

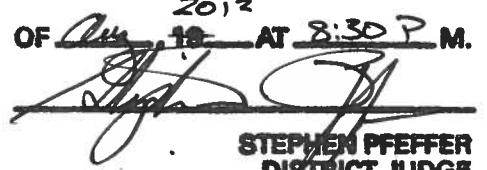
IN THE DISTRICT COURT

STATE OF NEW MEXICO

NUMBER \_\_\_\_\_

V.

Gregory M. Campbell  
DOB: 05/01/1960  
SSN: 149-62-2385  
ADD: 7815 Seven Springs Rd. NW  
Albuquerque, NM 87114

FILED IN OPEN COURT THIS 7<sup>th</sup> DAY  
OF Aug, 2012 AT 8:30 P M.  
  
STEPHEN PFEFFER  
DISTRICT JUDGE

AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that from May 23, 2011 to July 1, 2012, in SANTA FE COUNTY, the STATE OF NEW MEXICO, and as part of a continuing scheme to defraud various persons, the above named defendant committed the following crimes:

1. FORGERY, (MAKE OR ALTER) (1Count); FORGERY, (ISSUE OR TRANSFER) (3counts), 4TH DEGREE FELONY (1 Count)  
CONTRARY TO SECTION: §30-16-10 A (1, 2) B NMSA 1978
2. FRAUDULENT SALE OR OFFER TO SELL A SECURITY (SECURITIES FRAUD), 3<sup>RD</sup> DEGREE FELONY (8 Counts)  
CONTRARY TO SECTION: §58-13C-501 & §58-13C-508 (2010) NMSA 1978
3. RACKETEERING, 2<sup>ND</sup> DEGREE FELONY (1 Count)  
CONTRARY TO SECTION: §30-42-4 NMSA 1978
4. CONSPIRACY TO COMMIT RACKETEERING, 3<sup>RD</sup> DEGREE FELONY (1 Count)  
CONTRARY TO SECTION: §§30-28-2 & 30-42-4 NMSA 1978

Affiant Special Agent in Charge Benjamin Baker is a full-time employee of the NM Securities Division (NM SEC), Regulation and Licensing Department. I have been with the NM SEC since 2011; have served with the City of Albuquerque Police Department, and the City of Carlsbad Police Department and have over fifteen years of combined local and state law enforcement experience. My duties include detection and prevention of securities fraud, conducting criminal and administrative investigations, general white collar criminal investigations, and enforcement of the New Mexico Securities Act.

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

*Approved as to form  
Patent McNeel  
S. P. 8-7-12*

## Summary

On July 13, 2012, the State of New Mexico Securities Division learned of the existence of a fraudulent audit report that had previously been released to investors, the public, and other entities by the New Mexico Finance Authority (NMFA). The Securities Division Director, agents under my supervision, and I immediately began to investigate the allegations surrounding the filing of the fraudulent audit. From NMFA's own publicly available literature, I learned the following: The New Mexico Finance Authority was created as a governmental instrumentality in 1992 to coordinate and facilitate the planning and financing of state and local capital projects in New Mexico. The NMFA is able to utilize financing mechanisms to leverage and maximize the State's capital investments in state and local projects. The NMFA partners with local government entities, state agencies, legislators, repeat borrowers and financial advisors to carry out their mission while at the same time sustaining the capacity of the various loan programs the NMFA administers.

Senior management of the NMFA reports to a Board. The Board consists of ten members and a Chair. The Board has six committees that assist the decision making process of the entity. These committees include the Audit Committee, Executive Committee, Economic Development Committee, Finance/Loan Committee, Investment Committee and Contracts Committee. Senior Management includes Richard May, Chief Executive Officer; John Duff, Chief Operating Officer; Rey Romero, General Counsel; Michael Zavelle, Chief Financial Strategist; and Dora C De Baca, Chief Administrative Officer. Board and Committee meetings are subject to the provisions of the Open Meetings Act. The Open Meetings Act requires that the minutes and audio recordings of the meetings be maintained.

Under the authority of the New Mexico Finance Authority Act Chapter 6 article 21, one of the financing mechanisms utilized by the NMFA to raise capital involves the issuance of municipal bonds for sale to investors. From my training and experience as a securities fraud investigator, I know that a bond is a type of debt security that pays interest to the bond holder over a period of time. Purchasing a bond from the issuer of that bond is in essence a loan to the issuer for a period of time at a defined rate of interest. When the bond matures at the end of its term, the principal amount is repaid to the owner of the bond. Municipal bonds are a method by which governments below the federal level raise capital for governmental purposes.

The New Mexico Uniform Act, 58-13C-102 (DD) NMSA 1978, states "*A "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas or other mineral rights; put, call, straddle, option or privilege on a security, certificate of deposit or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of or warrant or right to subscribe to or purchase any of the foregoing.*" As a "bond" is statutorily defined as a security, fraud in connection with the sale of a bond would fall within the jurisdiction of the Securities Division.

On Friday, July 13, 2012, Anne Layne accessed the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to download and review the Financial Statements of the NMFA, which had been issued for the fiscal years ending June 30, 2011 and 2010. Examination and analysis of the NMFA financials was conducted by Anne Layne, CPA, CFE, Forensic Analyst for the State of New Mexico Securities Division, who reports to the

undersigned. Layne has a Bachelor's degree in Accounting and a Masters of Business Administration. Layne has eight years of relevant experience, including experience as a staff auditor and senior auditor for governmental entities, non-profit entities, and financial institutions. Previous to her accounting work, Layne worked in banking for two years. Layne reported the following: The financial statements include an independent auditor's report, management's discussion and analysis, a statement of net assets, a statement of revenues, expenses and changes in net assets, a statement of cash flows, notes to the financial statements, supplementary schedules and reports and schedules required by OMB Circular A-133 in relation to audits of recipients of federal funds. Generally accepted accounting principles dictate that the financial statements are compiled by management of the NMFA and are audited by an independent auditor, who authors and provides an opinion in the independent auditor's report. Financial statements for the NMFA are required to be prepared in accordance with generally accepted accounting principles as issued by the Governmental Accounting Standards Board (GASB) in the United States.

According to Analyst Layne, per GASB statement 34 and 39 the NMFA would be considered a discretely presented component unit of the State of New Mexico, meaning financial information reported by the NMFA is required to be included in the Comprehensive Annual Financial Report (CAFR) issued by the State of New Mexico. The auditors who audit the State's CAFR rely on the report generated by the auditors of the NMFA when performing work for the State. Layne conducted the review of the financial statements. Layne stated to me that she had determined that the June 30, 2011 financial statements included misstated figures and did not include proper disclosures. The documents examined included an audit report that claimed to be issued by Clifton Gunderson LLP (since merged to become CliftonLarsonAllen LLP).

Following confirmation by Layne that the audit report was fraudulent, the Securities Division began an in-depth investigation of the events surrounding the creation and dissemination of the audit report and its impacts. The Securities Division has performed numerous interviews of current and former NMFA employees, NMFA Board Members, and employees of the audit firm engaged to perform the fiscal year 2011 audit. The interviews were audio recorded. The Securities Division also applied for and served numerous Grand Jury Subpoenas Duces Tecum to banks, rating agencies, accounting firms and securities self-regulatory organizations. On August 1, 2012, the Securities Division applied for and executed a search warrant at 207 Shelby Street, Santa Fe, NM (offices of the NMFA), for the purposes of collecting evidence of criminal activity. Securities Division personnel have examined thousands of pages of documents, emails, and electronic evidence relevant to this case. The investigation is on-going at this time.

On July 20, 2012, Director Tanaka contacted Gregory Campbell, the former controller of the NMFA, and requested that Campbell consent to a voluntary interview the following morning. Campbell agreed to be interviewed on Saturday, July 21, 2012 at 10:00 hours at the offices of the Regulation and Licensing Department in Albuquerque, NM. Campbell arrived as agreed and was interviewed for approximately five (5) hours. The interview was recorded in its entirety. Additionally, Campbell consented to a voluntary follow-up interview on Monday, August 6, 2012, for approximately two (2) hours. As the Securities Division is a formal member of the United States Secret Service Financial Crimes Task Force, Securities Division personnel utilized an interview room at the offices of the Secret Service in Albuquerque, NM to conduct the follow-up interview. That interview was recorded in its entirety as well. Any statements attributed to Campbell in the following narrative are summarized from the two interviews and are not comprehensive accounts of the statements made.

Campbell is a New Jersey native and attended Uppsala College in East Orange, NJ, obtaining a Bachelor of Arts in Accounting in 1982. Campbell has never been a Certified Public Accountant (CPA). Campbell began his work career at Arthur Young and Company as an Audit Assistant. He served there for

approximately 18 months. Campbell tested internal controls and internal balances and did forensic auditing work as well. After working on the audit engagement for the New Jersey Economic Development Authority (NJEDA), Campbell was hired as an Accountant for the NJEDA. Campbell served there for 9 years as an Accountant and conducted accounting work on NJEDA's operating fund, similar to a general fund, and their real estate development program. Campbell then worked for Houghton Mifflin and conducted accounting for a sales office for approximately 2 years. Subsequently, Campbell went to work for Paychex, Inc. His tenure there lasted for approximately seven years. Campbell worked in New Jersey for the first 6 years and accepted a voluntary transfer to Albuquerque, NM for his final year with Paychex. Campbell began work at the NMFA in May of 2005 as a temporary employee for approximately 6 months. Campbell's duties included entering accounting journal entries, preparing paperwork for cash transfers, and fixed asset accounting work. Campbell was hired by the NMFA as a permanent employee in October 2005. Campbell accounted for incoming loan payments and semiannual payments to bond holders and also accounted for the monthly activity within approximately 400 trust accounts. Campbell reported that the trustee accounted for all of the reserves on all of the entities loans and undisbursed loan proceeds. After a change in personnel in the fall of 2007, Campbell became the Controller in December of 2007. Campbell reported that he had been asked by John Duff, then the Chief Investment Officer, to assume the position of Controller.

John Duff indicates on his resume, obtained and examined pursuant to the search warrant, that he holds a Bachelor of Arts in Economics from Oberlin College, OH a Masters of Business Administration with an emphasis in Accounting from Miami University, also in Ohio. Duff indicated in interviews with Securities Division personnel that he held a CPA license in the states of Ohio and New Mexico for a number of years. According to Duff's resume, he was a partner with Touche, Ross and Company, (now Deloitte and Touche) for several years. Since that time, Duff has held several executive finance positions for notable companies including New Mexico Federal Savings and Loan Association, Smith Barney, Wachovia Securities and Southwest Securities. Duff's resume indicated that he is a "disciplined and energetic executive with experience in accounting, finance, and investment management. MBA / CPA. Founded and served as CEO of a successful CPA practice, achieving significant growth and profitability each year". During an interview with Securities personnel, Duff indicated that he has been working for the NMFA since 2005, when he was hired as the Chief Investment Officer. Duff indicated that he became the Chief Financial Officer in 2007 and since then has also held the titles of Chief Operating Officer and Chief Executive Officer. Duff indicated in this interview that he had extensive knowledge of the finances of the NMFA. Duff's current title is Chief Operating Officer and his duties include supervision of the accounting department. According Campbell and Duff, Duff is Campbell's direct supervisor. Clifton Gunderson LLP was engaged to perform audit services for the New Mexico Finance Authority. The engagement letter or contract for services, dated May 9, 2011, was signed by John Duff, acting Chief Executive Officer, on August 9, 2011. J. Michael Stephens, Audit Partner at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, was assigned as the partner-in-charge of this engagement.

Securities Division personnel met with J. Michael Stephens on July 16, 2012 and interviewed Stephens telephonically on July 25, 2012. During both instances, Stephens stated he did not issue an audit report or financial statements for the NMFA for the fiscal year 2011. He also stated that no member of his staff or firm issued an audit report or financial statements for the NMFA for fiscal year 2011.

During interviews, Campbell stated he created the forged auditor's reports. According to statements by Campbell, which were corroborated by investigative findings, the New Mexico Finance Authority Financial Statements for the years ended June 30, 2011 and 2010, containing the documents entitled "Independent Auditor's Report," "Independent Auditor's Report on Internal Control Over Financial Reporting and Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*," and "Report on Compliance with Requirements That

Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133” were created by Campbell between the dates of January 9, 2012 and February 3, 2012.

Campbell further stated he received draft financial statements from Caroline Slim, Senior Accountant at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, on July 27, 2011 at his office computer and NMFA email address. Campbell indicated the fiscal year 2011 numbers were not included in this draft, which is common practice during an audit. Campbell populated the draft with financial information for fiscal year 2011 and changed the issue date to December 10, 2011. Campbell then printed the now complete Word document as a PDF file. This document now contained financial information for fiscal year 2011, but did not contain signatures on the auditor’s reports. Campbell stated he obtained the audit reports from the fiscal year 2010 audit and “copied and pasted” the letterhead and signatures onto a printed copy of the PDF file. Campbell stated he then copied the entire report and scanned it into a PDF file in order to disseminate copies of the financial statements and forged reports to both external and internal recipients.

Evidence obtained and seized during the search warrant revealed the first known instance the forged report was transferred to another person. On December 13, 2011, Yvonne Herrera, staff member at the Department of Finance and Administration, emailed Campbell requesting a copy of the draft 2011 financial statements. Campbell did not respond. Herrera emailed Campbell again on December 28, 2011 requesting the draft financial statements. Herrera stated, “it looks like it hasn’t been submitted to the State Auditor’s Office yet. Please let me know.” On January 3, 2012, Herrera emailed Campbell requesting the name and address of the audit firm. On January 5, 2012, Herrera emailed John Duff stating she has had difficulty obtaining a response from Campbell regarding the audited financial statements. Duff forwarded the email to Campbell on January 5, 2012, asking Campbell to provide the information. On January 9, 2012, Campbell emailed Herrera financial statements; however these statements are not the forged audit report. On January 26, 2012, Herrera emailed Campbell, Duff and Richard May, Chief Executive Officer of the NMFA. Herrera stated, “I am looking for an update on the 2011 audit. I haven’t received an update and the State Auditor’s Office does not have any info your [sic] NMFA. We need the entire draft to complete the CAFR. Please let me know, I may have to reschedule the auditor’s arrival because the CAFR is still missing the complete information for NMFA.” Richard May communicated to Herrera via email that Campbell would get the information to her. On February 3, 2012, Campbell emailed Yvonne Herrera a copy of the financial statements and the forged audit reports. Campbell confirmed during an interview that he sent this email.

Securities Division personnel downloaded the State of New Mexico’s Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2011 from the Department of Finance and Administration’s website. The CAFR is the audited financial statements for the entire State of New Mexico, including all funds and component units. The Independent Auditor’s Report included in the CAFR states that the auditors relied on the information included in the NMFA’s forged auditor’s report to complete their work on the State’s CAFR.

Securities Division personnel also observed that the financial statements and forged auditor’s reports were still available for viewing on the NMFA’s website ([www.nmfa.net](http://www.nmfa.net)) on July 13, 2012. Securities Division personnel contacted John Holton, information technology employee for the NMFA, on July 24, 2012, to determine when the report was uploaded to the website. John Holton stated that the report, which was listed as document ID 977, was uploaded on March 12, 2012 at 08:14 hours. Holton provided the Securities Division with a copy of the SQL database log showing the upload. Once the financial statements and the forged audit reports were posted on the website, the documents were available for public viewing by anyone able to access the website. In an interview with Michael Zavelle, Chief

Financial Strategist for the New Mexico Finance Authority, Zavelle stated he uploaded the forged documents after receiving them via email from Campbell. Zavelle further stated he referred ratings agencies, individual investors and institutional investors to the website to obtain financial information regarding the Authority. Examination of emails obtained during the search warrant confirmed that Campbell had emailed Zavelle on March 12, 2012. The forged documents were attached to the email. Campbell also confirmed he sent this email during an interview.

Examination of emails obtained during the search warrant further revealed that Campbell had sent an email to Brad Patterson, Partner at Ballard Spahr, LLP. According to interviews with Michael Zavelle and Campbell, Patterson is an outside legal counsel used to prepare disclosures related to bond sales. An email, dated March 12, 2012, states, "Attached are the FY 2011 financial statements for inclusion in the POS for the 2012a PPRF Senior Lien Bonds." The financial statements and forged audit reports were attached to the email. "POS" stands for Preliminary Official Statement. Examination of the Preliminary Official Statement revealed the financial statements and forged audit reports were included as Attachment (A).

