

1 compared the federal form to the CRS-1 returns and found that they did not match, and an
2 assessment followed. Taxpayer protested the assessment, and without providing evidence of a
3 source of income argued that the assessment should have never been issued because the Schedule
4 C does not create a presumption that the income reported thereon is business income as defined
5 by the Gross Receipts and Compensating Tax Act. Ultimately, after making findings of fact and
6 discussing the issue in more detail throughout this decision, the hearing officer finds that Taxpayer's
7 claim is not based in law and Taxpayer has failed to prove that the Department's assessment was
8 erroneous. The protest is denied. IT IS DECIDED AND ORDERED AS FOLLOWS:

9 FINDINGS OF FACT

10 Procedural Findings

11 1. On October 9, 2019, under Letter Id. No. L1963573936, the Department issued a
12 Notice of Assessment of Taxes and Demand for Payment to Taxpayer Under the Assessment
13 letter, Taxpayer owed Project Gross Receipts Tax of \$3,492.64, penalty of \$698.52, and interest
14 of \$686.50 for a total assessment of tax due of \$4,877.66 for tax reporting periods from January
15 1, 2012 to December 31, 2016. [Administrative File].

16 2. On November 1, 2019, Taxpayer submitted a Formal Protest letter, alleging that
17 the Department was incorrect in its assessment of tax because the income shown on federal
18 Schedule C was not derived "from sale of goods or services." [Administrative File].

19 3. On November 26, 2019, under Letter Id. No. L1376936624 the Department issued
20 a letter informing the Taxpayer that the Department acknowledged receipt of Taxpayer's protest
21 of Combined Reporting System (CRS) taxes for tax periods beginning January 1, 2012 through
22 December 31, 2016. [Administrative File].

1 4. On May 20, 2020, the Department submitted a Request for Hearing to the
2 Administrative Hearings Office, requesting a hearing on the merits of Taxpayer's protest. The
3 Request for Hearing stated that the total at issue was \$4,877.66. [Administrative File].

4 5. On May 20, 2020, the Department submitted its Answer to Protest to the
5 Administrative Hearings Office, claiming that the Taxpayer reported income on a federal form
6 Schedule C without reporting the income as gross receipts. The Department argued that the
7 Taxpayer's use of the Schedule C is inconsistent with the Taxpayer's claim that the income was
8 non-business income. [Administrative File].

9 6. On May 21, 2020, the Administrative Hearings Office mailed a Notice of
10 Telephonic Scheduling Hearing to the parties, by email, setting the matter for a telephonic
11 scheduling hearing on June 11, 2020. [Administrative File].

12 7. At the telephonic scheduling hearing of June 11, 2020, the parties appeared. Mr.
13 Thomas E. Watts, Jr., owner, appeared on behalf of Taxpayer Marduk Consultants. Attorney
14 Cordelia Friedman appeared on behalf of the Department. The parties did not object that
15 conducting the scheduling hearing satisfied the 90-day hearing requirements of Section 7-1B-8
16 (F) (2019) while still allowing meaningful time for completion of the other statutory
17 requirements under Section 7-1B-6 (D) (2015). *See also* Regulation 22.600.3.8 (E) NMAC. A
18 recording was made of the hearing. [Administrative File].

19 8. On June 11, 2020, the Administrative Hearings Office mailed a Scheduling Order
20 and Notice of Administrative Hearing to the parties, setting various deadlines, and scheduling the
21 matter for a hearing on the merits of Taxpayer's protest on August 3, 2020 by telephone
22 conference, upon request of the parties and due to the ongoing COVID-19 pandemic response.
23 [Administrative File].

1 9. Prior to the hearing of August 3, 2020, the parties shared their labeled, proposed
2 exhibits in electronic format with the Administrative Hearings Office. The proposed exhibits
3 were sequestered in a sub-file before the hearing. [Administrative File].

