank, joint personal checking (=8306), on December 29, 2014.

The check appears to be intended for the campaign of Dianna J. Duran: CTE is an acronym for "Campaign to Elect" or "Committee to Elect". It should be noted, the check is issued after the election date of November 3, 2014.

A thorough review of the personal bank account belonging to Dianna J. Duran and her husband, Leo Barraza showed the following information:

Balance as of December 23, 2014 was overdrawn by \$2,042.56. On December 24, 2014 there were five transactions totaling \$3,126.63 debited from the account, resulting in an overdrawn balance of \$5,169.19.

On December 26, 2014, a direct deposit from the State of New Mexico was made as well as three debits, resulting in an overdrawn balance of \$3,921.17.

On December 29, 2014, Dianna J. Duran made a deposit of \$4,660.00 into First National Bank, joint personal checking (=8306), this deposit contained \$4,160.00 in cash and the \$500.00 Shoats and Weaks, Incorporated check. This deposit paid the overdrawn balance and brought the balance to \$738.83. Subsequent debits from the account are as follows: \$2.68 to New Mexico Gross Receipt Tax; \$34.00 to Overdraft Fees, \$700.00 ACH (Automated Clearing House) transaction at 30 Rainbow Road NE, Albuquerque, New Mexico, the Sandia Resort and Casino, leaving the account balance on December 29, 2014 at \$2.15.

On August 13, 2015, Special Agent J. Weber requested and was granted a Grand Jury subpoena for material regarding Dianna J. Duran and her 2014 campaign for Secretary of State: the subpoena was issued to Shoats and Weaks, Incorporated. It was served on August 18, 2015 by Special Agent E. Griego.

On August 19, 2015, Ms. Shoats contacted Special Agent Weber regarding the subpoena. Ms. Shoats confirmed the check (=3741, dated December 22, 2014, \$500.00, issued to

"CTE Diana Duran") was issued as a contribution to the 2014 campaign for Secretary of State. She further confirmed the check was not intended as a gift or loan. Shoats and Weaks, Incorporated reported the contribution on their 2015 Lobbyist Reporting Form, Report of Expenditures, Form D, on December 15, 2014, indicating an expenditure of \$500.00 to Dianna J. Duran.

This campaign contribution is not documented in any campaign report for the 2014 campaign period, nor in any supplemental reports, nor in any amended reports, by Dianna J. Duran, as of August 27, 2015.

Dianna J. Duran did: embezzle or convert to her own use \$500.00, on or about December 29, 2014 (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$500.00 belonging to the Campaign to Elect Dianna J. Duran or Shoats and Weaks, Incorporated or another by means of fraudulent conduct (NMSA 1978 1978 30-16-6); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30-51-4).

### **3. CASH WITHDRAWAL, \$1,486.90**

On July 15, 2014 at 1243 hours, Dianna J. Duran personally withdrew from her First National Bank, 2014 SOS campaign account (=2101) \$1,486.90, which was subsequently deposited into her First National Bank, joint personal checking (=8306) on or about July 15, 2014 at 1243 hours. The signature that appears on the withdrawal slip appears consistent with the signature card on the First National Bank, 2014 SOS campaign account (=2101).

The events surrounding this transaction are as follows: On July 14, 2014, the First National Bank, joint personal checking (=8306), balance prior to this deposit indicated that the account was overdrawn in the amount of \$1,019.38. Subsequent review of the First National Bank, joint personal checking (=8306), showed the following information: the deposit of \$1,486.90 and a separate deposit of \$100.00 brought the account into a positive balance of \$567.52. Subsequent transactions on the account are as follows: fees and taxes totaled \$110.03; two withdrawals at Ohkay Casino totaling \$400.00 as well as two debit card purchases totaling \$45.31, resulting in an ending balance on July 15, 2014 of \$12.18, thus, making these transactions impossible to negotiate without the \$1,486.90 deposit which was withdrawn from her First National Bank, 2014 SOS campaign account (=2101).

It should be noted, on July 11, 2014, the First National Bank, joint personal checking (=8306), balance was overdrawn by \$1,305.09 at the start of the business day. The following deposits were made on July 11, 2014: direct deposit from the State of New Mexico of \$1,486.05 (payroll), returned fees and taxes totaling \$36.68 and an in-person deposit of \$210.00 in cash and a \$10.00 check (from Penny Evans, who is unrelated to this

investigation). On July 14, 2014, the following withdrawals were made against the account: \$40.00 (made on 07 12 14 and posted 07 14 14); \$30.00 as an ACH transaction at Sandia Resort and Casino (listed as "Redecheck"); \$400.00 at Sandia Resort and Casino (with the address of 30 Rainbow Road NE, Albuquerque, New Mexico); \$800.00 at Casino Apache; \$43.10 at Sav-o-Mat and \$48.92 at Ohkay Express Mart in Espanola, New Mexico. There was a total of \$1,362.02 withdrawn from the account on July 14, 2014, the account was overdrawn by \$1,019.38 at the end of the business day.

Examination of the campaign reporting expenditures for the 2014 SOS campaign did not show an expenditure of \$1,486.90 in any of the submitted reports.

Dianna J. Duran did: embezzle or convert to her own use \$1,486.90, on or about July 15, 2014 (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$1,486.90, belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA 1978 30-16-6); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30-51-4).

#### **4. CAMPAIGN TRANSFER, \$2,550.00**

On September 24, 2013, Dianna J. Duran did electronically transfer a financial instrument (via wire transfer, authorizing the transaction between two financial institutions for a fee of \$30.00) funds from her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) to her First National Bank, joint personal checking (=8306), totaling \$2,550.00, thus converting it to her own personal use.

According to the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form C (filed and dated October 15, 2013) on September 25, 2013, Dianna J. Duran transferred funds (\$2,865.12) from her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783), into her First National Bank, 2014 SOS campaign account (=2101), with a description of "Transfer of campaign funds to 2014 SOS campaign".