Securities Division Director Daniel S. Tanaka is the Administrator of the State of New Mexico Uniform Securities Act, and has extensive experience conducting and supervising major securities related and/or financial criminal investigations in New Mexico and New York. Director Tanaka has testified in the State of New Mexico as an expert witness in securities related matters. Director Tanaka indicated that the Preliminary Official Statement, and subsequently the Official Statement, for this bond issuance is the functional equivalent of a prospectus delivered to potential investors. A Preliminary Official Statement contains relevant information and disclosures that are relevant to potential investors determining whether or not to invest in a bond offering.

On July 24, 2012, Special Agent Baker accessed an online computer based system known as "Electronic Municipal Market Access" (EMMA). The EMMA system is operated by the Municipal Securities Rulemaking Board (MSRB). MSRB is a self-regulatory organization that houses municipal bond disclosure documents that provide information to investors about securities issued by municipalities. EMMA also provides market transparency data, which includes real-time prices and yields at which bonds and notes are bought and sold, relating to most trades occurring on or after January 31, 2005. The information on EMMA is presented in a manner specifically tailored for retail, non-professional investors who may not possess the expertise necessary to make suitable investment decisions.

Baker searched the EMMA system and discovered that the NMFA's underwriter, on behalf of the NMFA, sent the financial statements and forged audit reports to EMMA (Electronic Municipal Market Access) as Attachment (A) as part of the Official Statement disclosures connected to the offering of \$24,340,000.00 in Bonds entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS, SERIES 2012A. According to EMMA's document archives, the Official Statement and information from the NMFA was posted to the EMMA website on April 3, 2012.

Further investigation into the Official Statement revealed that the bond sale entitled SERIES 2012A was ultimately sold in its entirety to Hutchinson, Shockey, Erley and Company (the Purchaser) pursuant to a competitive bidding process held on March 22, 2012. According to the Official Statement, "proceeds from the bond sale of the series 2012A bonds will be used by the (i) originating loans to, or purchasing securities from, or reimbursing the Finance Authority for monies used to origination to, or purchase securities from, certain governmental units that will be, or were, used to finance certain projects for such governmental units, and (ii) paying costs incurred in connection with the issuance of the series 2012A bonds."

Chip Pierce, of Western Financial Advisors, was telephonically interviewed on July 27, 2012. Pierce reported that he is the contract financial advisor for the NMFA. Pierce assists in the process of financial disclosure as well as sales and marketing activity related to NMFA's bond sales. Pierce reported that the following firms also bid on the bonds listed for sale: Guggenheim Securities, LLC; Piper Jaffrey; Wells Fargo Bank NA; Morgan Stanley and Company, Inc.; Robert W. Baird and Company, Inc.; JP Morgan Securities, LLC; KeyBanc Capital Markets. According to Pierce, all the above listed firms received the Preliminary Official Statement prior to bidding on the bond sale as part of the "bid package." Additionally, email correspondence between Pierce and Campbell, Duff, and Zavelle corroborate this statement. The Preliminary Official Statement included Attachment (A), which consisted of the financial statements and forged audit report. The POS clearly misrepresented that the financial statements were audited, when in fact the audit was never completed.

During an interview with J. Michael Stephens of CliftonLarsonAllen, LLP, Stephens stated there is a lengthy procedure in place to procure and complete the financial statement audit process. The entity under audit is required to submit an auditor recommendation for the fiscal year audit to the State Auditor. Once the recommendation is approved by the State Auditor, the entity and the audit firm are required to complete a State of New Mexico Audit Contract, which is signed by appropriate entity personnel, the State Auditor's Office, and a representative of the audit firm. This was confirmed by a reading of the State Audit Rule (NMAC 2.2.2), which sets forth the requirements for the financial statement audit process.

Additionally, NMAC 2.2.2.10J (1) states "the IPA (independent public accountant) must hold an exit conference with representatives of the agency's governing authority and top management including representatives of component units. If component unit representatives cannot attend the combined exit conference, a separate exit conference must be held with the component unit's governing authority and top management. The exit conference must be held in person; a telephone or web cam exit conference will not meet this requirement unless a telephonic or web cam exit conference is approved by the State Auditor prior to the exit conference. The date of the conference(s) and the names and titles of personnel attending must be stated in the last page of the audit report." J. Michael Stephens; Lonnie Marquez, Chair of Audit Committee; Brett Woods, Audit Committee Member; and John Duff, Chief Operating Officer of the New Mexico Finance Authority stated an exit conference was never held. The fraudulent report submitted by Campbell, falsely states an exit conference was held on December 10, 2011 with Stephens, Marquez, Woods, William Fulginiti, Duff and Campbell in attendance. Stephens further stated that his firm only completed approximately 65 to 70% of the required audit work.

On or about July 18, 2012, Analyst Layne used the internet to access the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to view publicly disseminated NMFA Board Meeting Minutes. Layne searched the website using the embedded search function for "minutes". The results included the minutes for the Board meeting held on March 22, 2012 at 9:10 am in State Capitol Room 322. In the minutes, specifically item 31 of the agenda, labeled "Audit Committee – Lonnie Marquez, Chair," Richard May (Chief Executive Officer of the NMFA) reported "the State Auditor has approved the NMFA audit with zero findings." According to review of the New Mexico State Audit Act, the State Auditor must receive the completed audit from the independent auditor. The State Auditor's Office will then perform a review of the completed audit. Once this review is performed and the Auditor's Office determines the audit is accurate in all material respects, the Auditor's Office will issue a release letter to the entity under audit. The release letter gives the entity under audit permission to release the completed audit to the public. According to Antonio Corrales, Director of Compliance with the State Auditor's Office, the State Auditor did not receive or approve audited financial statements from the NMFA for the fiscal year 2011 audit, nor did the State Auditor's Office issue a release letter to the NMFA.

Auditing standards, specifically AU section 333, require the independent auditor to “obtain written representations from management as a part of an audit of financial statements performed in accordance with generally accepted auditing standards.” These representations should be obtained for all financial statements and periods covered by the auditor’s report. Representations are communicated in the form of a letter, which is addressed to the auditor on company letterhead. According to AU section 333, “the letter should be signed by those members of management with overall responsibility for financial and operating matters whom the auditor believes are responsible for and knowledgeable about, directly or through others in the organization, the matters covered by the representations. Such members of management normally include the chief executive officer and chief financial officer or others with equivalent positions in the entity.” In fiscal year 2010, the representation letter was signed by the Chief Executive Officer (William Sisneros at the time), the Chief Financial Officer (John Duff), and the Controller (Gregory Campbell). Stephens stated a representation letter was not received for fiscal year 2011, as the audit was never completed.

Layne’s examination of the financial statements on July 13, 2012 revealed the financial statements prepared by Campbell were materially misrepresented. The financial statements for the NMFA are prepared using a comparative format, meaning the financial information for the current fiscal year and the fiscal year immediately prior are presented. Layne compared the fiscal year 2010 numbers presented in the fiscal year 2011 financial statements to the 2010 numbers presented in the fiscal year 2010 financial statements, noting significant differences. These differences were identified in the Condensed Statements of Revenues, Expenses and Changes in Net Assets included in the Management’s Discussion and Analysis and in the Statements of Revenues, Expenses and Changes in Net Assets located in the financial statements. In the 2010 financial statements, the appropriation revenues and grant expenses for fiscal year 2010 are \$11,722,377 and \$60,106,858, respectively. In the 2011 financial statements on the other hand, the appropriation revenue and grant expenses for fiscal year 2010 are \$32,722,377 and \$81,106,858, respectively. The difference between the numbers in the 2010 financial statements and 2011 financial statements is \$21,000,000. Grant expenses are included in operating expenses in the statements.

During an interview with Campbell, he stated he reclassified \$21,000,000 in reversions to the State’s general fund, which occurred in fiscal year 2010, by reclassifying appropriation revenue as grant expenses. Campbell stated a reversion to the State’s general fund, which occurred in fiscal year 2011 for \$18,600,000, was reclassified as well. According to Campbell and per review of Senate Bill 182 and House Bill 2, the monies reverted in 2010 were reversions of amounts appropriated by the State in previous legislative session. According to Campbell, a review of Board Minutes, and also confirmed by several employee interviews, in 2011 the NMFA was approached by the Legislative Finance Committee to assist the State with a budget shortfall. The Legislative Finance Committee requested the reversion because the NMFA receives flow through revenues of Government Gross Receipts Taxes from the State. Campbell stated during an interview, that then CEO William Sisneros “volunteered” to provide \$20,000,000 to the State General Fund. According to Campbell and other employees interviewed, the NMFA committed to reverting \$18,600,000 in fiscal year 2011 and the remaining \$1,400,000 in fiscal year 2012.

According to the Management Discussion and Analysis included in the financial statements, the Government Gross Receipts Tax (GGRT) is a tax imposed on the gross receipts of municipalities for services rendered to customers such as water, sewer, and solid waste collection. Seventy-five percent of these revenues are appropriated to the NMFA. Layne researched proper accounting methods of the GGRT and reversions of GGRT revenues. Her research revealed the following: According to Governmental Account Standards Board (GASB) Statement 33, this revenue is considered a non-exchange transaction, as it does not result from an exchange of goods and services. GASB 33 applies to governments and component units in the same reporting entity of governments. GASB 33 requires the appropriations of



GGRT revenues to be recorded as revenue when it is received. If the appropriation is reverted, it is to be recorded as an expense.

GASB Statement 34 paragraph 318 requires all resource flows, including revenues, between a discreetly presented component unit and other funds of a government to be reported as external transactions (i.e. revenues and expenses). As a component unit, the NMFA uses the accrual basis of accounting as used by proprietary funds of governments. GASB 34 paragraph 100 discusses the statement of revenues, expenses, and changes in fund net assets for proprietary funds. Paragraph 100 states "this statement should also distinguish between operating and non-operating revenues and expenses and should present a separate subtotal for operating revenues, operating expenses and operating income. Non-operating revenues and expenses should be reported after operating income. Revenues from capital contributions and additions to the principal of permanent and term endowments, special and extraordinary items, and transfers should be reported separately, after non-operating revenues and expenses..." The footnote to Paragraph 102 states that non-exchange transactions that constitute the reporting proprietary fund's principal ongoing operations may be included as operating revenues and expenses. This supports including appropriation revenue as operating revenue. However, a reversion to the general fund is a non-exchange transaction that is not part of the NMFA's ongoing operations. In this case, the reversion should be reported as a non-operating expense. GASB 34 paragraph 55 states "*Extraordinary items* are transactions or other events that are both unusual in nature *and* infrequent in occurrence." GASB 34 paragraph 56 states "Significant transactions or other events *within the control of management* that are *either* unusual in nature *or* infrequent in occurrence are *special items*." Based on a review of applicable accounting standards, the reversions to the general fund should be included as either a non-operating expense or a special/extraordinary item, rather than as an operating expense, specifically grant expenses as represented in the fiscal year 2011 financial statements.

Additionally, according to Layne and accounting standards, the purpose of financial reporting is to provide users of financial statements with information that a reasonable person would need to make decisions regarding the entity. Therefore, the presentation of the information should be in a format that would provide information important to these users. In the case of the NMFA, this financial information would be used by bond purchasers when making a decision to purchase the bonds. It was stated by NMFA employees during interviews and at board meetings, that the disclosure of reversions to the general fund would be important to users of the financial statement, particularly rating agencies and bond purchasers.

During an interview, Campbell admitted this was not proper accounting treatment and that this reclassification would constitute a misrepresentation of the financial statements. Campbell stated he decided to reclassify the numbers when he was preparing the April 2011 monthly financial statements. Campbell stated that if he had not reclassified the reversion in that month that the appropriation revenue figure would be zero or negative and would "look really bad." Campbell further stated he was unsure of the presentation, so he had a meeting with John Duff, who was acting CEO at the time and who was Campbell's direct supervisor. Campbell stated the meeting took place in Duff's office during the third week of May in 2011. Campbell stated he approached Duff and explained that he wanted to reclassify revenues. Campbell stated he explained to Duff that he could include the reversion as a reduction to appropriation revenue, which is how the prior year reversion was recorded, or he could reclassify it to grant expenses. Campbell stated he further explained to Duff that if the reversion were recorded as a reduction to revenues that the revenue figures would be zero or negative. Campbell stated that Duff told him he agreed with the reclassification. Campbell further stated that if Duff had disagreed with the reclassification, he would have recorded the revenues as Duff instructed.

Examination of board minutes and audit recordings of board meetings revealed Campbell presented the financial statements as of June 30, 2011 to the Board on August 11, 2011. Review of the audio recordings

reveals that during his presentation Campbell discussed the differences between appropriation revenue between fiscal year 2011 and fiscal year 2010. Campbell stated on the recording, "...biggest differences is in our appropriation revenue and this is sort of a classification issue and I'm wrestling with it. Right now, in the previous year, last year, we had given back to the state 21 million in revenues we had received in prior years that the state was having reverted to meet shortfalls. When we did that, we reduced our revenue in that year. This year we had contributed to the state shortfall 18.4 million. I think a better classification for our revenues is to be current to what our revenues actually are and when we actually do make a reversion to reflect it as an expense item, so in the current year I reflected it in grant expense, since we granted it back to the State, as nice as we are. So that's the major difference in our numbers." The financial statements were accepted and approved by the Board with no questions. According to the minutes and audio recordings, John Duff was present at the Board meeting and had presented earlier in the meeting. During an interview, Campbell stated if the Board or Duff had directed him to change the classification he would have done as instructed.

During an interview with John Duff on August 3, 2012, Securities Division personnel asked Duff how reversions to the general fund should be treated. Duff stated if the reversions occur in the same year the revenue is received, the reversion should be recorded as a reduction to revenue.

Campbell acknowledged that the reversion of money back to the State General Fund was not in fact a "grant". Furthermore, Campbell represented that the decision to reclassify the reduction in appropriations revenue as "grant expense" was in fact a misrepresentation of the fiscal year 2011 financial statements as it did not reflect the true financial condition of the NMFA. Campbell accepted the characterization that the action to fraudulently misrepresent the financial statements was in fact "cooking the books" of the NMFA.


As a result of the NMFA's submission of the Official Statement related to the Bond offering entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS, SERIES 2012A, and including attachment (A) the misrepresented financial statements and forged audit reports, they have effectively placed forged and false documentation directly into the hands of potential investors.

The Official Statement relating to this bond issuance, submitted to EMMA by underwriter on behalf of the NMFA, states, **"The Finance Authority, established by the legislature of the State of New Mexico (the "State") in 1992, is a governmental instrumentality separate and apart from the State created to coordinate the planning and financing of State and local public projects. For additional information concerning the Finance Authority, see "NEW MEXICO FINANCE AUTHORITY" and the Finance Authority's financial statements for the fiscal year ended June 30, 2011 included as APPENDIX A hereto, which are the most recent audited financial statements available at this time. See "FINANCIAL STATEMENTS" herein."**

The distribution of the misrepresented financial statements and forged audit reports to investors represents a violation of the New Mexico Uniform Securities Act. The misrepresented financial statements made an untrue statement of material fact in violation of 58-13C-501B NMSA 1978. The forged audit report fraudulently characterized the NMFA's financial statements as audited in violation of 58-13C-501B NMSA. In March of 2012, the NMFA issued \$24,340,000.00 in bonds, following the publication of the misrepresented financial statements and forged audit reports. These documents represent a material misrepresentation of fact and material omissions of fact presented publicly which was used by the investing public to make investment decisions about the aforementioned bond offering.

This conduct and the use of a legitimate business (NMFA) as an enterprise represents a pattern of racketeering activity.

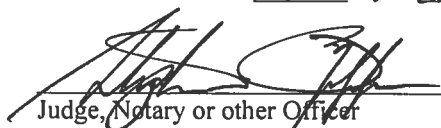
Based on the aforementioned facts and information, affiant respectfully requests that an Arrest Warrant be issued for Gregory Campbell for the above named crimes.

  
\_\_\_\_\_  
Signature of Affiant

*Special Agent in Charge*  
\_\_\_\_\_  
Official Title (if any)


*Patrick McNertney*  
\_\_\_\_\_  
Approved by Special A.D.A. Patrick McNertney

Subscribed and sworn to or declared and affirmed to  
Before me, in the above named County, in the State  
Of New Mexico this 7<sup>th</sup> day of August, 2012.