4 10. The undersigned Administrative Hearing Officer Ignacio V. Gallegos conducted
5 the merits hearing on August 3, 2020 with the parties and witnesses present by telephone
6 conference from various points in New Mexico. The Administrative Hearings Officer preserved
7 a recording of the hearing (“Hearing Record” or “H.R.”). [Administrative File].

8 **Substantive Findings**

9 11. Taxpayer Marduk Consultants is a business registered in New Mexico in 2008 by
10 sole proprietor, Thomas E. Watts, Jr. (also referred to as Taxpayer). Originally, the business was
11 engaged in computer repair. Mr. Watts believed the business was closed in 2010.
12 [Administrative File; Taxpayer Exhibit 1, page 3; Department Exhibit A; Direct examination of
13 Thomas Watts, H.R. 33:55-34:40].

14 12. The business filed a business tax registration certificate in 2008. Taxpayer’s CRS
15 registration indicated Taxpayer was a “consultant.” The Department considers consulting as a
16 type of service. [Department Exhibit A; Direct examination of Thomas Watts, H.R. 33:55-34:40;
17 Direct examination of Angelica Rodriguez, H.R. 46:45-47:30; Cross examination of Angelica
18 Rodriguez, H.R. 1:14:45-1:15:30; Re-Cross examination of Angelica Rodriguez, H.R. 1:19:45-
19 1:20:50; AHO examination of Angelica Rodriguez, H.R. 1:22:55-1:23:10].

20 13. The Department detected a discrepancy or mismatch between the Taxpayer’s
21 federal Schedule C filings and the Taxpayer’s gross receipts tax filings on CRS-1 returns

1 between January 1, 2012 and December 31, 2016, leading to the assessment of gross receipts tax.
2 [Direct Examination of Angelica Rodriguez, H.R. 47:35-52:40; Department Exhibit B and C].

3 14. Mr. Watts filed Schedule C forms as part of his federal personal income tax
4 reporting in 2012, 2013, 2014, 2015 and 2016. On the Schedule C form there is a line available
5 to describe the source of income, this line was left blank. [Cross examination of Thomas Watts,
6 H.R. 42:40-43:30; Re-Direct examination of Angelica Rodriguez, H.R. 1:17:00-1:19:25].

7 15. Mr. Watts did not file New Mexico form CRS-1 returns, to report and pay gross
8 receipts tax. [Direct examination of Thomas Watts, H.R. 33:00-33:35].

9 16. Taxpayer declined to state what the source or sources of the income reported on
10 his Schedule C filings in fact was. [Direct examination of Thomas Watts, H.R. 23:00-25:00].

11 17. Taxpayer claimed, without substantiation, that the income reported on Schedule C
12 did not fall into any category of income subject to New Mexico gross receipts tax. [Direct
13 examination of Thomas Watts, H.R. 24:15-24:30, 35:45-36:25].

14 18. Taxpayer admitted that some (less than \$200 per tax year) of the income he
15 reported on Schedule C would have been subject to gross receipts tax. [Administrative File
16 (Protest letter); Taxpayer Exhibit 1, page 3].

17 19. Tax auditor Angelica Rodriguez, upon receipt of the protest, requested
18 documentary support of the Taxpayer's claims, but Taxpayer provided none. [Administrative
19 File; Direct examination of Angelica Rodriguez, H.R. 46:00-46:35].

20 **DISCUSSION**

21 During the timeframes at issue, Taxpayer Marduk Consultants' owner and sole proprietor
22 Thomas E. Watts, Jr. filed Schedule C forms as part of his federal personal income tax returns
23 for tax years 2012, 2013, 2014, 2015, and 2016. The Taxpayer did not file gross receipts tax

1 returns, CRS-1 forms to the State of New Mexico during the same time-frame. Taxpayer was a
2 business registered within the State of New Mexico in 2008, initially conducting business as an
3 independent contractor for computer repair. Taxpayer claimed the computer repair business
4 closed in 2010 but provided no evidence of its closure. Taxpayer claimed that it is an
5 unreasonable leap of logic to consider his Schedule C filings as proof of business income,
6 taxable by New Mexico as gross receipts. However, in New Mexico it is Taxpayer's
7 responsibility to prove that the income is not taxable, not the Department's responsibility to
8 prove it is taxable.