After reviewing associated bank statements, a corresponding transaction of \$2,550.00 was wire transferred from her Wells Fargo Bank, personal account as of September 12, 2011 (=6783) and located in her First National Bank, joint personal checking (=8306). No transaction totaling \$2,865.12 was found in the Wells Fargo Bank, personal account as of September 12, 2011 (=6783), for this time frame.

The First National Bank, joint personal checking (=8306) balance prior to this transfer indicated that the account was overdrawn in the amount of \$1,808.63. Subsequent review of the First National Bank, joint personal checking (=8306) showed the following information: the transfer brought the account into a positive balance of \$741.37. Subsequent transactions on the account are as follows: fees and taxes totaled \$146.37; two

withdrawals at Casino Apache totaling \$500.00 resulting an ending balance on September 24, 2013 of \$95.00, thus, making these transactions impossible to negotiate without the \$2,550.00 transfer from her Wells Fargo Bank, personal account as of September 12, 2011 (=6783).

It should be noted that the amount of \$2,865.12 was the last reported balance of the 2010 election campaign, as reported August 30, 2011: the balance of the Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) has fluctuated above and below \$2,865.12, since the 2010 election.

These events detail the \$2,550.00 wire transfer from Dianna J. Duran's Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) to her First National Bank, joint personal checking (=8306). The diversion of the funds for her campaign account by a transfer to her personal account converted the funds to personal use by Dianna J. Duran: this was done with the intent to defraud her campaign account of the funds.

Dianna J. Duran did: embezzle or convert to her own use \$2,550.00, on or about September 24, 2013 and September 25, 2013 (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$2,550.00, belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA 1978 1978 30-16-6); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1978 1-19-29.1); conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 1978 30-51-4); and knowingly, willfully accessed or caused to be accessed a computer, computer system, computer network or any part thereof with the intent to obtain, by means of embezzlement or false or fraudulent pretenses, representations or promises, money, property or anything of value of \$2,550.00 (NMSA 1978 1978 30-45-3).

## **5. SEAN DAVIS**

On March 22, 2010, Dianna J. Duran issued check # 1066 from her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) to Sean Davis in the amount of \$600.00. The check was signed by Dianna J. Duran. The check was endorsed with a signature that appears to be Sean Davis and endorsed a second time as "Dianna J. Duran 28028306" and subsequently deposited toward her First National Bank, joint personal checking (=8306), also on March 22, 2010.

This check is listed on the 2010 Campaign Reporting Act, Report of Expenditures and Contributions, Form C (submitted April 12, 2010 at 10:40:14 AM). The report lists the date of March 22, 2010 and "Sean Davis-216 Sierra Blanca, Tularosa, NM 88352", with the description: "Equipment & work on campaign".

On August 23, 2015, Special Agent S. Gloria and Special Agent J. Weber attempted to contact Sean Davis at his listed residence in Tularosa, New Mexico. Mr. Davis was not

home, however, his contact information was provided to agents by his mother. A business card was left with his mother.

On August 24, 2015, Special Agent J. Weber conducted an interview with Mr. Davis. Special Agent J. Weber asked Mr. Davis what type of work he did with the Dianna J. Duran 2010 campaign; Mr. Davis advised he did not work with or for the 2010 campaign. Mr. Davis advised the only "campaigning" he participated in was walking in a parade in Alamogordo, New Mexico, sometime in 2010. Mr. Davis indicated he did not receive compensation or checks from the 2010 campaign. Mr. Davis was shown a copy of the check issued to his name (=1066, \$600.00, from Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783)) and confirmed he did not receive the funds from the check and he did not endorse the check.

Dianna J. Duran did tamper with a public record by knowingly falsifying or falsely making any record or file, authorized or required to be kept by law (NMSA 1978 30-26-1); knowingly and willfully filed a statement or report of expenditure and contribution that contained false or incomplete information (NMSA 1978 1-19-29.1); did commit theft of identity by willfully obtaining, recording or transferring personal identifying information of another, without the authorization or consent of that person and with the intent to defraud that person or another (NMSA 1978 30-16-24.1).

**6. ROSALEO N. BARRAZA ("LEO BARRAZA"), \$2,850.00 and \$328.00**

On November 20, 2014, check #229, was issued payable to Leo Barraza in the amount of \$2,850.00 from the First National Bank, 2014 SOS campaign account (=2101) entitled Dianna J. Duran for Secretary of State. The memo line on this check reflected "reimbursement", it was endorsed by Barraza and deposited into the First National Bank, joint personal checking (=8306) entitled Dianna J. Duran or Rosaleo N. Barraza, on November 20, 2014. On the Secretary of State Dianna J. Duran Campaign Reporting Act Report of Expenditures and Contributions 2014, submitted on December 4, 2014, at 5:12:09 pm, an expenditure was reported on November 20, 2014 indicating that Leo Barraza was paid a "Travel Reimbursement" of \$986.58. The amount of the check (=229) that was actually written to Leo Barraza and deposited into the First National Bank, joint personal checking (=8306) in the amount of \$2,850.00 was not reported on November 20, 2014 nor was it located on any other campaign expenditure report.

On November 19, 2014, the First National Bank, joint personal checking (=8306) had a balance of \$1,096.50. On November 20, 2014, the combined deposit, totaling \$3,850.00, including the \$2,850.00 check #229, issued and signed by Dianna J. Duran and written to Leo Barraza from the First National Bank, 2014 SOS campaign account (=2101) was posted to the account. On November 20, 2014 at 13:40 hours, a withdrawal of \$4,500.00 was debited from the account at Sandia Casino. At the end of the business day on November 20, 2014, the account balance was \$446.50. Without the deposit of \$2,850.00, the withdrawal at Sandia Casino could not have been realized without overdrawing the account. Analysis of subpoenaed material from Sandia Casino indicated the existence of gambling activity associated with the player's club card belonging to Dianna J. Duran

within close proximity of the \$4,500.00 withdrawal.