  
\_\_\_\_\_  
Judge, Notary or other Officer

DISTRICT JUDGE  
\_\_\_\_\_

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
IN THE DISTRICT COURT

FILED IN OPEN COURT THIS 7<sup>th</sup> DAY  
OF Aug, 2012 AT 8:30<sup>7</sup> M.  
  
STEPHEN PFEFFER  
DISTRICT JUDGE

STATE OF NEW MEXICO  
COUNTY OF SANTA FE

V.

No. \_\_\_\_\_

**Gregory M. Campbell, Defendant**  
**DOB: 05/01/1960**  
**SSN: 149-62-2385**  
**ADD: 7815 Seven Springs Rd. NW**  
**Albuquerque, NM 87114**

### CRIMINAL COMPLAINT

Crimes: FORGERY, (make or alter) (1 count); Forgery (issue or transfer) (3 counts), FRAUDULENT SALE OR OFFER TO SELL A SECURITY (SECURITIES FRAUD) (8 counts), RACKETEERING (1 count), CONSPIRACY TO COMMIT RACKETEERING (1 count).

The undersigned, Special Agent in Charge Benjamin Baker, a full time, salaried law enforcement officer employed by the State of New Mexico Regulation and Licensing Department, Securities Division, under penalty of perjury complains and says that on or between the dates of April 1, 2011 and July 1, 2012, in the county of Santa Fe, and in the State of New Mexico, the above named defendant did falsely make or alter documents entitled "Independent Auditor's Report," "Independent Auditor's Report on Internal Control Over Financial Reporting and Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*," and "Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133," and did knowingly issue or transfer this known forged writing with the intent to injure or defraud, and employed a device, scheme or artifice to defraud investors by the issue and transfer of this forged audit.

During the time period, Gregory M. Campbell used the forged audit to make untrue statements of material fact in connection with the offer or sale of securities.

During the time period, Gregory M. Campbell used and attempted to use an apparently legal, legitimate business enterprise (the New Mexico Finance Authority) for the purposes of conducting a pattern of racketeering activity with the intent of accomplishing securities fraud and forgery. Campbell combined with another to accomplish this activity.

*Approved as to form*  
*Senior Prosecutions Attorney*  
*Patricia McNetney 8/7/12*

On July 13, 2012, the State of New Mexico Securities Division learned of the existence of a fraudulent audit report that had previously been released to investors, the public, and other entities by the New Mexico Finance Authority (NMFA). The Securities Division Director, agents under my supervision, and I immediately began to investigate the allegations surrounding the filing of the fraudulent audit. From NMFA's own publicly available literature, I learned the following: The New Mexico Finance Authority was created as a governmental instrumentality in 1992 to coordinate and facilitate the planning and financing of state and local capital projects in New Mexico. The NMFA is able to utilize financing mechanisms to leverage and maximize the State's capital investments in state and local projects. The NMFA partners with local government entities, state agencies, legislators, repeat borrowers and financial advisors to carry out their mission while at the same time sustaining the capacity of the various loan programs the NMFA administers.

Senior management of the NMFA reports to a Board. The Board consists of ten members and a Chair. The Board has six committees that assist the decision making process of the entity. These committees include the Audit Committee, Executive Committee, Economic Development Committee, Finance/Loan Committee, Investment Committee and Contracts Committee. Senior Management includes Richard May, Chief Executive Officer; John Duff, Chief Operating Officer; Rey Romero, General Counsel; Michael Zavelle, Chief Financial Strategist; and Dora C De Baca, Chief Administrative Officer. Board and Committee meetings are subject to the provisions of the Open Meetings Act. The Open Meetings Act requires that the minutes and audio recordings of the meetings be maintained.

Under the authority of the New Mexico Finance Authority Act Chapter 6 article 21, one of the financing mechanisms utilized by the NMFA to raise capital involves the issuance of municipal bonds for sale to investors. From my training and experience as a securities fraud investigator, I know that a bond is a type of debt security that pays interest to the bond holder over a period of time. Purchasing a bond from the issuer of that bond is in essence a loan to the issuer for a period of time at a defined rate of interest. When the bond matures at the end of its term, the principal amount is repaid to the owner of the bond. Municipal bonds are a method by which governments below the federal level raise capital for governmental purposes.

The New Mexico Uniform Act, 58-13C-102 (DD) NMSA 1978, states "*A "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas or other mineral rights; put, call, straddle, option or privilege on a security, certificate of deposit or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of or warrant or right to subscribe to or purchase any of the foregoing.*" As a "bond" is statutorily defined as a security, fraud in connection with the sale of a bond would fall within the jurisdiction of the Securities Division.

On Friday, July 13, 2012, Anne Layne accessed the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to download and review the Financial Statements of the NMFA, which had been issued for the fiscal years ending June 30, 2011 and 2010. Examination and analysis of the NMFA financials was conducted by Anne Layne, CPA, CFE, Forensic Analyst for the State of New Mexico Securities Division, who reports to the undersigned. Layne has a Bachelor's degree in Accounting and a Masters of Business Administration. Layne has eight years of relevant experience, including experience as a staff auditor and senior auditor for governmental entities, non-profit entities, and financial institutions. Previous to her accounting work, Layne worked in banking for two years. Layne reported the following: The financial statements include an independent auditor's report, management's discussion and analysis, a statement of net assets, a statement of revenues, expenses and changes in net assets, a statement of cash flows, notes to the financial statements, supplementary schedules and reports and schedules required by OMB Circular A-133 in relation to audits of recipients of federal funds. Generally accepted accounting principles dictate that the financial statements are compiled by management of the NMFA and are audited by an independent auditor, who authors and provides an opinion in the independent auditor's report. Financial statements for the NMFA are required to be prepared in accordance with generally accepted accounting principles as issued by the Governmental Accounting Standards Board (GASB) in the United States.

According to Analyst Layne, per GASB statement 34 and 39 the NMFA would be considered a discretely presented component unit of the State of New Mexico, meaning financial information reported by the NMFA is required to be included in the Comprehensive Annual Financial Report (CAFR) issued by the State of New Mexico. The auditors who audit the State's CAFR rely on the report generated by the auditors of the NMFA when performing work for the State. Layne conducted the review of the financial statements. Layne stated to me that she had determined that the June 30, 2011 financial statements included misstated figures and did not include proper disclosures. The documents examined included an audit report that claimed to be issued by Clifton Gunderson LLP (since merged to become CliftonLarsonAllen LLP).

Following confirmation by Layne that the audit report was fraudulent, the Securities Division began an in-depth investigation of the events surrounding the creation and dissemination of the audit report and its impacts. The Securities Division has performed numerous interviews of current and former NMFA employees, NMFA Board Members, and employees of the audit firm engaged to perform the fiscal year 2011 audit. The interviews were audio recorded. The Securities Division also applied for and served numerous Grand Jury Subpoenas Duces Tecum to banks, rating agencies, accounting firms and securities self-regulatory organizations. On August 1, 2012, the Securities Division applied for and executed a search warrant at 207 Shelby Street, Santa Fe, NM (offices of the NMFA), for the purposes of collecting evidence of criminal activity. Securities Division personnel have examined thousands of pages of documents, emails, and electronic evidence relevant to this case. The investigation is on-going at this time.

On July 20, 2012, Director Tanaka contacted Gregory Campbell, the former controller of the NMFA, and requested that Campbell consent to a voluntary interview the following morning. Campbell agreed to be interviewed on Saturday, July 21, 2012 at 10:00 hours at the offices of the Regulation and Licensing Department in Albuquerque, NM. Campbell arrived as agreed and was interviewed for approximately five (5) hours. The interview was recorded in its

entirety. Additionally, Campbell consented to a voluntary follow-up interview on Monday, August 6, 2012, for approximately two (2) hours. As the Securities Division is a formal member of the United States Secret Service Financial Crimes Task Force, Securities Division personnel utilized an interview room at the offices of the Secret Service in Albuquerque, NM to conduct the follow-up interview. That interview was recorded in its entirety as well. Any statements attributed to Campbell in the following narrative are summarized from the two interviews and are not comprehensive accounts of the statements made.

Campbell is a New Jersey native and attended Uppsala College in East Orange, NJ, obtaining a Bachelor of Arts in Accounting in 1982. Campbell has never been a Certified Public Accountant (CPA). Campbell began his work career at Arthur Young and Company as an Audit Assistant. He served there for approximately 18 months. Campbell tested internal controls and internal balances and did forensic auditing work as well. After working on the audit engagement for the New Jersey Economic Development Authority (NJEDA), Campbell was hired as an Accountant for the NJEDA. Campbell served there for 9 years as an Accountant and conducted accounting work on NJEDA's operating fund, similar to a general fund, and their real estate development program. Campbell then worked for Houghton Mifflin and conducted accounting for a sales office for approximately 2 years. Subsequently, Campbell went to work for Paychex, Inc. His tenure there lasted for approximately seven years. Campbell worked in New Jersey for the first 6 years and accepted a voluntary transfer to Albuquerque, NM for his final year with Paychex. Campbell began work at the NMFA in May of 2005 as a temporary employee for approximately 6 months. Campbell's duties included entering accounting journal entries, preparing paperwork for cash transfers, and fixed asset accounting work. Campbell was hired by the NMFA as a permanent employee in October 2005. Campbell accounted for incoming loan payments and semiannual payments to bond holders and also accounted for the monthly activity within approximately 400 trust accounts. Campbell reported that the trustee accounted for all of the reserves on all of the entities loans and undisbursed loan proceeds. After a change in personnel in the fall of 2007, Campbell became the Controller in December of 2007. Campbell reported that he had been asked by John Duff, then the Chief Investment Officer, to assume the position of Controller.

John Duff indicates on his resume, obtained and examined pursuant to the search warrant, that he holds a Bachelor of Arts in Economics from Oberlin College, OH a Masters of Business Administration with an emphasis in Accounting from Miami University, also in Ohio. Duff indicated in interviews with Securities Division personnel that he held a CPA license in the states of Ohio and New Mexico for a number of years. According to Duff's resume, he was a partner with Touche, Ross and Company, (now Deloitte and Touche) for several years. Since that time, Duff has held several executive finance positions for notable companies including New Mexico Federal Savings and Loan Association, Smith Barney, Wachovia Securities and Southwest Securities. Duff's resume indicated that he is a "disciplined and energetic executive with experience in accounting, finance, and investment management. MBA / CPA. Founded and served as CEO of a successful CPA practice, achieving significant growth and profitability each year". During an interview with Securities personnel, Duff indicated that he has been working for the NMFA since 2005, when he was hired as the Chief Investment Officer. Duff indicated that he became the Chief Financial Officer in 2007 and since then has also held the titles of Chief Operating Officer and Chief Executive Officer. Duff indicated in this interview that he had

extensive knowledge of the finances of the NMFA. Duff's current title is Chief Operating Officer and his duties include supervision of the accounting department. According to Campbell and Duff, Duff is Campbell's direct supervisor.

Clifton Gunderson LLP was engaged to perform audit services for the New Mexico Finance Authority. The engagement letter or contract for services, dated May 9, 2011, was signed by John Duff, acting Chief Executive Officer, on August 9, 2011. J. Michael Stephens, Audit Partner at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, was assigned as the partner-in-charge of this engagement.

Securities Division personnel met with J. Michael Stephens on July 16, 2012 and interviewed Stephens telephonically on July 25, 2012. During both instances, Stephens stated he did not issue an audit report or financial statements for the NMFA for the fiscal year 2011. He also stated that no member of his staff or firm issued an audit report or financial statements for the NMFA for fiscal year 2011.

During interviews, Campbell stated he created the forged auditor's reports. According to statements by Campbell, which were corroborated by investigative findings, the New Mexico Finance Authority Financial Statements for the years ended June 30, 2011 and 2010, containing the documents entitled "Independent Auditor's Report," "Independent Auditor's Report on Internal Control Over Financial Reporting and Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*," and "Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133" were created by Campbell between the dates of January 9, 2012 and February 3, 2012.

Campbell further stated he received draft financial statements from Caroline Slim, Senior Accountant at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, on July 27, 2011 at his office computer and NMFA email address. Campbell indicated the fiscal year 2011 numbers were not included in this draft, which is common practice during an audit. Campbell populated the draft with financial information for fiscal year 2011 and changed the issue date to December 10, 2011. Campbell then printed the now complete Word document as a PDF file. This document now contained financial information for fiscal year 2011, but did not contain signatures on the auditor's reports. Campbell stated he obtained the audit reports from the fiscal year 2010 audit and "copied and pasted" the letterhead and signatures onto a printed copy of the PDF file. Campbell stated he then copied the entire report and scanned it into a PDF file in order to disseminate copies of the financial statements and forged reports to both external and internal recipients.

Evidence obtained and seized during the search warrant revealed the first known instance the forged report was transferred to another person. On December 13, 2011, Yvonne Herrera, staff member at the Department of Finance and Administration, emailed Campbell requesting a copy of the draft 2011 financial statements. Campbell did not respond. Herrera emailed Campbell again on December 28, 2011 requesting the draft financial statements. Herrera stated, "it looks like it hasn't been submitted to the State Auditor's Office yet. Please let me know." On January 3, 2012, Herrera emailed Campbell requesting the name and address of the audit firm. On



January 5, 2012, Herrera emailed John Duff stating she has had difficulty obtaining a response from Campbell regarding the audited financial statements. Duff forwarded the email to Campbell on January 5, 2012, asking Campbell to provide the information. On January 9, 2012, Campbell emailed Herrera financial statements; however these statements are not the forged audit report. On January 26, 2012, Herrera emailed Campbell, Duff and Richard May, Chief Executive Officer of the NMFA. Herrera stated, "I am looking for an update on the 2011 audit. I haven't received an update and the State Auditor's Office does not have any info your [sic] NMFA. We need the entire draft to complete the CAFR. Please let me know, I may have to reschedule the auditor's arrival because the CAFR is still missing the complete information for NMFA." Richard May communicated to Herrera via email that Campbell would get the information to her. On February 3, 2012, Campbell emailed Yvonne Herrera a copy of the financial statements and the forged audit reports. Campbell confirmed during an interview that he sent this email.

Securities Division personnel downloaded the State of New Mexico's Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2011 from the Department of Finance and Administration's website. The CAFR is the audited financial statements for the entire State of New Mexico, including all funds and component units. The Independent Auditor's Report included in the CAFR states that the auditors relied on the information included in the NMFA's forged auditor's report to complete their work on the State's CAFR.

Securities Division personnel also observed that the financial statements and forged auditor's reports were still available for viewing on the NMFA's website ([www.nmfa.net](http://www.nmfa.net)) on July 13, 2012. Securities Division personnel contacted John Holton, information technology employee for the NMFA, on July 24, 2012, to determine when the report was uploaded to the website. John Holton stated that the report, which was listed as document ID 977, was uploaded on March 12, 2012 at 08:14 hours. Holton provided the Securities Division with a copy of the SQL database log showing the upload. Once the financial statements and the forged audit reports were posted on the website, the documents were available for public viewing by anyone able to access the website. In an interview with Michael Zavelle, Chief Financial Strategist for the New Mexico Finance Authority, Zavelle stated he uploaded the forged documents after receiving them via email from Campbell. Zavelle further stated he referred ratings agencies, individual investors and institutional investors to the website to obtain financial information regarding the Authority. Examination of emails obtained during the search warrant confirmed that Campbell had emailed Zavelle on March 12, 2012. The forged documents were attached to the email. Campbell also confirmed he sent this email during an interview.

Examination of emails obtained during the search warrant further revealed that Campbell had sent an email to Brad Patterson, Partner at Ballard Spahr, LLP. According to interviews with Michael Zavelle and Campbell, Patterson is an outside legal counsel used to prepare disclosures related to bond sales. An email, dated March 12, 2012, states, "Attached are the FY 2011 financial statements for inclusion in the POS for the 2012a PPRF Senior Lien Bonds." The financial statements and forged audit reports were attached to the email. "POS" stands for Preliminary Official Statement. Examination of the Preliminary Official Statement revealed the financial statements and forged audit reports were included as Attachment (A).

Securities Division Director Daniel S. Tanaka is the Administrator of the State of New Mexico Uniform Securities Act, and has extensive experience conducting and supervising major securities related and/or financial criminal investigations in New Mexico and New York. Director Tanaka has testified in the State of New Mexico as an expert witness in securities related matters. Director Tanaka indicated that the Preliminary Official Statement, and subsequently the Official Statement, for this bond issuance is the functional equivalent of a prospectus delivered to potential investors. A Preliminary Official Statement contains relevant information and disclosures that are relevant to potential investors determining whether or not to invest in a bond offering.