9 **Presumption of correctness**

10 Under NMSA 1978, Section 7-1-17 (C) (2007), the assessment issued in this case is
11 presumed correct. Consequently, Taxpayer has the burden to overcome the assessment. *See*
12 *Archuleta v. O'Cheskey*, 1972-NMCA-165, ¶11, 84 N.M. 428. Unless otherwise specified, for the
13 purposes of the Tax Administration Act, "tax" is defined to include interest and civil penalty. *See*
14 NMSA 1978, Section 7-1-3 (Z) (2019); *see also* Regulation 3.1.1.16 (12/29/2000). Under
15 Regulation 3.1.6.13 NMAC, the presumption of correctness under Section 7-1-17 (C) extends to
16 the Department's assessment of penalty and interest. *See Chevron U.S.A., Inc. v. State ex rel. Dep't*
17 *of Taxation & Revenue*, 2006-NMCA-50, ¶16, 139 N.M. 498, 503 (agency regulations interpreting
18 a statute are presumed proper and are to be given substantial weight). Accordingly, it is a
19 taxpayer's burden to present some countervailing evidence or legal argument to show that they
20 are entitled to an abatement, in full or in part, of the assessment issued in the protest. *See N.M.*
21 *Taxation & Revenue Dep't v. Casias Trucking*, 2014-NMCA-099, ¶8. When a taxpayer presents
22 sufficient evidence to rebut the presumption, the burden shifts to the Department to show that the

1 assessment is correct. *See MPC Ltd. v. N.M. Taxation & Revenue Dep't*, 2003-NMCA-21, ¶13, 133
2 N.M. 217.

3 The burden is also on taxpayers to prove that they are entitled to an exemption or
4 deduction, if one should potentially apply. *See Pub. Serv. Co. v. N.M. Taxation & Revenue Dep't*,
5 2007-NMCA-050, ¶141 N.M. 520, 157 P.3d 85; *See also Till v. Jones*, 1972-NMCA-046, 83
6 N.M. 743, 497 P.2d 745. “Where an exemption or deduction from tax is claimed, the statute must
7 be construed strictly in favor of the taxing authority, the right to the exemption or deduction must
8 be clearly and unambiguously expressed in the statute, and the right must be clearly established
9 by the taxpayer.” *See Sec. Escrow Corp. v. State Taxation & Revenue Dep't*, 1988-NMCA-068,
10 ¶8, 107 N.M. 540, 760 P.2d 1306. *See also Wing Pawn Shop v. Taxation & Revenue Dep't*, 1991-
11 NMCA-024, ¶16, 111 N.M. 735, 809 P.2d 649. *See also Chavez v. Comm'r of Revenue*, 1970-
12 NMCA-116, ¶7, 82 N.M. 97, 476 P.2d 67.

13 **Receipts under the Gross Receipts and Compensating Tax Act.**

14 The assessment in this protest arises from an application of the Gross Receipts and
15 Compensating Tax Act, NMSA 1978, Sections 7-9-1 through 7-9-117, which imposes a tax for the
16 privilege of engaging in business, on the receipts of any person engaged in business in New Mexico.
17 *See NMSA 1978, Section 7-9-4 (2010)*. The definition of “engaging in business” under Section 7-
18 9-3.3(2019), is relevant: ““engaging in business’ means carrying on or causing to be carried on any
19 activity with the purpose of direct or indirect benefit.” There is a statutory presumption that all
20 receipts of a person engaged in business activities are taxable. *See NMSA 1978, Section 7-9-5(A)*
21 (2019). Yet, despite the general presumption of taxability, a taxpayer may qualify for the benefits
22 of various deductions and exemptions.