On October 3, 2014, check #211 payable to Leo Barraza in the amount of \$328.00 from the First National Bank, 2014 SOS campaign account (#2101) titled Dianna J. Duran for Secretary of State, dated October 3, 2014, with the memo line reflecting, "reimbursement" was deposited into the personal bank account at First National Bank, joint personal checking (#8306) titled Dianna J. Duran or Rosaleo N. Barraza, on October 3, 2014. This expense was not reported as a campaign expense on any of the Campaign Reporting Act Report of Expenditures and Contributions Form C Expenditures.

On October 2, 2014, the First National Bank, joint personal checking (#8306) had a balance of \$231.82. On October 3, 2014, two deposits were credited into the account, totaling \$1,816.05, which included a State of New Mexico direct deposit of \$1,488.05 and the \$328.00 check #211, issued and signed by Dianna J. Duran and written to Leo Barraza from the First National Bank, 2014 SOS campaign account (#2101). On October 3, 2014, \$561.10 was debited from the account in personal expenses. Also observed were two separate debits to the account, both on October 3, 2014, one for \$1,200.00 and one for \$200.00; both of these debits were at Sandia Casino. Analysis of subpoenaed material from Sandia Casino indicated the existence of gambling activity associated with the player's club card belonging to Dianna J. Duran within close proximity of the \$1,200.00 and \$200.00 withdrawals. At the end of business day on October 3, 2014, the account balance was overdrawn by \$13.23. Without the deposit of \$1,816.05, including the First National Bank, 2014 SOS campaign account (#2101) check #211 of \$328.00 written to Leo Barraza, issued and signed by Dianna J. Duran, the withdrawals at Sandia Casino could not have been realized.

Examination of financial records revealed that between September 3, 2014 and November 3, 2014, Dianna J. Duran issued and signed multiple checks to Rosaleo N. Barraza, her husband. A signature bearing the name "Leo Barraza" appears as endorsement on these checks. All of these checks were deposited into the joint personal checking account First National Bank, joint personal checking (#8306). Analysis was conducted of First National Bank, joint personal checking (#8306) where no matches to the dollar amounts of the reimbursement expenditures to Leo Barraza were found.

Examples of the incidents of checks issued to Leo Barraza include:

On September 3, 2014, check #192, payable to Leo Barraza in the amount of \$387.95 from the First National Bank, 2014 SOS campaign account (#2101) titled Dianna J. Duran for Secretary of State, dated September 3, 2014, with the memo line reflecting, "reimbursement for supplies" was deposited into the personal bank account at First National Bank, joint personal checking (#8306) titled Dianna J. Duran or Rosaleo N. Barraza, on September 3, 2014. The Secretary of State Dianna J. Duran Campaign Reporting Act Report of Expenditures and Contributions 2014, submitted on October 14, 2014, at 3:07:17 pm, reflects that on September 3, 2014, "Reimbursement for Parade sign supplies" was listed as an expense for Leo Barraza in the amount of \$387.95.

On September 15, 2014, check #201, payable to Leo Barraza in the amount of \$462.27

from the First National Bank, 2014 SOS campaign account (=2101) titled Dianna J. Duran for Secretary of State, dated September 15, 2014, with the memo line reflecting, "reimbursement" was deposited into the personal bank account at First National Bank, joint personal checking (=8306) titled Dianna J. Duran or Rosaleo N. Barraza, on September 15, 2014. The Secretary of State Dianna J. Duran Campaign Reporting Act Report of Expenditures and Contributions 2014, submitted on October 14, 2014, at 3:07:17 pm, reflects that on September 15, 2014, "Reimbursement for Travel" was listed as an expense for Leo Barraza in the amount of \$462.27.

On October 16, 2014, check #217 payable to Leo Barraza in the amount of \$665.47 from the First National Bank, 2014 SOS campaign account (=2101) titled Dianna J. Duran for Secretary of State, dated October 16, 2014, with the memo line reflecting, "reimbursement" was deposited into the First National Bank, joint personal checking (=8306) titled Dianna J. Duran or Rosaleo N. Barraza, on October 16, 2014. The Secretary of State Dianna J. Duran Campaign Reporting Act Report of Expenditures and Contributions 2014, submitted on October 30, 2014, at 1:54:49 pm, reflects that on October 16, 2014, "reimbursement for travel" was listed as an expense for Leo Barraza in the amount of \$665.47.

On October 24, 2014, check #219, payable to "Leo Barraza" in the amount of \$300.00 from the First National Bank, 2014 SOS campaign account (=2101) titled Dianna J. Duran for Secretary of State, dated October 24, 2014, with the memo line reflecting, "reimbursement" was deposited into the First National Bank, joint personal checking (=8306) titled Dianna J. Duran or Rosaleo N. Barraza, on October 24, 2014. The Secretary of State Dianna J. Duran Campaign Reporting Act Report of Expenditures and Contributions 2014, submitted on October 30, 2014, at 1:54:49 pm, reflects that on October 24, 2014, "reimbursement for travel" was listed as an expense for Leo Barraza in the amount of \$300.00.

On November 3, 2014, check #223 payable to Leo Barraza in the amount of \$375.00 from the First National Bank, 2014 SOS campaign account (=2101) entitled Dianna J. Duran for Secretary of State, dated November 3, 2014, with the memo line reflecting, "reimbursement" was deposited into the First National Bank, joint personal checking (=8306) entitled Dianna J. Duran or Rosaleo N. Barraza, on November 3, 2014. The Secretary of State Dianna J. Duran Campaign Reporting Act Report of Expenditures and Contributions 2014, submitted on December 4, 2014, at 5:12:09 pm, reflects that on November 3, 2014, "Reimbursement for Campaign Expenses" was listed as an expense for Leo Barraza in the amount of \$375.00.