On July 24, 2012, Special Agent Baker accessed an online computer based system known as "Electronic Municipal Market Access" (EMMA). The EMMA system is operated by the Municipal Securities Rulemaking Board (MSRB). MSRB is a self-regulatory organization that houses municipal bond disclosure documents that provide information to investors about securities issued by municipalities. EMMA also provides market transparency data, which includes real-time prices and yields at which bonds and notes are bought and sold, relating to most trades occurring on or after January 31, 2005. The information on EMMA is presented in a manner specifically tailored for retail, non-professional investors who may not possess the expertise necessary to make suitable investment decisions.

Baker searched the EMMA system and discovered that the NMFA's underwriter, on behalf of the NMFA, sent the financial statements and forged audit reports to EMMA (Electronic Municipal Market Access) as Attachment (A) as part of the Official Statement disclosures connected to the offering of \$24,340,000.00 in Bonds entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS, SERIES 2012A. According to EMMA's document archives, the Official Statement and information from the NMFA was posted to the EMMA website on April 3, 2012.

Further investigation into the Official Statement revealed that the bond sale entitled SERIES 2012A was ultimately sold in its entirety to Hutchinson, Shockey, Erley and Company (the Purchaser) pursuant to a competitive bidding process held on March 22, 2012. According to the Official Statement, "proceeds from the bond sale of the series 2012A bonds will be used by the (i) originating loans to, or purchasing securities from, or reimbursing the Finance Authority for monies used to origination to, or purchase securities from, certain governmental units that will be, or were, used to finance certain projects for such governmental units, and (ii) paying costs incurred in connection with the issuance of the series 2012A bonds."

Chip Pierce, of Western Financial Advisors, was telephonically interviewed on July 27, 2012. Pierce reported that he is the contract financial advisor for the NMFA. Pierce assists in the process of financial disclosure as well as sales and marketing activity related to NMFA's bond sales. Pierce reported that the following firms also bid on the bonds listed for sale: Guggenheim Securities, LLC; Piper Jaffrey; Wells Fargo Bank NA; Morgan Stanley and Company, Inc.; Robert W. Baird and Company, Inc.; JP Morgan Securities, LLC; KeyBanc Capital Markets. According to Pierce, all the above listed firms received the Preliminary Official Statement prior to bidding on the bond sale as part of the "bid package." Additionally, email correspondence between Pierce and Campbell, Duff, and Zavelle corroborate this statement. The Preliminary

Official Statement included Attachment (A), which consisted of the financial statements and forged audit report. The POS clearly misrepresented that the financial statements were audited, when in fact the audit was never completed.

During an interview with J. Michael Stephens of CliftonLarsonAllen, LLP, Stephens stated there is a lengthy procedure in place to procure and complete the financial statement audit process. The entity under audit is required to submit an auditor recommendation for the fiscal year audit to the State Auditor. Once the recommendation is approved by the State Auditor, the entity and the audit firm are required to complete a State of New Mexico Audit Contract, which is signed by appropriate entity personnel, the State Auditor's Office, and a representative of the audit firm. This was confirmed by a reading of the State Audit Rule (NMAC 2.2.2), which sets forth the requirements for the financial statement audit process.

Additionally, NMAC 2.2.2.10J (1) states "the IPA (independent public accountant) must hold an exit conference with representatives of the agency's governing authority and top management including representatives of component units. If component unit representatives cannot attend the combined exit conference, a separate exit conference must be held with the component unit's governing authority and top management. The exit conference must be held in person; a telephone or web cam exit conference will not meet this requirement unless a telephonic or web cam exit conference is approved by the State Auditor prior to the exit conference. The date of the conference(s) and the names and titles of personnel attending must be stated in the last page of the audit report." J. Michael Stephens; Lonnie Marquez, Chair of Audit Committee; Brett Woods, Audit Committee Member; and John Duff, Chief Operating Officer of the New Mexico Finance Authority stated an exit conference was never held. The fraudulent report submitted by Campbell, falsely states an exit conference was held on December 10, 2011 with Stephens, Marquez, Woods, William Fulginiti, Duff and Campbell in attendance. Stephens further stated that his firm only completed approximately 65 to 70% of the required audit work.

On or about July 18, 2012, Analyst Layne used the internet to access the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to view publicly disseminated NMFA Board Meeting Minutes. Layne searched the website using the embedded search function for "minutes". The results included the minutes for the Board meeting held on March 22, 2012 at 9:10 am in State Capitol Room 322. In the minutes, specifically item 31 of the agenda, labeled "Audit Committee – Lonnie Marquez, Chair," Richard May (Chief Executive Officer of the NMFA) reported "the State Auditor has approved the NMFA audit with zero findings." According to review of the New Mexico State Audit Act, the State Auditor must receive the completed audit from the independent auditor. The State Auditor's Office will then perform a review of the completed audit. Once this review is performed and the Auditor's Office determines the audit is accurate in all material respects, the Auditor's Office will issue a release letter to the entity under audit. The release letter gives the entity under audit permission to release the completed audit to the public. According to Antonio Corrales, Director of Compliance with the State Auditor's Office, the State Auditor did not receive or approve audited financial statements from the NMFA for the fiscal year 2011 audit, nor did the State Auditor's Office issue a release letter to the NMFA.

Auditing standards, specifically AU section 333, require the independent auditor to "obtain written representations from management as a part of an audit of financial statements performed

in accordance with generally accepted auditing standards.” These representations should be obtained for all financial statements and periods covered by the auditor’s report. Representations are communicated in the form of a letter, which is addressed to the auditor on company letterhead. According to AU section 333, “the letter should be signed by those members of management with overall responsibility for financial and operating matters whom the auditor believes are responsible for and knowledgeable about, directly or through others in the organization, the matters covered by the representations. Such members of management normally include the chief executive officer and chief financial officer or others with equivalent positions in the entity.” In fiscal year 2010, the representation letter was signed by the Chief Executive Officer (William Sisneros at the time), the Chief Financial Officer (John Duff), and the Controller (Gregory Campbell). Stephens stated a representation letter was not received for fiscal year 2011, as the audit was never completed.

Layne’s examination of the financial statements on July 13, 2012 revealed the financial statements prepared by Campbell were materially misrepresented. The financial statements for the NMFA are prepared using a comparative format, meaning the financial information for the current fiscal year and the fiscal year immediately prior are presented. Layne compared the fiscal year 2010 numbers presented in the fiscal year 2011 financial statements to the 2010 numbers presented in the fiscal year 2010 financial statements, noting significant differences. These differences were identified in the Condensed Statements of Revenues, Expenses and Changes in Net Assets included in the Management’s Discussion and Analysis and in the Statements of Revenues, Expenses and Changes in Net Assets located in the financial statements. In the 2010 financial statements, the appropriation revenues and grant expenses for fiscal year 2010 are \$11,722,377 and \$60,106,858, respectively. In the 2011 financial statements on the other hand, the appropriation revenue and grant expenses for fiscal year 2010 are \$32,722,377 and \$81,106,858, respectively. The difference between the numbers in the 2010 financial statements and 2011 financial statements is \$21,000,000. Grant expenses are included in operating expenses in the statements.

During an interview with Campbell, he stated he reclassified \$21,000,000 in reversions to the State’s general fund, which occurred in fiscal year 2010, by reclassifying appropriation revenue as grant expenses. Campbell stated a reversion to the State’s general fund, which occurred in fiscal year 2011 for \$18,600,000, was reclassified as well. According to Campbell and per review of Senate Bill 182 and House Bill 2, the monies reverted in 2010 were reversions of amounts appropriated by the State in previous legislative session. According to Campbell, a review of Board Minutes, and also confirmed by several employee interviews, in 2011 the NMFA was approached by the Legislative Finance Committee to assist the State with a budget shortfall. The Legislative Finance Committee requested the reversion because the NMFA receives flow through revenues of Government Gross Receipts Taxes from the State. Campbell stated during an interview, that then CEO William Sisneros “volunteered” to provide \$20,000,000 to the State General Fund. According to Campbell and other employees interviewed, the NMFA committed to reverting \$18,600,000 in fiscal year 2011 and the remaining \$1,400,000 in fiscal year 2012.

According to the Management Discussion and Analysis included in the financial statements, the Government Gross Receipts Tax (GGRT) is a tax imposed on the gross receipts of municipalities

for services rendered to customers such as water, sewer, and solid waste collection. Seventy-five percent of these revenues are appropriated to the NMFA. Layne researched proper accounting methods of the GGRT and reversions of GGRT revenues. Her research revealed the following: According to Governmental Account Standards Board (GASB) Statement 33, this revenue is considered a non-exchange transaction, as it does not result from an exchange of goods and services. GASB 33 applies to governments and component units in the same reporting entity of governments. GASB 33 requires the appropriations of GGRT revenues to be recorded as revenue when it is received. If the appropriation is reverted, it is to be recorded as an expense.

GASB Statement 34 paragraph 318 requires all resource flows, including revenues, between a discreetly presented component unit and other funds of a government to be reported as external transactions (i.e. revenues and expenses). As a component unit, the NMFA uses the accrual basis of accounting as used by proprietary funds of governments. GASB 34 paragraph 100 discusses the statement of revenues, expenses, and changes in fund net assets for proprietary funds. Paragraph 100 states "this statement should also distinguish between operating and non-operating revenues and expenses and should present a separate subtotal for operating revenues, operating expenses and operating income. Non-operating revenues and expenses should be reported after operating income. Revenues from capital contributions and additions to the principal of permanent and term endowments, special and extraordinary items, and transfers should be reported separately, after non-operating revenues and expenses..." The footnote to Paragraph 102 states that non-exchange transactions that constitute the reporting proprietary fund's principal ongoing operations may be included as operating revenues and expenses. This supports including appropriation revenue as operating revenue. However, a reversion to the general fund is a non-exchange transaction that is not part of the NMFA's ongoing operations. In this case, the reversion should be reported as a non-operating expense. GASB 34 paragraph 55 states "*Extraordinary items* are transactions or other events that are both unusual in nature *and* infrequent in occurrence." GASB 34 paragraph 56 states "Significant transactions or other events *within the control of management* that are *either* unusual in nature *or* infrequent in occurrence are *special items*." Based on a review of applicable accounting standards, the reversions to the general fund should be included as either a non-operating expense or a special/extraordinary item, rather than as an operating expense, specifically grant expenses as represented in the fiscal year 2011 financial statements.

Additionally, according to Layne and accounting standards, the purpose of financial reporting is to provide users of financial statements with information that a reasonable person would need to make decisions regarding the entity. Therefore, the presentation of the information should be in a format that would provide information important to these users. In the case of the NMFA, this financial information would be used by bond purchasers when making a decision to purchase the bonds. It was stated by NMFA employees during interviews and at board meetings, that the disclosure of reversions to the general fund would be important to users of the financial statement, particularly rating agencies and bond purchasers.

During an interview, Campbell admitted this was not proper accounting treatment and that this reclassification would constitute a misrepresentation of the financial statements. Campbell stated he decided to reclassify the numbers when he was preparing the April 2011 monthly financial statements. Campbell stated that if he had not reclassified the reversion in that month that the

appropriation revenue figure would be zero or negative and would “look really bad.” Campbell further stated he was unsure of the presentation, so he had a meeting with John Duff, who was acting CEO at the time and who was Campbell’s direct supervisor. Campbell stated the meeting took place in Duff’s office during the third week of May in 2011. Campbell stated he approached Duff and explained that he wanted to reclassify revenues. Campbell stated he explained to Duff that he could include the reversion as a reduction to appropriation revenue, which is how the prior year reversion was recorded, or he could reclassify it to grant expenses. Campbell stated he further explained to Duff that if the reversion were recorded as a reduction to revenues that the revenue figures would be zero or negative. Campbell stated that Duff told him he agreed with the reclassification. Campbell further stated that if Duff had disagreed with the reclassification, he would have recorded the revenues as Duff instructed.

Examination of board minutes and audit recordings of board meetings revealed Campbell presented the financial statements as of June 30, 2011 to the Board on August 11, 2011. Review of the audio recordings reveals that during his presentation Campbell discussed the differences between appropriation revenue between fiscal year 2011 and fiscal year 2010. Campbell stated on the recording, “...biggest differences is in our appropriation revenue and this is sort of a classification issue and I’m wrestling with it. Right now, in the previous year, last year, we had given back to the state 21 million in revenues we had received in prior years that the state was having reverted to meet shortfalls. When we did that, we reduced our revenue in that year. This year we had contributed to the state shortfall 18.4 million. I think a better classification for our revenues is to be current to what our revenues actually are and when we actually do make a reversion to reflect it as an expense item, so in the current year I reflected it in grant expense, since we granted it back to the State, as nice as we are. So that’s the major difference in our numbers.” The financial statements were accepted and approved by the Board with no questions. According to the minutes and audio recordings, John Duff was present at the Board meeting and had presented earlier in the meeting. During an interview, Campbell stated if the Board or Duff had directed him to change the classification he would have done as instructed.

During an interview with John Duff on August 3, 2012, Securities Division personnel asked Duff how reversions to the general fund should be treated. Duff stated if the reversions occur in the same year the revenue is received, the reversion should be recorded as a reduction to revenue.

Campbell acknowledged that the reversion of money back to the State General Fund was not in fact a “grant”. Furthermore, Campbell represented that the decision to reclassify the reduction in appropriations revenue as “grant expense” was in fact a misrepresentation of the fiscal year 2011 financial statements as it did not reflect the true financial condition of the NMFA. Campbell accepted the characterization that the action to fraudulently misrepresent the financial statements was in fact “cooking the books” of the NMFA.

As a result of the NMFA’s submission of the Official Statement related to the Bond offering entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS, SERIES 2012A, and including attachment (A) the misrepresented financial statements and forged audit reports, they have effectively placed forged and false documentation directly into the hands of potential investors.

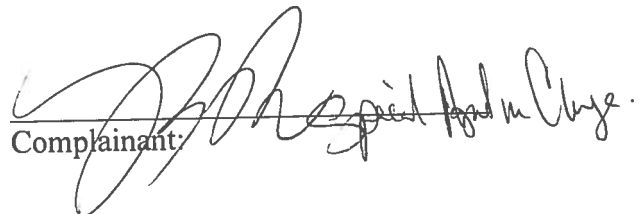
The Official Statement relating to this bond issuance, submitted to EMMA by underwriter on behalf of the NMFA, states, **“The Finance Authority, established by the legislature of the State of New Mexico (the “State”) in 1992, is a governmental instrumentality separate and apart from the State created to coordinate the planning and financing of State and local public projects. For additional information concerning the Finance Authority, see “NEW MEXICO FINANCE AUTHORITY” and the Finance Authority’s financial statements for the fiscal year ended June 30, 2011 included as APPENDIX A hereto, which are the most recent audited financial statements available at this time. See “FINANCIAL STATEMENTS” herein.”**

The distribution of the misrepresented financial statements and forged audit reports to investors represents a violation of the New Mexico Uniform Securities Act. The misrepresented financial statements made an untrue statement of material fact in violation of 58-13C-501B NMSA 1978. The forged audit report fraudulently characterized the NMFA’s financial statements as audited in violation of 58-13C-501B NMSA. In March of 2012, the NMFA issued \$24,340,000.00 in bonds, following the publication of the misrepresented financial statements and forged audit reports. These documents represent a material misrepresentation of fact and material omissions of fact presented publicly which was used by the investing public to make investment decisions about the aforementioned bond offering.

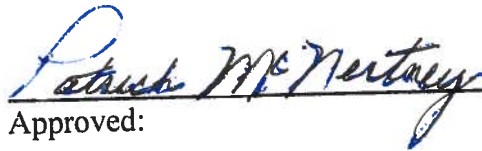
This conduct and the use of a legitimate business (NMFA) as an enterprise represents a pattern of racketeering activity.