1 Taxpayer claims the income was not derived from the sale of goods or services, using the
2 definition of “gross receipts.” The statutory definition of “gross receipts” under Section 7-9-3.5
3 (2019) states, in pertinent part: “‘gross receipts’ means the total amount of money or the value of
4 other consideration received from selling property in New Mexico, from leasing or licensing
5 property employed in New Mexico, from granting a right to use a franchise employed in New
6 Mexico, from selling services performed outside New Mexico, the product of which is initially used
7 in New Mexico, or from performing services in New Mexico.” Taxpayer argued but presented no
8 evidence that he did not sell goods or services. Despite Taxpayer’s adamant assertion, Taxpayer
9 admitted that some of the income (approximately \$200 per year) was gross receipts taxable. With
10 this admission, it is clear that at least a portion of the activity was “engaging in business” which
11 triggers the statutory presumption that *all receipts* of a person “engaging in business” are taxable.
12 See Section 7-9-3.3(2019) and Section 7-9-5(A) (2019).

13 **Was the Department unreasonable in connecting Schedule C reporting to gross receipts?**

14 Taxpayer’s primary claim is that the Department made a sort of leap of faith in its
15 determination that income reported on Schedule C filings necessarily entailed liability for gross
16 receipts. The Taxpayer’s claim was of a general nature, not specific as to his own income-
17 generating ventures (if any), which he neither described nor provided documentary evidence of their
18 origin. Taxpayer referenced IRS Publication 17,¹ which provides the guidance for the use of federal

¹ Prior year Publication 17 instructions are available on the IRS website. See Publication 17 (2012) at <https://www.irs.gov/pub/irs-prior/p17--2012.pdf> (last visited 8/18/20); see also Publication 17 (2013) at <https://www.irs.gov/pub/irs-prior/p17--2013.pdf> (last visited 8/18/20); see also Publication 17 (2014) at <https://www.irs.gov/pub/irs-prior/p17--2014.pdf> (last visited 8/18/20); see also Publication 17 (2015) at <https://www.irs.gov/pub/irs-prior/p17--2015.pdf> (last visited 8/18/20); see also Publication 17 (2016) at <https://www.irs.gov/pub/irs-prior/p17--2016.pdf> (last visited 8/18/20). Chapter 12 references “Other income,” which can include a variety of income sources, including but not limited to: bartering, cancelled debt, unemployment benefits, welfare and public assistance benefits, jury duty payments, gambling winnings, prizes, kickbacks, bribes, found property, union strike benefits, and proceeds from illegal activity.

1 forms. While it may be true that at times reported Schedule C income does not require gross
2 receipts tax reporting, the question and its corresponding answer must be tailored to the tax situation
3 at hand. And, since the Department is entitled to the presumption that all receipts of a person
4 “engaging in business” are taxable, it is Taxpayer’s burden to present some evidence or legal
5 argument to show that the Taxpayer is entitled to an abatement, in full or in part, of the
6 assessment issued in the protest. *See* Section 7-9-3.3(2019) and Section 7-9-5(A) (2019); *see also*
7 *N.M. Taxation & Revenue Dep’t v. Casias Trucking*, 2014-NMCA-099, ¶8. Mr. Watts refused to
8 provide evidence of the origin of a substantial portion of his income reported on Schedule C,
9 instead, he attempted to shift the burden to the state to prove his Schedule C income was business-
10 related.

11 In this particular situation, the Department was not unreasonable in concluding that the
12 Schedule C income Taxpayer reported was business income. Taxpayer Marduk Consultants was
13 established in 2008 by Thomas E. Watts, Jr. Mr. Watts is listed as the sole proprietor of the
14 business on the State of New Mexico Taxation and Revenue Department Registration Certificate for
15 the business. Mr. Watts testified that he was engaged at that time as a computer repairman.
16 Whether “consulting” or repairing computers, there is no doubt that the Taxpayer was engaged in
17 providing services to customers for hire when the business originated.