Dianna J. Duran did: embezzle or convert to her own use \$2,850.00, on or about November 20, 2014 (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$2,850.00, belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA 1978 30-16-6); embezzle or convert to her own use \$328.00, on or about October 3, 2014 (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$328.00, belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA

1978 30-16-6) conspire to commit a felony by conspiring with another, through words or acts to commit the crime of embezzlement (over \$2,500.00 but not more than \$20,000.00), intending to commit embezzlement (over \$2,500.00 but not more than \$20,000.00); conspire to commit a felony by conspiring with another, through words or acts to commit the crime of fraud (over \$2,500.00 but not more than \$20,000.00), intending to commit fraud (over \$2,500.00 but not more than \$20,000.00); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29 1); conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30-51-4);

#### **7. DIANNA J. DURAN, \$511.21**

On November 21, 2014, check # 230 payable to Dianna J. Duran in the amount of \$511.21 from the First National Bank, 2014 SOS campaign account (#2101), dated November 21, 2014, was deposited into First National Bank, joint personal checking (#8306) on November 21, 2014. This expense was not reported as a campaign expense on any of the Campaign Reporting Act Report of Expenditures and Contributions Form C Expenditures for Dianna J. Duran, however, there is an expenditure identified and reported as "Prim Mart One-stop -6804 4<sup>th</sup> St NW, Los Ranchos NM 87107" for \$511.21 on September 30, 2014. This report was submitted October 14, 2014 at 3:07:17 pm. Dianna J. Duran did willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29 1).

#### **8. BILLIE JO CROUSE**

On July 17, 2012, Dianna J. Duran did deposit into her Wells Fargo Bank, personal account as of September 12, 2011 (#6783) a check from Billie Jo Crouse, Stephanie Aldridge, Republican Volunteer Lunch, check # 124, dated July 17, 2012 payable to Dianna Duran SOS in the amount of \$25.00. On the memo line "SOS needs" is handwritten on the check.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No record of this contribution was filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran.

During an interview with Ms. Crouse, she confirmed the check was a contribution to the Campaign to Elect Dianna J. Duran and was not a gift or loan to Dianna J. Duran personally. The check was given to Dianna J. Duran during a luncheon held by a Republican volunteer group which meets monthly.

Dianna J. Duran did tamper with a public record by knowingly falsifying or falsely making any record or file, authorized or required to be kept by law (NMSA 1978 30-26-1).

## 9. N. ROB OR MARIE SORENSEN:

On January 16, 2014, Dianna J. Duran deposited a check of \$150.00 into her Wells Fargo Bank personal account as of September 12, 2011 (=6783). The check number 10855, was issued to "Dianna Duran" from the checking account of N. Rob or Marie Sorensen, and signed by Marie Sorensen; the check was dated January 15, 2014.

While reviewing the various account materials obtained via subpoena it was discovered that Mrs. Sorensen issued multiple checks to Dianna J. Duran; of the four checks issued, three of the items were deposited into the First National Bank, 2014 SOS campaign account (=2101). The following checks written by Mrs. Sorensen were deposited into the First National Bank, 2014 SOS campaign account (=2101): =11647, dated May 15, 2014, \$50.00, issued to "Dianna Duran for Secretary", "contribution" is written in the memo line; =11648, dated May 15, 2014, \$50.00, issued to "Dianna Duran for Secretary", "contribution" is written in the memo line; =11422, dated August 28, 2014, \$100.00, issued to "Dianna Duran for Secretary". All of the previously mentioned checks appear on the campaign contribution reports, however, the check issued on January 15, 2014, in the amount of \$150.00, does not.

Examination of the Wells Fargo Bank, personal account as of September 12, 2011 (=6783) revealed the \$150.00 check of Marie Sorensen deposited on January 16, 2014. On the same day, \$2,200.00 in cash was deposited into the account. On January 16, 2014, a wire transfer of \$2,200.00 was conducted; the recipient account was the First National Bank, joint personal checking (=8306). Analysis of the First National Bank, joint personal checking (=8306) on January 16, 2014, revealed a withdrawal of \$2,500.00 at Sandia Casino.

On August 13, 2015, Special Agent J. Weber requested and was granted a Grand Jury subpoena for material regarding Dianna J. Duran and her 2014 campaign for Secretary of State; the subpoena was issued to Marie Sorensen. It was served on August 14, 2015 by Special Agent in Charge C. Gibson.

On August 17, 2015, Special Agent S. Gloria and Special Agent J. Weber went to Mrs. Sorensen's residence to pick up documents regarding the subpoena. Mrs. Sorensen provided the following information: a typed statement and explanation of events regarding contributions to the campaign for Dianna J. Duran, copies of checks issued to Dianna J. Duran for her campaign and email invitations sent out for various events during which Dianna J. Duran spoke.

During the contact with Mrs. Sorensen, she confirmed that every check she issued to Dianna J. Duran was given with the intention of the funds being used for her 2014 campaign for Secretary of State. Mrs. Sorensen confirmed that none of the checks, including the check for \$150.00 on January 15, 2014, were given to Dianna J. Duran for personal use. Mrs. Sorensen further confirmed that she personally handed this check to Dianna J. Duran at a political event, which she identified as a luncheon held by the Zia

Federated Republican Women on or about January 16, 2014. The contributions given to the Campaign to Elect Dianna J. Duran by Mrs. Sorensen were given while in Albuquerque, New Mexico.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No record of this contribution was filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran.

Dianna J. Duran did: tamper with public records by not reporting this campaign expenditure (NMSA 1978 30-26-1); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29.1); knowingly and willfully filed a statement or report of expenditure and contribution that contained false or incomplete information (NMSA 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30- 51-4).