Contrary to sections: §30-16-10 (A) 2 (B), §58-13C-501 & §58-13C-508 (2010), §30-42-4, §§30-28-2 & 30-42-4 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 THIS IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

Complainant: 

Special Agent in Charge  
Title

  
Approved:

Patrick McNertney  
Special ADA

9-201 Magistrate Court Rule 6-201 NMRA  
As amended, effective September 1, 1990; April 1, 1991, November 1, 1991



THE STATE OF NEW MEXICO

COUNTY OF SANTA FE

IN THE DISTRICT COURT

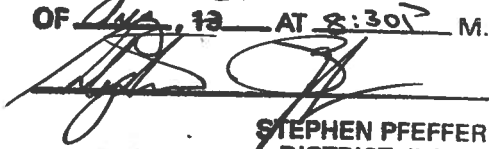
STATE OF NEW MEXICO

NUMBER \_\_\_\_\_

V.

**John T. Duff**  
DOB: 07-17-1942  
SSN: 278-44-9176  
ADD: 2408 Westbrook Dr. NW  
Albuquerque, NM 87120

FILED IN OPEN COURT THIS 7<sup>th</sup> DAY  
OF Aug., 2012 AT 8:30 M.

  
STEPHEN PFEFFER  
DISTRICT JUDGE

**AFFIDAVIT FOR ARREST WARRANT**

The undersigned, being duly sworn, on his oath, states that he has reason to believe that from May 23, 2011 to July 1, 2012, in SANTA FE COUNTY, the STATE OF NEW MEXICO, and as part of a continuing scheme to defraud various persons, the above named defendant committed the following crimes:

1. FRAUDULENT SALE OR OFFER TO SELL A SECURITY (SECURITIES FRAUD), 3<sup>RD</sup> DEGREE FELONY (8 Counts)  
CONTRARY TO SECTION: §58-13C-501 & §58-13C-508 (2010) NMSA 1978
2. RACKETEERING, 2<sup>ND</sup> DEGREE FELONY (1 Count)  
CONTRARY TO SECTION: §30-42-1 through section 30-42-5 NMSA 1978
3. CONSPIRACY TO COMMIT RACKETEERING, 3<sup>RD</sup> DEGREE FELONY (1 Count)  
CONTRARY TO SECTION: §§30-28-2 & 30-42-1 through 30-42-5 NMSA 1978
4. ACCESSORY, CONTRARY TO SECTION: §30-1-13 NMSA 1978, for all counts, with the exception of conspiracy.

*Approved as to form*  
*Patrick McNettney*  
*Senior Prosecutors Attorney*  
*8-7-'12*

**Affiant Special Agent in Charge Benjamin Baker** is a full-time employee of the NM Securities Division (NM SEC), Regulation and Licensing Department. I have been with the NM SEC since 2011; have served with the City of Albuquerque Police Department, and the City of Carlsbad Police Department and have over fifteen years of combined local and state law enforcement experience. My duties include detection and prevention of securities fraud, conducting criminal and administrative investigations, general white collar criminal investigations, and enforcement of the New Mexico Securities Act.

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

### **Summary**

On July 13, 2012, the State of New Mexico Securities Division learned of the existence of a fraudulent audit report that had previously been released to investors, the public, and other entities by the New Mexico Finance Authority (NMFA). The Securities Division Director, agents under my supervision, and I immediately began to investigate the allegations surrounding the filing of the fraudulent audit. From NMFA's own publicly available literature, I learned the following: The New Mexico Finance Authority was created as a governmental instrumentality in 1992 to coordinate and facilitate the planning and financing of state and local capital projects in New Mexico. The NMFA is able to utilize financing mechanisms to leverage and maximize the State's capital investments in state and local projects. The NMFA partners with local government entities, state agencies, legislators, repeat borrowers and financial advisors to carry out their mission while at the same time sustaining the capacity of the various loan programs the NMFA administers.

Senior management of the NMFA reports to a Board. The Board consists of ten members and a Chair. The Board has six committees that assist the decision making process of the entity. These committees include the Audit Committee, Executive Committee, Economic Development Committee, Finance/Loan Committee, Investment Committee and Contracts Committee. Senior Management includes Richard May, Chief Executive Officer; John Duff, Chief Operating Officer; Rey Romero, General Counsel; Michael Zavelle, Chief Financial Strategist; and Dora C De Baca, Chief Administrative Officer. Board and Committee meetings are subject to the provisions of the Open Meetings Act. The Open Meetings Act requires that the minutes and audio recordings of the meetings be maintained.

Under the authority of the New Mexico Finance Authority Act Chapter 6 article 21, one of the financing mechanisms utilized by the NMFA to raise capital involves the issuance of municipal bonds for sale to investors. From my training and experience as a securities fraud investigator, I know that a bond is a type of debt security that pays interest to the bond holder over a period of time. Purchasing a bond from the issuer of that bond is in essence a loan to the issuer for a period of time at a defined rate of interest. When the bond matures at the end of its term, the principal amount is repaid to the owner of the bond. Municipal bonds are a method by which governments below the federal level raise capital for governmental purposes.

The New Mexico Uniform Act, 58-13C-102 (DD) NMSA 1978, states "*A "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas or other mineral rights; put, call, straddle, option or privilege on a security, certificate of deposit or group or index of securities, including an interest*

*therein or based on the value thereof; put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of or warrant or right to subscribe to or purchase any of the foregoing.*" As a "bond" is statutorily defined as a security, fraud in connection with the sale of a bond would fall within the jurisdiction of the Securities Division.

On Friday, July 13, 2012, Anne Layne accessed the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to download and review the Financial Statements of the NMFA, which had been issued for the fiscal years ending June 30, 2011 and 2010. Examination and analysis of the NMFA financials was conducted by Anne Layne, CPA, CFE, Forensic Analyst for the State of New Mexico Securities Division, who reports to the undersigned. Layne has a Bachelor's degree in Accounting and a Masters of Business Administration. Layne has eight years of relevant experience, including experience as a staff auditor and senior auditor for governmental entities, non-profit entities, and financial institutions. Previous to her accounting work, Layne worked in banking for two years. Layne reported the following: The financial statements include an independent auditor's report, management's discussion and analysis, a statement of net assets, a statement of revenues, expenses and changes in net assets, a statement of cash flows, notes to the financial statements, supplementary schedules and reports and schedules required by OMB Circular A-133 in relation to audits of recipients of federal funds. Generally accepted accounting principles dictate that the financial statements are compiled by management of the NMFA and are audited by an independent auditor, who authors and provides an opinion in the independent auditor's report. Financial statements for the NMFA are required to be prepared in accordance with generally accepted accounting principles as issued by the Governmental Accounting Standards Board (GASB) in the United States.

According to Analyst Layne, per GASB statement 34 and 39 the NMFA would be considered a discretely presented component unit of the State of New Mexico, meaning financial information reported by the NMFA is required to be included in the Comprehensive Annual Financial Report (CAFR) issued by the State of New Mexico. The auditors who audit the State's CAFR rely on the report generated by the auditors of the NMFA when performing work for the State. Layne conducted the review of the financial statements. Layne stated to me that she had determined that the June 30, 2011 financial statements included misstated figures and did not include proper disclosures. The documents examined included an audit report that claimed to be issued by Clifton Gunderson LLP (since merged to become CliftonLarsonAllen LLP).

Following confirmation by Layne that the audit report was fraudulent, the Securities Division began an in-depth investigation of the events surrounding the creation and dissemination of the audit report and its impacts. The Securities Division has performed numerous interviews of current and former NMFA employees, NMFA Board Members, and employees of the audit firm engaged to perform the fiscal year 2011 audit. The interviews were audio recorded. The Securities Division also applied for and served numerous Grand Jury Subpoenas Duces Tecum to banks, rating agencies, accounting firms and securities self-regulatory organizations. On August 1, 2012, the Securities Division applied for and executed a search warrant at 207 Shelby Street, Santa Fe, NM (offices of the NMFA), for the purposes of collecting evidence of criminal activity. Securities Division personnel have examined thousands of pages of documents, emails, and electronic evidence relevant to this case. The investigation is on-going at this time.

On July 20, 2012, Director Tanaka contacted Gregory Campbell, the former controller of the NMFA, and requested that Campbell consent to a voluntary interview the following morning. Campbell agreed to be interviewed on Saturday, July 21, 2012 at 10:00 hours at the offices of the Regulation and Licensing Department in Albuquerque, NM. Campbell arrived as agreed and was interviewed for approximately

five (5) hours. The interview was recorded in its entirety. Additionally, Campbell consented to a voluntary follow-up interview on Monday, August 6, 2012, for approximately two (2) hours. As the Securities Division is a formal member of the United States Secret Service Financial Crimes Task Force, Securities Division personnel utilized an interview room at the offices of the Secret Service in Albuquerque, NM to conduct the follow-up interview. That interview was recorded in its entirety as well. Any statements attributed to Campbell in the following narrative are summarized from the two interviews and are not comprehensive accounts of the statements made.

Campbell is a New Jersey native and attended Uppsala College in East Orange, NJ, obtaining a Bachelor of Arts in Accounting in 1982. Campbell has never been a Certified Public Accountant (CPA). Campbell began his work career at Arthur Young and Company as an Audit Assistant. He served there for approximately 18 months. Campbell tested internal controls and internal balances and did forensic auditing work as well. After working on the audit engagement for the New Jersey Economic Development Authority (NJEDA), Campbell was hired as an Accountant for the NJEDA. Campbell served there for 9 years as an Accountant and conducted accounting work on NJEDA's operating fund, similar to a general fund, and their real estate development program. Campbell then worked for Houghton Mifflin and conducted accounting for a sales office for approximately 2 years. Subsequently, Campbell went to work for Paychex, Inc. His tenure there lasted for approximately seven years. Campbell worked in New Jersey for the first 6 years and accepted a voluntary transfer to Albuquerque, NM for his final year with Paychex. Campbell began work at the NMFA in May of 2005 as a temporary employee for approximately 6 months. Campbell's duties included entering accounting journal entries, preparing paperwork for cash transfers, and fixed asset accounting work. Campbell was hired by the NMFA as a permanent employee in October 2005. Campbell accounted for incoming loan payments and semiannual payments to bond holders and also accounted for the monthly activity within approximately 400 trust accounts. Campbell reported that the trustee accounted for all of the reserves on all of the entities loans and undisbursed loan proceeds. After a change in personnel in the fall of 2007, Campbell became the Controller in December of 2007. Campbell reported that he had been asked by John Duff, then the Chief Investment Officer, to assume the position of Controller.

John Duff indicates on his resume, obtained and examined pursuant to the search warrant, that he holds a Bachelor of Arts in Economics from Oberlin College, OH a Masters of Business Administration with an emphasis in Accounting from Miami University, also in Ohio. Duff indicated in interviews with Securities Division personnel that he held a CPA license in the states of Ohio and New Mexico for a number of years. According to Duff's resume, he was a partner with Touche, Ross and Company, (now Deloitte and Touche) for several years. Since that time, Duff has held several executive finance positions for notable companies including New Mexico Federal Savings and Loan Association, Smith Barney, Wachovia Securities and Southwest Securities. Duff's resume indicated that he is a "disciplined and energetic executive with experience in accounting, finance, and investment management. MBA / CPA. Founded and served as CEO of a successful CPA practice, achieving significant growth and profitability each year". During an interview with Securities personnel, Duff indicated that he has been working for the NMFA since 2005, when he was hired as the Chief Investment Officer. Duff indicated that he became the Chief Financial Officer in 2007 and since then has also held the titles of Chief Operating Officer and Chief Executive Officer. Duff indicated in this interview that he had extensive knowledge of the finances of the NMFA. Duff's current title is Chief Operating Officer and his duties include supervision of the accounting department. According Campbell and Duff, Duff is Campbell's direct supervisor. Clifton Gunderson LLP was engaged to perform audit services for the New Mexico Finance Authority. The engagement letter or contract for services, dated May 9, 2011, was signed by John Duff, acting Chief Executive Officer, on August 9, 2011. J. Michael Stephens, Audit Partner at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, was assigned as the partner-in-charge of this engagement.

Securities Division personnel met with J. Michael Stephens on July 16, 2012 and interviewed Stephens telephonically on July 25, 2012. During both instances, Stephens stated he did not issue an audit report or financial statements for the NMFA for the fiscal year 2011. He also stated that no member of his staff or firm issued an audit report or financial statements for the NMFA for fiscal year 2011.

During interviews, Campbell stated he created the forged auditor's reports. According to statements by Campbell, which were corroborated by investigative findings, the New Mexico Finance Authority Financial Statements for the years ended June 30, 2011 and 2010, containing the documents entitled "Independent Auditor's Report," "Independent Auditor's Report on Internal Control Over Financial Reporting and Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*," and "Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133" were created by Campbell between the dates of January 9, 2012 and February 3, 2012.

Campbell further stated he received draft financial statements from Caroline Slim, Senior Accountant at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, on July 27, 2011 at his office computer and NMFA email address. Campbell indicated the fiscal year 2011 numbers were not included in this draft, which is common practice during an audit. Campbell populated the draft with financial information for fiscal year 2011 and changed the issue date to December 10, 2011. Campbell then printed the now complete Word document as a PDF file. This document now contained financial information for fiscal year 2011, but did not contain signatures on the auditor's reports. Campbell stated he obtained the audit reports from the fiscal year 2010 audit and "copied and pasted" the letterhead and signatures onto a printed copy of the PDF file. Campbell stated he then copied the entire report and scanned it into a PDF file in order to disseminate copies of the financial statements and forged reports to both external and internal recipients.

Evidence obtained and seized during the search warrant revealed the first known instance the forged report was transferred to another person. On December 13, 2011, Yvonne Herrera, staff member at the Department of Finance and Administration, emailed Campbell requesting a copy of the draft 2011 financial statements. Campbell did not respond. Herrera emailed Campbell again on December 28, 2011 requesting the draft financial statements. Herrera stated, "it looks like it hasn't been submitted to the State Auditor's Office yet. Please let me know." On January 3, 2012, Herrera emailed Campbell requesting the name and address of the audit firm. On January 5, 2012, Herrera emailed John Duff stating she has had difficulty obtaining a response from Campbell regarding the audited financial statements. Duff forwarded the email to Campbell on January 5, 2012, asking Campbell to provide the information. On January 9, 2012, Campbell emailed Herrera financial statements; however these statements are not the forged audit report. On January 26, 2012, Herrera emailed Campbell, Duff and Richard May, Chief Executive Officer of the NMFA. Herrera stated, "I am looking for an update on the 2011 audit. I haven't received an update and the State Auditor's Office does not have any info your [sic] NMFA. We need the entire draft to complete the CAFR. Please let me know, I may have to reschedule the auditor's arrival because the CAFR is still missing the complete information for NMFA." Richard May communicated to Herrera via email that Campbell would get the information to her. On February 3, 2012, Campbell emailed Yvonne Herrera a copy of the financial statements and the forged audit reports. Campbell confirmed during an interview that he sent this email.

Securities Division personnel downloaded the State of New Mexico's Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2011 from the Department of Finance and Administration's website. The CAFR is the audited financial statements for the entire State of New Mexico, including all funds and component units. The Independent Auditor's Report included in the

CAFR states that the auditors relied on the information included in the NMFA's forged auditor's report to complete their work on the State's CAFR.

Securities Division personnel also observed that the financial statements and forged auditor's reports were still available for viewing on the NMFA's website ([www.nmfa.net](http://www.nmfa.net)) on July 13, 2012. Securities Division personnel contacted John Holton, information technology employee for the NMFA, on July 24, 2012, to determine when the report was uploaded to the website. John Holton stated that the report, which was listed as document ID 977, was uploaded on March 12, 2012 at 08:14 hours. Holton provided the Securities Division with a copy of the SQL database log showing the upload. Once the financial statements and the forged audit reports were posted on the website, the documents were available for public viewing by anyone able to access the website. In an interview with Michael Zavelle, Chief Financial Strategist for the New Mexico Finance Authority, Zavelle stated he uploaded the forged documents after receiving them via email from Campbell. Zavelle further stated he referred ratings agencies, individual investors and institutional investors to the website to obtain financial information regarding the Authority. Examination of emails obtained during the search warrant confirmed that Campbell had emailed Zavelle on March 12, 2012. The forged documents were attached to the email. Campbell also confirmed he sent this email during an interview.

Examination of emails obtained during the search warrant further revealed that Campbell had sent an email to Brad Patterson, Partner at Ballard Spahr, LLP. According to interviews with Michael Zavelle and Campbell, Patterson is an outside legal counsel used to prepare disclosures related to bond sales. An email, dated March 12, 2012, states, "Attached are the FY 2011 financial statements for inclusion in the POS for the 2012a PPRF Senior Lien Bonds." The financial statements and forged audit reports were attached to the email. "POS" stands for Preliminary Official Statement. Examination of the Preliminary Official Statement revealed the financial statements and forged audit reports were included as Attachment (A).