18 Mr. Watts testified that part of the income (\$200 per year) would indeed be taxable as gross
19 receipts. If true, even this small portion of the income reported would establish a foothold (as stated
20 above) for the presumption that all business receipts of the person are taxable, pursuant to Section 7-
21 9-5(A).

22 Likewise, the use of Schedule C is tailored to personal business income, and the use thereof
23 creates a strong likelihood that the income is business income. On each page of the Schedule C

1 instructions, the fact that the schedule is tailored to business income is made clear. On the first
2 page, in big, bold letters, is the title “Profit or Loss From Business.” In the IRS’s 2012 Instructions
3 for Schedule C, the word “business” appears in 151 instances over 13 pages.² In the instructions for
4 years 2013, 2014, 2015, and 2016, at issue here, the word “business” appears in the instructions a
5 similar number of times.³ The very first paragraph of the instructions inform potential Schedule C
6 users that “to report income from a nonbusiness activity, see the instructions for Form 1040, Line
7 21, or Form 1040 NR, line 21.” Since Taxpayer asserts, without proof, that his income was non-
8 business income, we turn to the IRS 1040 instructions.

9 Turning to the IRS 1040 instructions for Line 21 for reporting “Other income,” they confirm
10 that the Schedule C is the form needed for business income. *See* IRS 1040 Instructions (2012), p 28.
11 The Line 21 instructions indicate that prizes and earnings from gambling, jury duty pay, Alaska
12 Permanent Fund dividends, and some other taxable distributions may be placed on Line 21. None
13 of these appear applicable in this instance. None give the option of reporting either on Line 21, or
14 on the Schedule C. The Line 21 instructions require that the Taxpayer list the “type and amount of
15 income.”⁴ The Taxpayer gave the hypothetical of finding a bag of money on the roadside, which he

² Prior year Schedule C instructions and forms are available on the IRS website. *See* 2012 Schedule C instructions, <https://www.irs.gov/pub/irs-prior/i1040sc--2012.pdf> (last visited 8/20/2020).

³ Prior year Schedule C instructions and forms are available on the IRS website. *See* 2016 Schedule C instructions (237 instances) <https://www.irs.gov/pub/irs-prior/i1040sc--2016.pdf> (last visited 8/20/2020); *see also* 2015 Schedule C instructions (243 instances) <https://www.irs.gov/pub/irs-prior/i1040sc--2015.pdf> (last visited 8/20/2020); *see also* 2014 Schedule C instructions (232 instances) <https://www.irs.gov/pub/irs-prior/i1040sc--2014.pdf> (last visited 8/20/2020); *see also* 2013 Schedule C instructions (224 instances) <https://www.irs.gov/pub/irs-prior/i1040sc--2013.pdf> (last visited 8/20/2020).

⁴ Prior year 1040 instructions are available on the IRS website. *See* <https://www.irs.gov/pub/irs-prior/i1040gi--2012.pdf> (p.28) (last visited 8/27/20); *see also* <https://www.irs.gov/pub/irs-prior/i1040gi--2013.pdf> (p.28) (last visited 8/27/20); *see also* <https://www.irs.gov/pub/irs-prior/i1040gi--2014.pdf> (p.28) (last visited 8/27/20); *see also* <https://www.irs.gov/pub/irs-prior/i1040gi--2015.pdf> (p.29) (last visited 8/27/20); *see also* <https://www.irs.gov/pub/irs-prior/i1040gi--2016.pdf> (p.29) (last visited 8/27/20).