#### **10. BRAD OR DEBBIE HUNTON**

On September 26, 2014, Dianna Duran did deposit into her Wells Fargo Bank, personal account as of September 12, 2011 (=6783), a check from Brad or Debbie Hunton, check #6047, dated September 18, 2014, payable to Dianna Duran in the amount of \$100.00. On the memo line, "donation" is handwritten on the check. On August 19, 2015, Brad Hunton was interviewed by special agents of the New Mexico Office of the Attorney General during which he stated that check #6047 was intended as a campaign contribution for the 2014 Secretary of State campaign for Dianna J. Duran. Mr. Hunton stated this check was handed to Senator Stuart Engle prior to a fund raising event held at Senator Engle's residence (located in Portales, New Mexico) for Dianna J. Duran.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No record of this contribution was filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran.

Examination of the financial accounts controlled by Dianna J. Duran revealed numerous transactions clearing the Wells Fargo Bank, personal account as of September 12, 2011 (=6783), which would not have been possible without the deposit of \$375.00 including the aforementioned check. Further analysis of the First National Bank, joint personal checking (=8306) revealed that at the end of business day on September 26, 2014, this account had an overdrawn balance of \$3,092.69. Also observed on September 26, 2014, were two debits to the account, \$1,500.00 at Casino Apache and \$1,300.00 at Sandia Casino. The debit for Sandia Casino was corroborated by the subpoenaed material supplied by Sandia Casino.

Dianna J. Duran did: embezzle or convert to her own use \$100.00, on or about September 26, 2014 (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$100.00, belonging to the Campaign to Elect Dianna J. Duran or

another by means of fraudulent conduct (NMSA 1978 30-16-6); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30-51-4).

## **11. JOHN M. PUGH**

On September 26, 2014, Dianna Duran did deposit into her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) a check from John M. Pugh, check #1591, dated September 18, 2014, payable to Dianna Duran in the amount of \$50.00. On the memo line "Donation" is handwritten on the check.

On August 19, 2015, John Pugh was interviewed by special agents of the New Mexico Office of the Attorney General where he stated that this check was provided as a campaign contribution. Larry N. Smith, Roosevelt County Republican Party Chairman was present during the interview.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No record of this contribution was filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran

Examination of the financial accounts controlled by Dianna J. Duran revealed numerous transactions clearing the Wells Fargo Bank, personal account as of September 12, 2011 (=6783) which would not have been possible without the deposit of \$375.00 including the aforementioned check. Further analysis of the First National Bank, joint personal checking (=8306) revealed that at the end of business day on September 26, 2014, this account had an overdrawn balance of \$3,092.69. Also observed on September 26, 2014, were two debits to the account, \$1,500.00 at Casino Apache and \$1,300.00 at Sandia Casino. The debit for Sandia Casino was corroborated by the subpoenaed material supplied by Sandia Casino.

Dianna J. Duran did: embezzle or convert to her own use \$50.00, on or about September 26, 2014, (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$100.00, belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA 1978 30-16-6); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30-51-4).

## **12. DIANE KINDERWATER**

On September 26, 2014, Dianna J. Duran did deposit into her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) a check from Diane Kinderwater, check #3888, dated September 6, 2014, payable to Dianna Duran in the amount of \$100.00, with a memo line that reads "Good Luck Thank you!".

On August 23, 2015, Ms. Kinderwater was interviewed by special agents of the New Mexico Office of the Attorney General, during which she confirmed that she did issue and sign this check. Initially, Ms. Kinderwater advised the check was intended for the Campaign to Re-Elect Dianna J. Duran for Secretary of State of New Mexico. Ms. Kinderwater indicated that she remembered participating in what she described as a campaign rally on or near the Santa Fe Plaza (Santa Fe, New Mexico) where she remembered holding a supportive re-election sign for Dianna J. Duran. She indicated that this rally occurred on or near "Fiesta's" time in Santa Fe, New Mexico. The check was issued on September 6, 2014, two months prior to the Secretary of State election. Ms. Kinderwater indicated that she handed the check to Dianna J. Duran during this time. Later in the interview, Ms. Kinderwater indicated that she could not specifically recall the purpose of the check that she wrote to Dianna J. Duran. Ms. Kinderwater indicated that the check was not to repay a debt or as a loan to Dianna J. Duran.

Examination of the financial accounts controlled by Dianna J. Duran revealed numerous transactions clearing the Wells Fargo Bank, personal account as of September 12, 2011 (=6783) which would not have been possible without the deposit of \$375.00 including the aforementioned check. Further analysis of the First National Bank, joint personal checking (=8306) revealed that at the end of business day on September 26, 2014, this account had an overdrawn balance of \$3,092.69. Also observed on September 26, 2014, were two debits to the account, \$1,500.00 at Casino Apache and \$1,300.00 at Sandia Casino. The debit for Sandia Casino was corroborated by the subpoenaed material supplied by Sandia Casino.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No record of this contribution was filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran.

Dianna J. Duran did: embezzle or convert to her own use \$100.00, on or about September 26, 2014, (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$100.00, belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA 1978 30-16-6), willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30-51-4).

### **13. ANNA C. HERSEY**

On September 26, 2014, Dianna J. Duran did deposit into her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) a check from Anna C. Hersey, check #241, dated September 14, 2014, payable to Dianna Duran in the amount of \$25.00.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of

Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No record of this contribution was filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran.

Examination of the financial accounts controlled by Dianna J. Duran revealed numerous transactions clearing the Wells Fargo Bank, personal account as of September 12, 2011 (=6783) which would not have been possible without the deposit of \$375.00 including the aforementioned check. Further analysis of the First National Bank, joint personal checking (=8306) revealed that at the end of business day on September 26, 2014, this account had an overdrawn balance of \$3,092.69. Also observed on September 26, 2014, were two debits to the account, \$1,500.00 at Casino Apache and \$1,300.00 at Sandia Casino. The debit for Sandia Casino was corroborated by the subpoenaed material supplied by Sandia Casino.

Dianna J. Duran did: embezzle or convert to her own use \$25.00, on or about September 26, 2014 (NMSA 1978 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$100.00 belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA 1978 1978 30-16-6); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 1978 30-51-4).