Securities Division Director Daniel S. Tanaka is the Administrator of the State of New Mexico Uniform Securities Act, and has extensive experience conducting and supervising major securities related and/or financial criminal investigations in New Mexico and New York. Director Tanaka has testified in the State of New Mexico as an expert witness in securities related matters. Director Tanaka indicated that the Preliminary Official Statement, and subsequently the Official Statement, for this bond issuance is the functional equivalent of a prospectus delivered to potential investors. A Preliminary Official Statement contains relevant information and disclosures that are relevant to potential investors determining whether or not to invest in a bond offering.

On July 24, 2012, Special Agent Baker accessed an online computer based system known as "Electronic Municipal Market Access" (EMMA). The EMMA system is operated by the Municipal Securities Rulemaking Board (MSRB). MSRB is a self-regulatory organization that houses municipal bond disclosure documents that provide information to investors about securities issued by municipalities. EMMA also provides market transparency data, which includes real-time prices and yields at which bonds and notes are bought and sold, relating to most trades occurring on or after January 31, 2005. The information on EMMA is presented in a manner specifically tailored for retail, non-professional investors who may not possess the expertise necessary to make suitable investment decisions.

Baker searched the EMMA system and discovered that the NMFA's underwriter, on behalf of the NMFA, sent the financial statements and forged audit reports to EMMA (Electronic Municipal Market Access) as Attachment (A) as part of the Official Statement disclosures connected to the offering of \$24,340,000.00 in Bonds entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS,

SERIES 2012A. According to EMMA's document archives, the Official Statement and information from the NMFA was posted to the EMMA website on April 3, 2012.

Further investigation into the Official Statement revealed that the bond sale entitled SERIES 2012A was ultimately sold in its entirety to Hutchinson, Shockey, Erley and Company (the Purchaser) pursuant to a competitive bidding process held on March 22, 2012. According to the Official Statement, "proceeds from the bond sale of the series 2012A bonds will be used by the (i) originating loans to, or purchasing securities from, or reimbursing the Finance Authority for monies used to origination to, or purchase securities from, certain governmental units that will be, or were, used to finance certain projects for such governmental units, and (ii) paying costs incurred in connection with the issuance of the series 2012A bonds."

Chip Pierce, of Western Financial Advisors, was telephonically interviewed on July 27, 2012. Pierce reported that he is the contract financial advisor for the NMFA. Pierce assists in the process of financial disclosure as well as sales and marketing activity related to NMFA's bond sales. Pierce reported that the following firms also bid on the bonds listed for sale: Guggenheim Securities, LLC; Piper Jaffrey; Wells Fargo Bank NA; Morgan Stanley and Company, Inc.; Robert W. Baird and Company, Inc.; JP Morgan Securities, LLC; KeyBanc Capital Markets. According to Pierce, all the above listed firms received the Preliminary Official Statement prior to bidding on the bond sale as part of the "bid package." Additionally, email correspondence between Pierce and Campbell, Duff, and Zavelle corroborate this statement. The Preliminary Official Statement included Attachment (A), which consisted of the financial statements and forged audit report. The POS clearly misrepresented that the financial statements were audited, when in fact the audit was never completed.

During an interview with J. Michael Stephens of CliftonLarsonAllen, LLP, Stephens stated there is a lengthy procedure in place to procure and complete the financial statement audit process. The entity under audit is required to submit an auditor recommendation for the fiscal year audit to the State Auditor. Once the recommendation is approved by the State Auditor, the entity and the audit firm are required to complete a State of New Mexico Audit Contract, which is signed by appropriate entity personnel, the State Auditor's Office, and a representative of the audit firm. This was confirmed by a reading of the State Audit Rule (NMAC 2.2.2), which sets forth the requirements for the financial statement audit process.

Additionally, NMAC 2.2.2.10J (1) states "the IPA (independent public accountant) must hold an exit conference with representatives of the agency's governing authority and top management including representatives of component units. If component unit representatives cannot attend the combined exit conference, a separate exit conference must be held with the component unit's governing authority and top management. The exit conference must be held in person; a telephone or web cam exit conference will not meet this requirement unless a telephonic or web cam exit conference is approved by the State Auditor prior to the exit conference. The date of the conference(s) and the names and titles of personnel attending must be stated in the last page of the audit report." J. Michael Stephens; Lonnie Marquez, Chair of Audit Committee; Brett Woods, Audit Committee Member; and John Duff, Chief Operating Officer of the New Mexico Finance Authority stated an exit conference was never held. The fraudulent report submitted by Campbell, falsely states an exit conference was held on December 10, 2011 with Stephens, Marquez, Woods, William Fulginiti, Duff and Campbell in attendance. Stephens further stated that his firm only completed approximately 65 to 70% of the required audit work.

On or about July 18, 2012, Analyst Layne used the internet to access the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to view publicly disseminated NMFA Board Meeting Minutes. Layne searched the website using the embedded search function for "minutes". The results included the minutes for the Board meeting held on March 22, 2012 at 9:10 am in State Capitol Room 322. In the minutes, specifically item 31 of the agenda,

labeled "Audit Committee – Lonnie Marquez, Chair," Richard May (Chief Executive Officer of the NMFA) reported "the State Auditor has approved the NMFA audit with zero findings." According to review of the New Mexico State Audit Act, the State Auditor must receive the completed audit from the independent auditor. The State Auditor's Office will then perform a review of the completed audit. Once this review is performed and the Auditor's Office determines the audit is accurate in all material respects, the Auditor's Office will issue a release letter to the entity under audit. The release letter gives the entity under audit permission to release the completed audit to the public. According to Antonio Corrales, Director of Compliance with the State Auditor's Office, the State Auditor did not receive or approve audited financial statements from the NMFA for the fiscal year 2011 audit, nor did the State Auditor's Office issue a release letter to the NMFA.

Auditing standards, specifically AU section 333, require the independent auditor to "obtain written representations from management as a part of an audit of financial statements performed in accordance with generally accepted auditing standards." These representations should be obtained for all financial statements and periods covered by the auditor's report. Representations are communicated in the form of a letter, which is addressed to the auditor on company letterhead. According to AU section 333, "the letter should be signed by those members of management with overall responsibility for financial and operating matters whom the auditor believes are responsible for and knowledgeable about, directly or through others in the organization, the matters covered by the representations. Such members of management normally include the chief executive officer and chief financial officer or others with equivalent positions in the entity." In fiscal year 2010, the representation letter was signed by the Chief Executive Officer (William Sisneros at the time), the Chief Financial Officer (John Duff), and the Controller (Gregory Campbell). Stephens stated a representation letter was not received for fiscal year 2011, as the audit was never completed.

Layne's examination of the financial statements on July 13, 2012 revealed the financial statements prepared by Campbell were materially misrepresented. The financial statements for the NMFA are prepared using a comparative format, meaning the financial information for the current fiscal year and the fiscal year immediately prior are presented. Layne compared the fiscal year 2010 numbers presented in the fiscal year 2011 financial statements to the 2010 numbers presented in the fiscal year 2010 financial statements, noting significant differences. These differences were identified in the Condensed Statements of Revenues, Expenses and Changes in Net Assets included in the Management's Discussion and Analysis and in the Statements of Revenues, Expenses and Changes in Net Assets located in the financial statements. In the 2010 financial statements, the appropriation revenues and grant expenses for fiscal year 2010 are \$11,722,377 and \$60,106,858, respectively. In the 2011 financial statements on the other hand, the appropriation revenue and grant expenses for fiscal year 2010 are \$32,722,377 and \$81,106,858, respectively. The difference between the numbers in the 2010 financial statements and 2011 financial statements is \$21,000,000. Grant expenses are included in operating expenses in the statements.

During an interview with Campbell, he stated he reclassified \$21,000,000 in reversions to the State's general fund, which occurred in fiscal year 2010, by reclassifying appropriation revenue as grant expenses. Campbell stated a reversion to the State's general fund, which occurred in fiscal year 2011 for \$18,600,000, was reclassified as well. According to Campbell and per review of Senate Bill 182 and House Bill 2, the monies reverted in 2010 were reversions of amounts appropriated by the State in previous legislative session. According to Campbell, a review of Board Minutes, and also confirmed by several employee interviews, in 2011 the NMFA was approached by the Legislative Finance Committee to assist the State with a budget shortfall. The Legislative Finance Committee requested the reversion because the NMFA receives flow through revenues of Government Gross Receipts Taxes from the State. Campbell stated during an interview, that then CEO William Sisneros "volunteered" to provide \$20,000,000 to the State General Fund. According to Campbell and other employees interviewed, the



NMFA committed to reverting \$18,600,000 in fiscal year 2011 and the remaining \$1,400,000 in fiscal year 2012.

According to the Management Discussion and Analysis included in the financial statements, the Government Gross Receipts Tax (GGRT) is a tax imposed on the gross receipts of municipalities for services rendered to customers such as water, sewer, and solid waste collection. Seventy-five percent of these revenues are appropriated to the NMFA. Layne researched proper accounting methods of the GGRT and reversions of GGRT revenues. Her research revealed the following: According to Governmental Account Standards Board (GASB) Statement 33, this revenue is considered a non-exchange transaction, as it does not result from an exchange of goods and services. GASB 33 applies to governments and component units in the same reporting entity of governments. GASB 33 requires the appropriations of GGRT revenues to be recorded as revenue when it is received. If the appropriation is reverted, it is to be recorded as an expense.

GASB Statement 34 paragraph 318 requires all resource flows, including revenues, between a discreetly presented component unit and other funds of a government to be reported as external transactions (i.e. revenues and expenses). As a component unit, the NMFA uses the accrual basis of accounting as used by proprietary funds of governments. GASB 34 paragraph 100 discusses the statement of revenues, expenses, and changes in fund net assets for proprietary funds. Paragraph 100 states “this statement should also distinguish between operating and non-operating revenues and expenses and should present a separate subtotal for operating revenues, operating expenses and operating income. Non-operating revenues and expenses should be reported after operating income. Revenues from capital contributions and additions to the principal of permanent and term endowments, special and extraordinary items, and transfers should be reported separately, after non-operating revenues and expenses...” The footnote to Paragraph 102 states that non-exchange transactions that constitute the reporting proprietary fund’s principal ongoing operations may be included as operating revenues and expenses. This supports including appropriation revenue as operating revenue. However, a reversion to the general fund is a non-exchange transaction that is not part of the NMFA’s ongoing operations. In this case, the reversion should be reported as a non-operating expense. GASB 34 paragraph 55 states “*Extraordinary items* are transactions or other events that are both unusual in nature *and* infrequent in occurrence.” GASB 34 paragraph 56 states “Significant transactions or other events *within the control of management* that are *either* unusual in nature *or* infrequent in occurrence are *special items*.” Based on a review of applicable accounting standards, the reversions to the general fund should be included as either a non-operating expense or a special/extraordinary item, rather than as an operating expense, specifically grant expenses as represented in the fiscal year 2011 financial statements.

Additionally, according to Layne and accounting standards, the purpose of financial reporting is to provide users of financial statements with information that a reasonable person would need to make decisions regarding the entity. Therefore, the presentation of the information should be in a format that would provide information important to these users. In the case of the NMFA, this financial information would be used by bond purchasers when making a decision to purchase the bonds. It was stated by NMFA employees during interviews and at board meetings, that the disclosure of reversions to the general fund would be important to users of the financial statement, particularly rating agencies and bond purchasers.

During an interview, Campbell admitted this was not proper accounting treatment and that this reclassification would constitute a misrepresentation of the financial statements. Campbell stated he decided to reclassify the numbers when he was preparing the April 2011 monthly financial statements. Campbell stated that if he had not reclassified the reversion in that month that the appropriation revenue figure would be zero or negative and would “look really bad.” Campbell further stated he was unsure of the presentation, so he had a meeting with John Duff, who was acting CEO at the time and who was

Campbell's direct supervisor. Campbell stated the meeting took place in Duff's office during the third week of May in 2011. Campbell stated he approached Duff and explained that he wanted to reclassify revenues. Campbell stated he explained to Duff that he could include the reversion as a reduction to appropriation revenue, which is how the prior year reversion was recorded, or he could reclassify it to grant expenses. Campbell stated he further explained to Duff that if the reversion were recorded as a reduction to revenues that the revenue figures would be zero or negative. Campbell stated that Duff told him he agreed with the reclassification. Campbell further stated that if Duff had disagreed with the reclassification, he would have recorded the revenues as Duff instructed.

Examination of board minutes and audit recordings of board meetings revealed Campbell presented the financial statements as of June 30, 2011 to the Board on August 11, 2011. Review of the audio recordings reveals that during his presentation Campbell discussed the differences between appropriation revenue between fiscal year 2011 and fiscal year 2010. Campbell stated on the recording, "...biggest differences is in our appropriation revenue and this is sort of a classification issue and I'm wrestling with it. Right now, in the previous year, last year, we had given back to the state 21 million in revenues we had received in prior years that the state was having reverted to meet shortfalls. When we did that, we reduced our revenue in that year. This year we had contributed to the state shortfall 18.4 million. I think a better classification for our revenues is to be current to what our revenues actually are and when we actually do make a reversion to reflect it as an expense item, so in the current year I reflected it in grant expense, since we granted it back to the State, as nice as we are. So that's the major difference in our numbers." The financial statements were accepted and approved by the Board with no questions. According to the minutes and audio recordings, John Duff was present at the Board meeting and had presented earlier in the meeting. During an interview, Campbell stated if the Board or Duff had directed him to change the classification he would have done as instructed.

During an interview with John Duff on August 3, 2012, Securities Division personnel asked Duff how reversions to the general fund should be treated. Duff stated if the reversions occur in the same year the revenue is received, the reversion should be recorded as a reduction to revenue.

Campbell acknowledged that the reversion of money back to the State General Fund was not in fact a "grant". Furthermore, Campbell represented that the decision to reclassify the reduction in appropriations revenue as "grant expense" was in fact a misrepresentation of the fiscal year 2011 financial statements as it did not reflect the true financial condition of the NMFA. Campbell accepted the characterization that the action to fraudulently misrepresent the financial statements was in fact "cooking the books" of the NMFA.

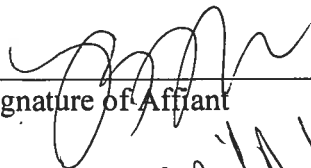
As a result of the NMFA's submission of the Official Statement related to the Bond offering entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS, SERIES 2012A, and including attachment (A) the misrepresented financial statements and forged audit reports, they have effectively placed forged and false documentation directly into the hands of potential investors.

The Official Statement relating to this bond issuance, submitted to EMMA by underwriter on behalf of the NMFA, states, "**The Finance Authority, established by the legislature of the State of New Mexico (the "State") in 1992, is a governmental instrumentality separate and apart from the State created to coordinate the planning and financing of State and local public projects. For additional information concerning the Finance Authority, see "NEW MEXICO FINANCE AUTHORITY" and the Finance Authority's financial statements for the fiscal year ended June 30, 2011 included as APPENDIX A hereto, which are the most recent audited financial statements available at this time. See "FINANCIAL STATEMENTS" herein.**"

The distribution of the misrepresented financial statements and forged audit reports to investors represents a violation of the New Mexico Uniform Securities Act. The misrepresented financial statements made an untrue statement of material fact in violation of 58-13C-501B NMSA 1978. The forged audit report fraudulently characterized the NMFA's financial statements as audited in violation of 58-13C-501B NMSA. In March of 2012, the NMFA issued \$24,340,000.00 in bonds, following the publication of the misrepresented financial statements and forged audit reports. These documents represent a material misrepresentation of fact and material omissions of fact presented publicly which was used by the investing public to make investment decisions about the aforementioned bond offering.

This conduct and the use of a legitimate business (NMFA) as an enterprise represents a pattern of racketeering activity.

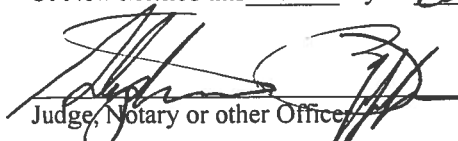
Based on the aforementioned facts and information, affiant respectfully requests that an Arrest Warrant be issued for John Duff for the above named crimes.