1 in no way suggested was actually the source of his income, suggesting that such an exception
2 justified a general rule. In fact, Schedule C instructions do not contain instructions on how to report
3 found money on Schedule C forms,⁵ despite the Taxpayer's suggestion that Publication 17 advises⁶
4 to place the income stemming from found property (treasure-trove) on Schedule C. *Cf. Cesarini v.*
5 *United States*, 296 F. Supp. 3 (1969) (treasure trove discovered hidden in a used piano purchased at
6 auction is taxable in the year possession of the treasure became undisputed). To broadly interpret
7 the instructions in the manner Taxpayer proposes would be to allow the exception to justify the
8 Taxpayer's interpretation of the rule. This is contrary to existing rules of interpretation, which
9 require narrow interpretation of exceptions, for the very purpose the exception does not swallow the
10 rule. *See First Nat'l Bank v. Woods (In re Woods)*, 743 F.3d 689, 698. Nevertheless, it is highly
11 unlikely that this Taxpayer would find a bag of money every year over five years, in roughly similar
12 amounts: for 2012, Taxpayer reported \$9,587.00; for 2013, Taxpayer reported \$9,991.00; for 2014,
13 Taxpayer reported \$9,235.00; for 2015, Taxpayer reported \$9,827.00, and for 2016, Taxpayer
14 reported \$12,986.00. The purported exception for reporting found money on Schedule C does not
15 create the presumption that the use of Schedule C does not imply business income.

16 **Conclusion.**

17 The fact that the Taxpayer refused to provide testimony about the income source and
18 provided no records to support his contention that the lion's share of the income reported on
19 Schedule C was not business related is the salient feature of this protest. It is the Taxpayer's duty to
20 prove with substantial evidence that the assessment was in error by proving that the income was not

⁵ Prior year Schedule C instructions are available on the IRS website. *See* <https://www.irs.gov/pub/irs-prior/i1040sc--2016.pdf> (last visited 8/20/2020); *see also* <https://www.irs.gov/pub/irs-prior/i1040sc--2015.pdf> (last visited 8/20/2020); *see also* <https://www.irs.gov/pub/irs-prior/i1040sc--2014.pdf> (last visited 8/20/2020); *see also* <https://www.irs.gov/pub/irs-prior/i1040sc--2013.pdf> (last visited 8/20/2020).

⁶ *See* FN 1; 2012 (p. 94); 2013 (p. 95); 2014 (p. 96); 2015 (p. 96); 2016 (p.96). In fact, Publication 17 does not actually advise placing income gained as a result of discovering a treasure-trove on Schedule C, although it was clear Taxpayer interpreted it this way.

1 taxable or that the Taxpayer was entitled to deductions or exemptions. “Substantial evidence is
2 relevant evidence that a reasonable mind might accept as adequate to support a conclusion.” *State*
3 *v. Largo*, 2012-NMSC-015, ¶ 30, 278 P.3d 532 (internal quotation marks and citation omitted).
4 Without reliable and relevant supporting documents offered into evidence, we are left with Mr.
5 Watt’s word alone. “It is the sole responsibility of the trier of fact to weigh the testimony,
6 determine the credibility of the witnesses, reconcile inconsistencies, and determine where the truth
7 lies.” *N.M. Taxation & Revenue Dep’t v. Casias Trucking*, 2014-NMCA-099, ¶ 23. Taxpayer was
8 unable to overcome the presumption of correctness. Although he was cordial and composed, Mr.
9 Watts’ unsubstantiated statements are insufficient to overcome the presumption of correctness that
10 attached to the assessment. *See MPC Ltd. v. N.M. Taxation & Revenue Dep’t*, 2003-NMCA-021,
11 ¶13, 133 N.M. 217, 62 P.3d 308; *see also* Regulation 3.1.6.12 (A) NMAC (1/15/2001). The
12 assessment will be upheld.

13 CONCLUSIONS OF LAW

14 A. The Taxpayer filed a timely written protest to the Notice of Assessment of Tax and
15 Demand for Payment issued under Letter ID number L1963573936, and jurisdiction lies over the
16 parties and the subject matter of this protest. *See* NMSA 1978, Section 7-1-24 (D) (2017).