#### **14. MOUNTAIN VIEW PROPERTIES OR DIANE ARNETT STEARLEY**

On September 26, 2014, Dianna J. Duran did deposit into her Wells Fargo Bank, personal account as of September 12, 2011 (=6783) a check from Mountain View Properties, Diane Arnett Stearley, check #2885, dated September 18, 2014, payable to Dianna Duran in the amount of \$100.00. On August 19, 2015, Diane Stearley was interviewed by special agents of the New Mexico Office of the Attorney General where she stated that the intent for this check was for a campaign contribution.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No record of this contribution was filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran.

Examination of the financial accounts controlled by Dianna J. Duran revealed numerous transactions clearing the Wells Fargo Bank, personal account as of September 12, 2011, (=6783) which would not have been possible without the deposit of \$375.00 including the aforementioned check. Further analysis of the First National Bank, joint personal checking (=8306) revealed that at the end of business day on September 26, 2014, this account had an overdrawn balance of \$3,092.69. Also observed on September 26, 2014, were two debits to the account, \$1,500.00 at Casino Apache and \$1,300.00 at Sandia Casino. The debit for Sandia Casino was corroborated by the subpoenaed material supplied by Sandia Casino.

Dianna J. Duran did: embezzle or convert to her own use \$100.00, on or about September 26, 2014 (NMSA 1978 30-16-8); intentionally misappropriate or take campaign contributions valued at \$100.00 belonging to the Campaign to Elect Dianna J. Duran or another by means of fraudulent conduct (NMSA 1978 30-16-6); willfully made an expenditure of campaign contributions for unauthorized purposes (NMSA 1978 1-19-29.1); and conduct, structure, engage in or participate in a financial transaction that she knew or believed to be proceeds of an unlawful activity (NMSA 1978 30-51-4).

## 15 MACK ENERGY CORPORATION

On August 22, 2014, Mack Energy Corporation issued one check to "Diana Duran" (=17906, dated August 22, 2014, \$5,200.00). This check was not endorsed. It was deposited into the First National Bank, 2014 SOS campaign account (=2101) on September 4, 2014. The campaign report filed by or on behalf of Dianna J. Duran showed one entry for a contribution to Dianna J. Duran for Secretary of State, 2014 election, for Mack Energy Corporation on August 22, 2014. The amount of reported contribution was \$2,900.00. A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted for this contribution. No other records of this contribution were filed on any of the primary, amended or supplemental reports submitted on behalf of or by Dianna J. Duran. There is a difference of \$2,300.00 from the amount of the actual contribution to the reported contribution.

Examination of the spreadsheet provided by Grace Gonzalez revealed that on August 22, 2014 Mack Energy Corporation contributed \$5,200.00 toward the 2014 campaign.

On April 3, 2014 Mack Energy Corporation issued one check to "Diana Duran" (=17740, dated April 3, 2014, \$7,500.00). This check was endorsed "For deposit only Dianna Duran for SOS 10162101". It was deposited into the First National Bank, 2014 SOS campaign account (=2101) on April 7, 2014. A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, filed on April 14, 2014, was conducted for this contribution. Upon reviewing the report, it was noted there are three submissions to the campaign reporting database maintained by the Secretary of State's office, identified as the Campaign Finance Information System (CFIS) for this reporting period. One report submission revealed the following information: On April 3, 2014, a contribution of \$7,500.00 is reported and the contributor is identified as "PAC- P.O. Box 960, Artesia NM 88211". The second and third reports reveal the following information: On April 3, 2014, a contribution of \$5,200.00 is reported and the contributor is identified as "Mack Energy Corporation-P.O. Box 960, Artesia NM 88211". Additionally, there is a second entry with the following information: On April 3, 2014, a contribution of \$2,300.00 is reported and the contributor is identified as "Mack Energy Corporation- P.O. Box 960, Artesia NM 88211".

The contribution identified as "PAC- P.O. Box 960, Artesia NM 88211" in the amount of \$7,500.00 does not adequately identify, by a full name, the contributor, as is required by statute. Mack Energy Corporation is identified as an independent energy company engaged in oil and gas exploration. Mack Energy Corporation is based in southeastern

New Mexico.

In addition, the reporting of the August 22, 2014 contribution of \$5,200.00 by Mack Energy Corporation as though it were only \$2,900.00 makes the total contribution amount made by Mack Energy Corporation to the Campaign to Elect Dianna J. Duran for Secretary of State 2014 appear to total \$10,400.00. In fact, the total contribution to the Campaign to Elect Dianna J. Duran for Secretary of State 2014 by Mack Energy Corporation was \$12,700.00.

Dianna J. Duran did: tamper with a public record by knowingly falsifying or falsely making any record or file, authorized or required to be kept by law (NMSA 1978 30-26-1); knowingly and willfully filed a statement or report of expenditure and or contribution that contained false or incomplete information (NMSA 1978 1-19-29.1); committing a violation of Campaign Practices Act, content of report violation by filing a campaign report that did not include the full name of an entity to wit: Mack Energy Corporation, or the amount of the contributions totaling \$12,700.00 (NMSA 1978 1-19-31).

#### 16. **KORE TECHNOLOGIES**

On the September 8, 2014 campaign expenditures report, there are two entries for Kore Technologies, both dated July 24, 2014 and both in the amount of \$1,827.04. Upon reviewing the First National Bank, 2014 SOS campaign account (=2101), only one expenditure in the form of a check (=121, signed by Grace Gonzalez) was found. Grace Gonzalez provided (via material provided in response to subpoena) a spreadsheet she created while working as the campaign treasurer; there is only one entry on the spreadsheet by Mrs. Gonzalez for Kore Technologies on July 24, 2014 indicating that Kore Technologies was paid \$1,827.04 with check #121, from the First National Bank, 2014 SOS campaign account (=2101).

Dianna J. Duran did: tamper with a public record by knowingly falsifying or falsely making any record or file, authorized or required to be kept by law (NMSA 1978 30-26-1); and knowingly and willfully filed a statement or report of expenditure and or contribution that contained false or incomplete information (NMSA 1978 1-19-29.1).