  
\_\_\_\_\_  
Signature of Affiant

*Special Agent in Charge*  
\_\_\_\_\_  
Official Title (if any)

*Patrick McNertney*  
\_\_\_\_\_  
Approved by Special A.D.A. Patrick McNertney

Subscribed and sworn to or declared and affirmed to  
Before me, in the above named County, in the State  
Of New Mexico this 7<sup>th</sup> day of August, 2012.

  
\_\_\_\_\_  
Judge, Notary or other Officer  
DISTRICT JUDGE

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
IN THE DISTRICT COURT

FILED IN OPEN COURT THIS 2<sup>nd</sup> DAY  
OF Aug., 13 2012 AT 8:30P M.

  
STEPHEN PFEFFER  
DISTRICT JUDGE

STATE OF NEW MEXICO  
COUNTY OF SANTA FE

V.

**John T. Duff**  
DOB: 07/17/1942  
SSN: 278-44-9176  
ADD: 2408 Westbrook Dr. NW  
Albuquerque, NM 87120

No. \_\_\_\_\_

### CRIMINAL COMPLAINT

Crimes: FRAUDULENT SALE OR OFFER TO SELL A SECURITY (SECURITIES FRAUD) (8 COUNTS), CONSPIRACY TO COMMIT RACKETEERING (1 count), RACKETEERING (1 count) ACCESSORY (all counts except conspiracy).

The undersigned, Special Agent in Charge Benjamin Baker, a full time, salaried law enforcement officer employed by the State of New Mexico Regulation and Licensing Department, Securities Division, under penalty of perjury complains and says that on or between the dates May 23, 2011 and July 1, 2012, in the county of Santa Fe, and in the State of New Mexico, the above named defendant did commit the crimes of securities fraud; conspiracy to commit racketeering; racketeering; and accessory as to all accounts except conspiracy.

On July 13, 2012, the State of New Mexico Securities Division learned of the existence of a fraudulent audit report that had previously been released to investors, the public, and other entities by the New Mexico Finance Authority (NMFA). The Securities Division Director, agents under my supervision, and I immediately began to investigate the allegations surrounding the filing of the fraudulent audit. From NMFA's own publicly available literature, I learned the following: The New Mexico Finance Authority was created as a governmental instrumentality in 1992 to coordinate and facilitate the planning and financing of state and local capital projects in New Mexico. The NMFA is able to utilize financing mechanisms to leverage and maximize the State's capital investments in state and local projects. The NMFA partners with local government entities, state agencies, legislators, repeat borrowers and financial advisors to carry out their mission while at the same time sustaining the capacity of the various loan programs the NMFA administers.

*Approved as to form*  
*Patrick McNetney*  
*Senior Prosecutions Attorney*  
8-7-12

Senior management of the NMFA reports to a Board. The Board consists of ten members and a Chair. The Board has six committees that assist the decision making process of the entity. These committees include the Audit Committee, Executive Committee, Economic Development Committee, Finance/Loan Committee, Investment Committee and Contracts Committee. Senior Management includes Richard May, Chief Executive Officer; John Duff, Chief Operating Officer; Rey Romero, General Counsel; Michael Zavelle, Chief Financial Strategist; and Dora C De Baca, Chief Administrative Officer. Board and Committee meetings are subject to the provisions of the Open Meetings Act. The Open Meetings Act requires that the minutes and audio recordings of the meetings be maintained.

Under the authority of the New Mexico Finance Authority Act Chapter 6 article 21, one of the financing mechanisms utilized by the NMFA to raise capital involves the issuance of municipal bonds for sale to investors. From my training and experience as a securities fraud investigator, I know that a bond is a type of debt security that pays interest to the bond holder over a period of time. Purchasing a bond from the issuer of that bond is in essence a loan to the issuer for a period of time at a defined rate of interest. When the bond matures at the end of its term, the principal amount is repaid to the owner of the bond. Municipal bonds are a method by which for governments below the federal level raise capital for governmental purposes.

The New Mexico Uniform Act, 58-13C-102 (DD) NMSA 1978, states “A ***“Security” means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas or other mineral rights; put, call, straddle, option or privilege on a security, certificate of deposit or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a “security”; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of or warrant or right to subscribe to or purchase any of the foregoing.***” As a “bond” is statutorily defined as a security, fraud in connection with the sale of a bond would fall within the jurisdiction of the Securities Division.

On Friday, July 13, 2012, Anne Layne accessed the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to download and review the Financial Statements of the NMFA, which had been issued for the fiscal years ending June 30, 2011 and 2010. Examination and analysis of the NMFA financials was conducted by Anne Layne, CPA, CFE, Forensic Analyst for the State of New Mexico Securities Division, who reports to the undersigned. Layne has a Bachelor’s degree in Accounting and a Masters of Business Administration. Layne has eight years of relevant experience, including experience as a staff auditor and senior auditor for governmental entities, non-profit entities, and financial institutions. Previous to her accounting work, Layne worked in banking for two years. Layne reported the following: The financial statements include an independent auditor’s report, management’s discussion and analysis, a statement of net assets, a statement of revenues, expenses and changes in net assets, a statement of cash flows, notes to the financial statements, supplementary schedules and reports and schedules required by OMB Circular A-133 in relation to audits of recipients of federal funds. Generally accepted accounting

principles dictate that the financial statements are compiled by management of the NMFA and are audited by an independent auditor, who authors and provides an opinion in the independent auditor's report. Financial statements for the NMFA are required to be prepared in accordance with generally accepted accounting principles as issued by the Governmental Accounting Standards Board (GASB) in the United States.

According to Analyst Layne, per GASB statement 34 and 39 the NMFA would be considered a discretely presented component unit of the State of New Mexico, meaning financial information reported by the NMFA is required to be included in the Comprehensive Annual Financial Report (CAFR) issued by the State of New Mexico. The auditors who audit the State's CAFR rely on the report generated by the auditors of the NMFA when performing work for the State. Layne conducted the review of the financial statements. Layne stated to me that she had determined that the June 30, 2011 financial statements included misstated figures and did not include proper disclosures. The documents examined included an audit report that claimed to be issued by Clifton Gunderson LLP (since merged to become CliftonLarsonAllen LLP).

Following confirmation by Layne that the audit report was fraudulent, the Securities Division began an in-depth investigation of the events surrounding the creation and dissemination of the audit report and its impacts. The Securities Division has performed numerous interviews of current and former NMFA employees, NMFA Board Members, and employees of the audit firm engaged to perform the fiscal year 2011 audit. The interviews were audio recorded. The Securities Division also applied for and served numerous Grand Jury Subpoenas Duces Tecum to banks, rating agencies, accounting firms and securities self-regulatory organizations. On August 1, 2012, the Securities Division applied for and executed a search warrant at 207 Shelby Street, Santa Fe, NM (offices of the NMFA), for the purposes of collecting evidence of criminal activity. Securities Division personnel have examined thousands of pages of documents, emails, and electronic evidence relevant to this case. The investigation is on-going at this time.

On July 20, 2012, Director Tanaka contacted Gregory Campbell, the former controller of the NMFA, and requested that Campbell consent to a voluntary interview the following morning. Campbell agreed to be interviewed on Saturday, July 21, 2012 at 10:00 hours at the offices of the Regulation and Licensing Department in Albuquerque, NM. Campbell arrived as agreed and was interviewed for approximately five (5) hours. The interview was recorded in its entirety. Additionally, Campbell consented to a voluntary follow-up interview on Monday, August 6, 2012, for approximately two (2) hours. As the Securities Division is a formal member of the United States Secret Service Financial Crimes Task Force, Securities Division personnel utilized an interview room at the offices of the Secret Service in Albuquerque, NM to conduct the follow-up interview. That interview was recorded in its entirety as well. Any statements attributed to Campbell in the following narrative are summarized from the two interviews and are not comprehensive accounts of the statements made.

Campbell is a New Jersey native and attended Uppsala College in East Orange, NJ, obtaining a Bachelor of Arts in Accounting in 1982. Campbell has never been a Certified Public Accountant (CPA). Campbell began his work career at Arthur Young and Company as an Audit Assistant. He served there for approximately 18 months. Campbell tested internal controls and internal balances and did forensic auditing work as well. After working on the audit engagement for the

New Jersey Economic Development Authority (NJEDA), Campbell was hired as an Accountant for the NJEDA. Campbell served there for 9 years as an Accountant and conducted accounting work on NJEDA's operating fund, similar to a general fund, and their real estate development program. Campbell then worked for Houghton Mifflin and conducted accounting for a sales office for approximately 2 years. Subsequently, Campbell went to work for Paychex, Inc. His tenure there lasted for approximately seven years. Campbell worked in New Jersey for the first 6 years and accepted a voluntary transfer to Albuquerque, NM for his final year with Paychex. Campbell began work at the NMFA in May of 2005 as a temporary employee for approximately 6 months. Campbell's duties included entering accounting journal entries, preparing paperwork for cash transfers, and fixed asset accounting work. Campbell was hired by the NMFA as a permanent employee in October 2005. Campbell accounted for incoming loan payments and semiannual payments to bond holders and also accounted for the monthly activity within approximately 400 trust accounts. Campbell reported that the trustee accounted for all of the reserves on all of the entities loans and undisbursed loan proceeds. After a change in personnel in the fall of 2007, Campbell became the Controller in December of 2007. Campbell reported that he had been asked by John Duff, then the Chief Investment Officer, to assume the position of Controller.

John Duff indicates on his resume, obtained and examined pursuant to the search warrant, that he holds a Bachelor of Arts in Economics from Oberlin College, OH a Masters of Business Administration with an emphasis in Accounting from Miami University, also in Ohio. Duff indicated in interviews with Securities Division personnel that he held a CPA license in the states of Ohio and New Mexico for a number of years. According to Duff's resume, he was a partner with Touche, Ross and Company, (now Deloitte and Touche) for several years. Since that time, Duff has held several executive finance positions for notable companies including New Mexico Federal Savings and Loan Association, Smith Barney, Wachovia Securities and Southwest Securities. Duff's resume indicated that he is a "disciplined and energetic executive with experience in accounting, finance, and investment management. MBA / CPA. Founded and served as CEO of a successful CPA practice, achieving significant growth and profitability each year". During an interview with Securities personnel, Duff indicated that he has been working for the NMFA since 2005, when he was hired as the Chief Investment Officer. Duff indicated that he became the Chief Financial Officer in 2007 and since then has also held the titles of Chief Operating Officer and Chief Executive Officer. Duff indicated in this interview that he had extensive knowledge of the finances of the NMFA. Duff's current title is Chief Operating Officer and his duties include supervision of the accounting department. According Campbell and Duff, Duff is Campbell's direct supervisor.

Clifton Gunderson LLP was engaged to perform audit services for the New Mexico Finance Authority. The engagement letter or contract for services, dated May 9, 2011, was signed by John Duff, acting Chief Executive Officer, on August 9, 2011. J. Michael Stephens, Audit Partner at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, was assigned as the partner-in-charge of this engagement.

Securities Division personnel met with J. Michael Stephens on July 16, 2012 and interviewed Stephens telephonically on July 25, 2012. During both instances, Stephens stated he did not issue an audit report or financial statements for the NMFA for the fiscal year 2011. He also stated that

no member of his staff or firm issued an audit report or financial statements for the NMFA for fiscal year 2011.

During interviews, Campbell stated he created the forged auditor's reports. According to statements by Campbell, which were corroborated by investigative findings, the New Mexico Finance Authority Financial Statements for the years ended June 30, 2011 and 2010, containing the documents entitled "Independent Auditor's Report", "Independent Auditor's Report on Internal Control Over Financial Reporting and Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*", and "Report on Compliance with Requirements That Could Have a Direct and Material Effect on Each Major Program and on Internal Control Over Compliance in Accordance With OMB Circular A-133" were created by Campbell between the dates of January 9, 2012 and February 3, 2012.

Campbell further stated he received draft financial statements from Caroline Slim, Senior Accountant at CliftonLarsonAllen LLP, formerly Clifton Gunderson LLP, on July 27, 2011 at his office computer and NMFA email address. Campbell indicated the fiscal year 2011 numbers were not included in this draft, which is common practice during an audit. Campbell populated the draft with financial information for fiscal year 2011 and changed the issue date to December 10, 2011. Campbell then printed the now complete Word document as a PDF file. This document now contained financial information for fiscal year 2011, but did not contain signatures on the auditor's reports. Campbell stated he obtained the audit reports from the fiscal year 2010 audit and "copied and pasted" the letterhead and signatures onto a printed copy of the PDF file. Campbell stated he then copied the entire report and scanned it into a PDF file in order to disseminate copies of the financial statements and forged reports to external and internal recipients.

Evidence obtained and seized during the search warrant revealed the first instance the forged report was transferred to another person. On December 13, 2011, Yvonne Herrera, staff member at the Department of Finance and Administration, emailed Campbell requesting a copy of the draft 2011 financial statements. Campbell did not respond. Herrera emailed Campbell again on December 28, 2011 requesting the draft financial statements. Herrera stated, "it looks like it hasn't been submitted to the State Auditor's Office yet. Please let me know." On January 3, 2012, Herrera emailed Campbell requesting the name and address of the audit firm. On January 5, 2012, Herrera emailed John Duff stating she has had difficulty obtaining a response from Campbell regarding the audited financial statements. Duff forwarded the email to Campbell on January 5, 2012, asking Campbell to provide the information. On January 9, 2012, Campbell emailed Herrera financial statements, however these statements are not the forged audit report. On January 26, 2012, Herrera emailed Campbell, Duff and Richard May, Chief Executive Officer of the NMFA. Herrera stated, "I am looking for an update on the 2011 audit. I haven't received an update and the State Auditor's Office does not have any info your [sic] NMFA. We need the entire draft to complete the CAFR. Please let me know, I may have to reschedule the auditor's arrival because the CAFR is still missing the complete information for NMFA." Richard May communicated to Herrera via email that Campbell would get the information to her. On February 3, 2012, Campbell emailed Yvonne Herrera a copy of the financial statements and the forged audit reports. Campbell confirmed during an interview that he sent this email.



Securities Division personnel downloaded the State of New Mexico's Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2011 from the Department of Finance and Administration's website. The CAFR is the audited financial statements for the entire State of New Mexico, including all funds and component units. The Independent Auditor's Report included in the CAFR states that the auditors relied on the information included in the NMFA's forged auditor's report to complete their work on the State's CAFR.

Securities Division personnel also observed that the financial statements and forged auditor's reports were still available for viewing on the NMFA's website ([www.nmfa.net](http://www.nmfa.net)) on July 13, 2012. Securities Division personnel contacted John Holton, information technology employee for the NMFA, on July 24, 2012, to determine when the report was uploaded to the website. John Holton stated that the report, which was listed as document ID 977, was uploaded on March 12, 2012 at 08:14 hours. Holton provided the Securities Division with a copy of the SQL database log showing the upload. Once the financial statements and the forged audit reports were posted on the website, the documents were available for public viewing by anyone able to access the website. In an interview with Michael Zavelle, Chief Financial Strategist for the New Mexico Finance Authority, Zavelle stated he uploaded the forged documents after receiving them via email from Campbell. Zavelle further stated he referred ratings agencies, individual investors and institutional investors to the website to obtain financial information regarding the Authority. Examination of emails obtained during the search warrant confirmed that Campbell had emailed Zavelle on March 12, 2012. The forged documents were attached to the email. Campbell also confirmed he sent this email during an interview.

Examination of emails obtained during the search warrant further revealed that Campbell had sent an email to Brad Patterson, Partner at Ballard Spahr, LLP. According to interviews with Michael Zavelle and Campbell, Patterson is an outside legal counsel used to prepare disclosures related to bond sales. An email, dated March 12, 2012, states, "Attached are the FY 2011 financial statements for inclusion in the POS for the 2012a PPRF Senior Lien Bonds." The financial statements and forged audit reports were attached to the email. "POS" stands for Preliminary Official Statement. Examination of the Preliminary Official Statement revealed the financial statements and forged audit reports were included as Attachment (A).

Securities Division Director Daniel S. Tanaka is the Administrator of the State of New Mexico Uniform Securities Act, and has extensive experience conducting and supervising major securities related and/or financial criminal investigations in New Mexico and New York. Director Tanaka has testified in the State of New Mexico as an expert witness in securities related matters. Director Tanaka indicated that the Preliminary Official Statement, and subsequently the Official Statement, for this bond issuance is the functional equivalent of a prospectus delivered to potential investors. A Preliminary Official Statement contains relevant information and disclosures that are relevant to potential investors determining whether or not to invest in a bond offering.