17 B. A scheduling hearing was timely set and held within 90-days of protest under
18 NMSA 1978, Section 7-1B-8 (2019). Parties did not object that the scheduling hearing satisfied
19 the 90-day hearing requirement of Section 7-1B-8. *See also* Regulation 22.600.3.8 (E) NMAC
20 (02/01/2018).

21 C. Any assessment of tax made by the Department is presumed to be correct.
22 Therefore, it is the taxpayer’s burden to come forward with evidence and legal argument to establish

1 that the Department's assessment should be abated, in full or in part. *See* NMSA 1978, Section 7-1-
2 17 (C) (2007).

3 D. "Tax" is defined to include not only the tax program's principal, but also interest and
4 penalty. *See* NMSA 1978, Section 7-1-3 (Z) (2019); *see also* Regulation 3.1.1.16 (12/29/2000).
5 Assessments of penalties and interest therefore also receive the benefit of a presumption of
6 correctness. *See* Regulation 3.1.6.13 NMAC (1/15/01).

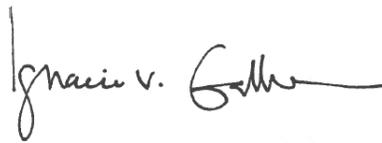
7 E. Taxpayer's admission that a portion of his income was business income triggered
8 the statutory presumption that *all receipts* of a person "engaging in business" are taxable. *See*
9 NMSA 1978, Section 7-9-3.3 (2019) and Section 7-9-5(A) (2019).

10 F. Unsubstantiated statements are insufficient to overcome the presumption of
11 correctness that attached to the assessment. *See MPC Ltd. v. N.M. Taxation & Revenue Dep't*,
12 2003-NMCA-021, ¶13, 133 N.M. 217, 62 P.3d 308; *see also* Regulation 3.1.6.12 (A) NMAC
13 (1/15/01).

14 G. Taxpayer failed to meet his burden to show that he was entitled to receive the
15 benefit of any deductions or exemptions to taxable business income. *See* NMSA 1978, Section 7-
16 1-17 (C) (2007).

17 For the foregoing reasons, the Taxpayer's protest **IS DENIED. IT IS ORDERED** that the
18 Department's issuance of the Assessment was proper, and Taxpayer is responsible for payment of
19 the underlying tax, penalty, and interest for a total of \$5,028.06, as of the date of the hearing.
20 Interest accrues until fully paid.

21 DATED: September 9, 2020.

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Ignacio V. Gallegos
Hearing Officer
Administrative Hearings Office
P.O. Box 6400
Santa Fe, NM 87502

8
NOTICE OF RIGHT TO APPEAL

9 Pursuant to NMSA 1978, Section 7-1-25 (2015), the parties have the right to appeal this
10 decision by *filing a notice of appeal with the New Mexico Court of Appeals* within 30 days of the
11 date shown above. If an appeal is not timely filed with the Court of Appeals within 30 days, this
12 Decision and Order will become final. Rule of Appellate Procedure 12-601 NMRA articulates
13 the requirements of perfecting an appeal of an administrative decision with the Court of Appeals.
14 Either party filing an appeal shall file a courtesy copy of the appeal with the Administrative
15 Hearings Office contemporaneous with the Court of Appeals filing so that the Administrative
16 Hearings Office may begin preparing the record proper. The parties will each be provided with a
17 copy of the record proper at the time of the filing of the record proper with the Court of Appeals,
18 which occurs within 14 days of the Administrative Hearings Office receipt of the docketing
19 statement from the appealing party. *See* Rule 12-209 NMRA.

20
CERTIFICATE OF SERVICE

21 On September 9, 2020, a copy of the foregoing Decision and Order was submitted to the
22 parties listed below in the following manner:

23 *First Class Mail and Email*

Interdepartmental Mail and Email

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John Griego
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