#### 17. **BLACK DUCK**

On July 3, 2014, an order consisting of multiple tee-shirts for the Dianna J. Duran for Secretary of State campaign was made by Brenna Kennedy from Albuquerque business, Black Duck. Black Duck was issued a Grand Jury subpoena for business records related to this transaction. The production of the subpoenaed materials revealed that Brenna Kennedy of Kore Technologies ordered and paid for \$1,006.60 in merchandise related to the 2014 Secretary of State campaign of Dianna J. Duran. Additionally, a copy of check #1076 drawn against Kore Technologies, LLC's Bank of America account in the amount of \$1,006.60 was provided by Black Duck.

A review of the Secretary of State Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions, Form B 1, Monetary Contributions, was conducted, and an expense of \$1,006.60 was reported paid to Black Duck, for "t-shirts" on July 24, 2014. No record of this expense was located in the First National Bank, 2014 SOS campaign account (=2101). In addition, no corresponding reimbursement is located in the First National Bank, 2014 SOS campaign account (=2010) or the campaign reports to Brenna Kennedy or Kore Technologies. Furthermore, the Black Duck merchandise purchased by Kore Technologies was not reported as an "in-kind" contribution on the campaign reports.

## **18. TAMPERING WITH PUBLIC RECORDS**

On October 6, 2011, Dianna J. Duran did file the "Statement of No Activity" 2012 First Biannual for Dianna Duran, candidate for the office of Secretary of State. The information contained in the report does not reflect a cash withdrawal signed by Dianna J Duran on September 7, 2011, for \$100.00, from her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) titled Dianna Duran

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On April 9, 2012, Dianna J. Duran did file the "Statement of No Activity" 2012 First Biannual for Dianna Duran, candidate for the office of Secretary of State. The information contained in the report does not reflect cash withdrawals signed by Dianna J. Duran on January 11, 2012, for \$640.00, and January 23, 2012 for \$600.00 from her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) titled Dianna Duran, on September 12, 2011.

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1) and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35)

On April 8, 2013, Dianna J. Duran did file the "Statement of No Activity" 2013 First Biannual for Dianna Duran, candidate for the office of Secretary of State dated April 5, 2013. The information contained in the report does not reflect a cash withdrawal signed by Dianna J. Duran on September 12, 2012, for \$1,000.00, from her Wells Fargo Bank, 2010 SOS campaign account personal account as of September 12, 2011 (=6783) titled Dianna Duran, on April 8, 2013.

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35)

On October 15, 2013, Dianna J. Duran did submit the Second Biannual report for the First National Bank campaign account (2101) reflecting Total Contributions of \$6,150.00 and Total Expenditures of \$1,476.88 for the Dianna J. Duran, Secretary of State campaign. On that same date, October 15, 2013, Dianna J. Duran did submit the Finalized Second Biannual report for her Wells Fargo Bank, 2010 SOS campaign account personal reflecting

Total Contributions of \$0.00 and Total Expenditures of \$2,865.12. The expenditures of \$2,865.12 on the 2010 SOS campaign October 15, 2013 Campaign Reporting Act Report of Expenditures and Contributions Form C Expenditures report a "Transfer of campaign funds to the 2014 campaign" on September 25, 2013. This transfer is not reported on the Second Biannual report for the First National Bank campaign account (2101).

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On April 3, 2014, Mack Energy Corporation issued a check to Dianna J. Duran drawn on the Bank of Texas bank account ending in #5141 for \$7,500.00. During the 2014 first primary - April 14, 2014, reporting period Dianna J. Duran filed three Campaign Reporting Act, Report of Expenditures and Contributions. All three Campaign Reporting Act, Report of Expenditures and Contributions show as being submitted on April 14, 2014 at 3:57:31 pm. Two of the April 14, 2014 Campaign Reporting Act, Report of Expenditures and Contributions are identified as amended and one as submitted. The initial April 14, 2014 Campaign Reporting Act, Report of Expenditures and Contributions show the Mack Energy Corporation contribution as one entry describing it as "PAC - P.O. Box 960, Artesia, New Mexico 88211" in the amount of \$7,500.00. The initial report was then amended to show the following entries: April 3, 2014, from "Mack Energy Corporation - PO box 960, Artesia, New Mexico 88211 for \$5200.00 and Mack Energy Corporation - PO Box 960 Artesia, New Mexico for \$2,300.00." In addition on April 7, 2014 Yvonne E. Boyle issued a check to "Dianna Duran for Sec. of State" drawn on First National Bank account #2506 for \$100.00. This contribution is not reported on any of the three Campaign Reporting Act, Report of Expenditures and Contributions filed by Dianna J. Duran during the first primary reporting period.

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1) and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On April 29, 2014, the Committee to Re-elect Senator Sue Wilson Beffort issued a check to the Committee to Elect Dianna Duran drawn on the Bank of the West bank account number ending in #6813 for \$250.00. Dianna J. Duran filed two Campaign Reporting Act, Report of Expenditures and Contributions 2014 during the second primary May 12, 2014 reporting period. The two Campaign Reporting Act, Report of Expenditures and Contributions show as being submitted on May 12, 2014 at 4:54:18 pm. The two Campaign Reporting Act, Report of Expenditures and Contributions reports are identified as amended and submitted. Neither of the two Campaign Reporting Act, Report of Expenditures and Contributions, Dianna J. Duran for SOS, list an April 29, 2014 \$250.00 contribution from the Committee to Re-elect Senator Sue Wilson Beffort.

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On May 29, 2014, Dianna J. Duran did file a Dianna J. Duran for SOS 2014 third primary period May 29, 2014, Campaign Reporting Act, Report of Expenditures and

Contributions. The report shows expenditures that differ from the expenditures reported on the Dianna J. Duran FNB campaign bank account (#2101). On May 15, 2014 the Dianna J. Duran, Campaign Reporting Act, Report of Expenditures and Contributions report a payment to the Academy Station Post Office for \$49.00. This expenditure is reported in the Dianna J. Duran for SOS FNB campaign bank account (#2101) as a check (#160) issued to Bernadette Granger on May 16, 2014, in the amount of \$49.00.