On July 24, 2012, Special Agent Baker accessed an online computer based system known as "Electronic Municipal Market Access" (EMMA). The EMMA system is operated by the Municipal Securities Rulemaking Board (MSRB). MSRB is a self-regulatory organization that

houses municipal bond disclosure documents that provide information to investors about securities issued by municipalities. EMMA also provides market transparency data, which includes real-time prices and yields at which bonds and notes are bought and sold, relating to most trades occurring on or after January 31, 2005. The information on EMMA is presented in a manner specifically tailored for retail, non-professional investors who may not possess the expertise necessary to make suitable investment decisions.

Baker searched the EMMA system and discovered that the NMFA's underwriter, on behalf of the NMFA, sent the financial statements and forged audit reports to EMMA (Electronic Municipal Market Access) as Attachment (A) as part of the Official Statement disclosures connected to the offering of \$24,340,000.00 in Bonds entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS, SERIES 2012A. According to EMMA's document archives, the Official Statement and information from the NMFA was posted to the EMMA website on April 3, 2012.

Further investigation into the Official Statement revealed that the bond sale entitled SERIES 2012A was ultimately sold in its entirety to Hutchinson, Shockey, Erley and Company (the Purchaser) pursuant to a competitive bidding process held on March 22, 2012. According to the Official Statement, "proceeds from the bond sale of the series 2012A bonds will be used by the (i) originating loans to, or purchasing securities from, or reimbursing the Finance Authority for monies used to origination to, or purchase securities from, certain governmental units that will be, or were, used to finance certain projects for such governmental units, and (ii) paying costs incurred in connection with the issuance of the series 2012A bonds."

Chip Pierce, of Western Financial Advisors, was telephonically interviewed on July 27, 2012. Pierce reported that he is the contract financial advisor for the NMFA. Pierce assists in the process of financial disclosure as well as sales and marketing activity related to NMFA's bond sales. Pierce reported that the following firms also bid on the bonds listed for sale: Guggenheim Securities, LLC; Piper Jaffrey; Wells Fargo Bank NA; Morgan Stanley and Company, Inc.; Robert W. Baird and Company, Inc.; JP Morgan Securities, LLC; and KeyBanc Capital Markets. According to Pierce, all the above listed firms received the Preliminary Official Statement prior to bidding on the bond sale as part of the "bid package." Additionally, email correspondence between Pierce and Campbell, Duff, and Zavelle corroborate this statement. The Preliminary Official Statement included Attachment (A), which consisted of the financial statements and forged audit report. The POS clearly misrepresented that the financial statements were audited, when in fact the audit was never completed.

During an interview with J. Michael Stephens of CliftonLarsonAllen, LLP, Stephens stated there is a lengthy procedure in place to procure and complete the financial statement audit process. The entity under audit is required to submit an auditor recommendation for the fiscal year audit to the State Auditor. Once the recommendation is approved by the State Auditor, the entity and the audit firm are required to complete a State of New Mexico Audit Contract, which is signed by appropriate entity personnel, the State Auditor's Office, and a representative of the audit firm. This was confirmed by a reading of the State Audit Rule (NMAC 2.2.2), which sets forth the requirements for the financial statement audit process.

Additionally, NMAC 2.2.2.10J (1) states “the IPA (independent public accountant) must hold an exit conference with representatives of the agency’s governing authority and top management including representatives of component units. If component unit representatives cannot attend the combined exit conference, a separate exit conference must be held with the component unit’s governing authority and top management. The exit conference must be held in person; a telephone or web cam exit conference will not meet this requirement unless a telephonic or web cam exit conference is approved by the State Auditor prior to the exit conference. The date of the conference(s) and the names and titles of personnel attending must be stated in the last page of the audit report.” J. Michael Stephens; Lonnie Marquez, Chair of Audit Committee; Brett Woods, Audit Committee Member; and John Duff, Chief Operating Officer of the New Mexico Finance Authority stated an exit conference was never held. The fraudulent report submitted by Campbell, falsely states an exit conference was held on December 10, 2011 with Stephens, Marquez, Woods, William Fulginiti, Duff and Campbell in attendance. Stephens further stated that his firm only completed approximately 65 to 70% of the required audit work.

On or about July 18, 2012, Analyst Layne used the internet to access the NMFA website, [www.nmfa.net](http://www.nmfa.net), so as to view publicly disseminated NMFA Board Meeting Minutes. Layne searched the website using the embedded search function for “minutes”. The results included the minutes for the Board meeting held on March 22, 2012 at 9:10 am in State Capitol Room 322. In the minutes, specifically item 31 of the agenda, labeled “Audit Committee – Lonnie Marquez, Chair”, Richard May (Chief Executive Officer of the NMFA) reported “the State Auditor has approved the NMFA audit with zero findings.” According to review of the New Mexico State Audit Act, the State Auditor must receive the completed audit from the independent auditor. The State Auditor’s Office will then perform a review of the completed audit. Once this review is performed and the Auditor’s Office determines the audit is accurate in all material respects, the Auditor’s Office will issue a release letter to the entity under audit. The release letter gives the entity under audit permission to release the completed audit to the public. According to Antonio Corrales, Director of Compliance with the State Auditor’s Office, the State Auditor did not receive or approve audited financial statements from the NMFA for the fiscal year 2011 audit, nor did the State Auditor’s Office issue a release letter to the NMFA.

Auditing standards, specifically AU section 333, require the independent auditor to “obtain written representations from management as a part of an audit of financial statements performed in accordance with generally accepted auditing standards.” These representations should be obtained for all financial statements and periods covered by the auditor’s report. Representations are communicated in the form of a letter, which is addressed to the auditor on company letterhead. According to AU section 333, “the letter should be signed by those members of management with overall responsibility for financial and operating matters whom the auditor believes are responsible for and knowledgeable about, directly or through others in the organization, the matters covered by the representations. Such members of management normally include the chief executive officer and chief financial officer or others with equivalent positions in the entity.” In fiscal year 2010, the representation letter was signed by the Chief Executive Officer (William Sisneros at the time), the Chief Financial Officer (John Duff), and the Controller (Gregory Campbell). Stephens stated a representation letter was not received for fiscal year 2011, as the audit was never completed.

Layne's examination of the financial statements on July 13, 2012 revealed the financial statements prepared by Campbell were materially misrepresented. The financial statements for the NMFA are prepared using a comparative format, meaning the financial information for the current fiscal year and the fiscal year immediately prior are presented. Layne compared the fiscal year 2010 numbers presented in the fiscal year 2011 financial statements to the 2010 numbers presented in the fiscal year 2010 financial statements, noting significant differences. These differences were identified in the Condensed Statements of Revenues, Expenses and Changes in Net Assets included in the Management's Discussion and Analysis and in the Statements of Revenues, Expenses and Changes in Net Assets located in the financial statements. In the 2010 financial statements, the appropriation revenues and grant expenses for fiscal year 2010 are \$11,722,377 and \$60,106,858, respectively. In the 2011 financial statements on the other hand, the appropriation revenue and grant expenses for fiscal year 2010 are \$32,722,377 and \$81,106,858, respectively. The difference between the numbers in the 2010 financial statements and 2011 financial statements is \$21,000,000. Grant expenses are included in operating expenses in the statements.

During an interview with Campbell, he stated he reclassified \$21,000,000 in reversions to the State's general fund, which occurred in fiscal year 2010, by reclassifying appropriation revenue as grant expenses. Campbell stated a reversion to the State's general fund, which occurred in fiscal year 2011 for \$18,600,000, was reclassified as well. According to Campbell and per review of Senate Bill 182 and House Bill 2, the monies reverted in 2010 were reversions of amounts appropriated by the State in previous legislative session. According to Campbell, a review of Board Minutes, and also confirmed by several employee interviews, in 2011 the NMFA was approached by the Legislative Finance Committee to assist the State with a budget shortfall. The Legislative Finance Committee requested the reversion because the NMFA receives flow through revenues of Government Gross Receipts Taxes from the State. Campbell stated during an interview, that then CEO William Sisneros "volunteered" to provide \$20,000,000 to the State General Fund. According to Campbell and other employees interviewed, the NMFA committed to reverting \$18,600,000 in fiscal year 2011 and the remaining \$1,400,000 in fiscal year 2012.

According to the Management Discussion and Analysis included in the financial statements, the Government Gross Receipts Tax (GGRT) is a tax imposed on the gross receipts of municipalities for services rendered to customers such as water, sewer, and solid waste collection. Seventy-five percent of these revenues are appropriated to the NMFA. Layne researched proper accounting methods of the GGRT and reversions of GGRT revenues. Her research revealed the following: According to Governmental Account Standards Board (GASB) Statement 33, this revenue is considered a non-exchange transaction, as it does not result from an exchange of goods and services. GASB 33 applies to governments and component units in the same reporting entity of governments. GASB 33 requires the appropriations of GGRT revenues to be recorded as revenue when it is received. If the appropriation is reverted, it is to be recorded as an expense.

GASB Statement 34 paragraph 318 requires all resource flows, including revenues, between a discreetly presented component unit and other funds of a government to be reported as external transactions (i.e. revenues and expenses). As a component unit, the NMFA uses the accrual basis of accounting as used by proprietary funds of governments. GASB 34 paragraph 100 discusses

the statement of revenues, expenses, and changes in fund net assets for proprietary funds. Paragraph 100 states “this statement should also distinguish between operating and non-operating revenues and expenses and should present a separate subtotal for operating revenues, operating expenses and operating income. Non-operating revenues and expenses should be reported after operating income. Revenues from capital contributions and additions to the principal of permanent and term endowments, special and extraordinary items, and transfers should be reported separately, after non-operating revenues and expenses...” The footnote to Paragraph 102 states that non-exchange transactions that constitute the reporting proprietary fund’s principal ongoing operations may be included as operating revenues and expenses. This supports including appropriation revenue as operating revenue. However, a reversion to the general fund is a non-exchange transaction that is not part of the NMFA’s ongoing operations. In this case, the reversion should be reported as a non-operating expense. GASB 34 paragraph 55 states “*Extraordinary items* are transactions or other events that are both unusual in nature and infrequent in occurrence.” GASB 34 paragraph 56 states, “Significant transactions or other events *within the control of management* that are *either* unusual in nature *or* infrequent in occurrence are *special items*.” Based on a review of applicable accounting standards, the reversions to the general fund should be included as either a non-operating expense or a special/extraordinary item, rather than as an operating expense, specifically grant expenses as represented in the fiscal year 2011 financial statements.

Additionally, according to Layne and accounting standards, the purpose of financial reporting is to provide users of financial statements with information that a reasonable person would need to make decisions regarding the entity. Therefore, the presentation of the information should be in a format that would provide information important to these users. In the case of the NMFA, this financial information would be used by bond purchasers when making a decision to purchase the bonds. It was stated by NMFA employees during interviews and at board meetings, that the disclosure of reversions to the general fund would be important to users of the financial statement, particularly rating agencies and bond purchasers.

During an interview, Campbell admitted this was not proper accounting treatment and that this reclassification would constitute a misrepresentation of the financial statements. Campbell stated he decided to reclassify the numbers when he was preparing the April 2011 monthly financial statements. Campbell stated that if he had not reclassified the reversion in that month that the appropriation revenue figure would be zero or negative and would “look really bad.” Campbell further stated he was unsure of the presentation, so he had a meeting with John Duff, who was acting CEO at the time and who was Campbell’s direct supervisor. Campbell stated the meeting took place in Duff’s office during the third week of May in 2011. Campbell stated he approached Duff and explained that he wanted to reclassify revenues. Campbell stated he explained to Duff that he could include the reversion as a reduction to appropriation revenue, which is how the prior year reversion was recorded, or he could reclassify it to grant expenses. Campbell stated he further explained to Duff that if the reversion were recorded as a reduction to revenues that the revenue figures would be zero or negative. Campbell stated that Duff told him he agreed with the reclassification. Campbell further stated that if Duff had disagreed with the reclassification, he would have recorded the revenues as Duff instructed.

Examination of board minutes and audit recordings of board meetings revealed Campbell presented the financial statements as of June 30, 2011 to the Board on August 11, 2011. Review of the audio recordings reveals that during his presentation Campbell discussed the differences between appropriation revenue between fiscal year 2011 and fiscal year 2010. Campbell states on the recording, "...biggest differences is in our appropriation revenue and this is sort of a classification issue and I'm wrestling with it. Right now, in the previous year, last year, we had given back to the state 21 million in revenues we had received in prior years that the state was having reverted to meet shortfalls. When we did that, we reduced our revenue in that year. This year we had contributed to the state shortfall 18.4 million. I think a better classification for our revenues is to be current to what our revenues actually are and when we actually do make a reversion to reflect it as an expense item, so in the current year I reflected it in grant expense, since we granted it back to the State, as nice as we are. So that's the major difference in our numbers." The financial statements were accepted and approved by the Board with no questions. According to the minutes and audio recordings, John Duff was present at the Board meeting and had presented earlier in the meeting. During an interview, Campbell stated if the Board or Duff had directed him to change the classification he would have done as instructed.

During an interview with John Duff on August 3, 2012, Securities Division personnel asked Duff how reversions to the general fund should be treated. Duff stated if the reversions occur in the same year the revenue is received, the reversion should be recorded as a reduction to revenue.

Campbell acknowledged that the reversion of money back to the State General Fund was not in fact a "grant". Furthermore, Campbell represented that the decision to reclassify the reduction in appropriations revenue as "grant expense" was in fact a misrepresentation of the fiscal year 2011 financial statements as it did not reflect the true financial condition of the NMFA. Campbell accepted the characterization that the action to fraudulently misrepresent the financial statements was in fact "cooking the books" of the NMFA.

As a result of the NMFA's submission of the Official Statement related to the Bond offering entitled SENIOR LIEN PUBLIC PROJECT REVOLVING FUND REVENUE BONDS, SERIES 2012A, and including attachment (A) the misrepresented financial statements and forged audit reports, they have effectively placed forged and false documentation directly into the hands of potential investors.

The Official Statement relating to this bond issuance, submitted to EMMA by underwriter on behalf of the NMFA, states, "**The Finance Authority, established by the legislature of the State of New Mexico (the "State") in 1992, is a governmental instrumentality separate and apart from the State created to coordinate the planning and financing of State and local public projects. For additional information concerning the Finance Authority, see "NEW MEXICO FINANCE AUTHORITY" and the Finance Authority's financial statements for the fiscal year ended June 30, 2011 included as APPENDIX A hereto, which are the most recent audited financial statements available at this time. See "FINANCIAL STATEMENTS" herein.**"

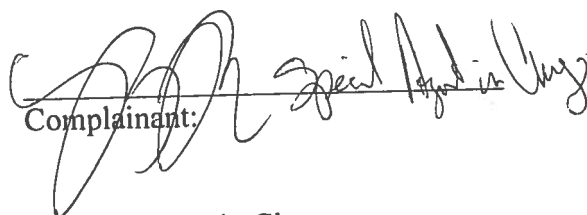
The distribution of the misrepresented financial statements and forged audit reports to investors represents a violation of the New Mexico Uniform Securities Act. The misrepresented financial

statements made an untrue statement of material fact in violation of 58-13C-501B NMSA 1978. The forged audit report fraudulently characterized the NMFA's financial statements as audited in violation of 58-13C-501B NMSA. In March of 2012, the NMFA issued \$24,340,000.00 in bonds, following the publication of the misrepresented financial statements and forged audit reports. These documents represent a material misrepresentation of fact presented publicly which was used by the investing public to make investment decisions about the aforementioned bond offering.

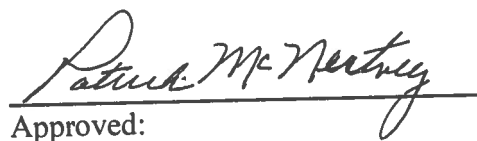
This conduct and the use of a legitimate business (NMFA) represents a pattern of racketeering activity.

Contrary to sections: §30-16-10 (A) 2 (B), §58-13C-501 & §58-13C-508 (2010), §30-42-4, §§30-28-2 & 30-42-4 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 THIS IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

  
Complainant:

Special Agent in Charge  
Title

  
Approved:

Patrick McNertney  
Special ADA