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On June 1, 2014, Dianna J. Duran did file a 2014 primary supplemental report on June 2, 2014, Campaign Reporting Act, Report of Expenditures and Contributions. The Dianna J. Duran for SOS, May 29, 2014 report Campaign Reporting Act, Report of Expenditures and Contributions shows a closing balance of \$106,061.32. The Dianna J. Duran for SOS, dated June 1, 2014 5:00:00 pm, Campaign Reporting Act, Report of Expenditures and Contributions reports an opening balance of \$0.00.

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On July 3, 2014, 3:25:48 pm Dianna J. Duran did submit the Secretary of State, Dianna J. Duran, Campaign Reporting Act Report of Expenditures and Contributions for First National Bank campaign account (#2101) reflecting Total Contributions of \$9,950.00 and Total Expenditures \$10,151.19 for Dianna J. Duran, Secretary of State. On that same date, July 3, 2014, Dianna J. Duran did submit two amended Dianna J. Duran, Campaign Reporting Act Report of Expenditures and Contributions reports. It was discovered that a contribution omission of a \$500.00 check from Anheuser-Busch Companies dated May 28, 2014, payable to Committee to Re-Elect Dianna Duran (2014 Primary). The check was deposited into her First National Bank, 2014 SOS campaign account (#2101).

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On September 8, 2014, 4:40:46 pm Dianna J. Duran did submit the Secretary of State, Dianna J. Duran, Campaign Reporting Act Report of Expenditures and Contributions for First National Bank campaign account (#2101) reflecting Total Contributions of \$84,887.25 and Total Expenditures \$32,348.70 for Dianna J. Duran, Secretary of State. On that same date, July 3, 2014, Dianna J. Duran did submit two amended Dianna J. Duran, Campaign Reporting Act Report of Expenditures and Contributions reports. It was discovered that contribution omissions totaling \$300.00 consisting of check #2008 from Cliff R. or Aysia Pirtle dated August 5, 2014, in the amount of \$250.00, payable to Dianna Duran Campaign, and check #1701 from Barry S. Birch, Mary Ann Birch dated August 10, 2014, in the amount of \$50.00, payable to Dianna Duran SOS. The checks were deposited into her First National Bank, 2014 SOS campaign account (#2101).

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the

Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35).

On October 14, 2014, 3:07:17 pm Dianna J. Duran did submit the Secretary of State, Dianna J. Duran, Campaign Reporting Act Report of Expenditures and Contributions for First National Bank campaign account (=2101) reflecting Total Contributions of \$51,95.00 and Total Expenditures \$9,389.46 for Dianna J. Duran, Secretary of State. It was discovered that contribution omissions totaling \$1,100.00 consisting of cashier's check #1314104 from David Stone dated September 17, 2014, in the amount of \$1,000.00, payable to Dianna Duran, and check #1726 from Zoe Richmond, dated September 11, 2014, in the amount of \$100.00, payable to Dianna Duran Secretary of State. The checks were deposited into her First National Bank, 2014 SOS campaign account (=2101).

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1978 1-19-35)

On October 30, 2014, 1:54:49 pm Dianna J. Duran did submit the Secretary of State, Dianna J. Duran, Campaign Reporting Act Report of Expenditures and Contributions for First National Bank campaign account (=2101) reflecting Total Contributions of \$80,307.50 and Total Expenditures \$260,355 for Dianna J. Duran, Secretary of State. It was discovered that contribution omissions totaling \$1,150.00 consisting of check #3243 from Dick Forrest dated October 15, 2014, in the amount of \$200.00, payable to Dianna Duran check #1417 from John or Ann Pawelek dated October 19, 2014, in the amount of \$250.00 payable to Dianna Duran for Secretary of State, check #9784 from John L. Thompson dated October 18, 2014, in the amount of \$200.00, payable to Dianna Duran for Sec. State, and check #3472 from PNM Responsible Citizens Group, dated October 15, 2014, in the amount of \$500.00, payable to Dianna Duran for Secretary of State. The checks were deposited into her First National Bank, 2014 SOS campaign account (=2101).

Dianna J. Duran did tamper with a public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1-19-35)

On December 4, 2014, 5:12:09 pm Dianna J. Duran did submit the Secretary of State, Dianna J. Duran, Campaign Reporting Act Report of Expenditures and Contributions for First National Bank campaign account (=2101) reflecting Total Contributions of \$8,025.00 and Total Expenditures \$34,136.47. It was discovered that the Secretary of State Dianna Duran Campaign Reporting Act Report of Expenditures and Contributions 2014, submitted on December 4, 2014, an expenditure was reported on November 20, 2014 indicating that Leo Barraza was paid a "Travel Reimbursement" of \$986.58. The amount of the check (-229) that was actually written to Leo Barraza and deposited into the First National Bank, joint personal checking (-8306) in the amount of \$2,850.00 was not reported on November 20, 2014 nor was it located on any other campaign expenditure report.

Dianna J. Duran did tamper with public record (NMSA 1978 30-26-1), and violated the Campaign Practices Act by filing a false campaign report (NMSA 1978 1978 1-19-35).

contrary to Sections(s) 10-16-3, 30-16-8, 30-16-6, 30-51-4, 30-16-8, 30-16-6, 30-16-8, 30-16-6,

30-45-3, 30-16-8 & 30-28-2, 30-16-6 & 30-28-2, 30-16-8, 1-19-29.1, 30-26-1, 30-16-24.1, 1-19-35,

1-19-34, 1-19-31 NMSA 1978

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.

Jennifer Weber. 

Complainant

Special Agent, Badge #711

Title *(if any)*

Approved:

\_\_\_\_\_

Title