FIFTY-SECOND LEGISLATURE
FIRST SESSION, 2015

BEFORE THE SENATE HEARING SUBCOMMITTEE
of the
INTERIM LEGISLATIVE ETHICS COMMITTEE

STIPULATED FACTS AND ETHICAL VIOLATIONS
IN THE MATTER OF AN ETHICS COMPLAINT
AGAINST
SENATOR PHIL A. GRIEGO

Stipulated Facts

1. Senator Phil A. Griego has been a member of the New Mexico Senate since 1997 and is currently serving a four-year term that began in 2013.

2. In the months before the Second Session of the Fifty-First Legislature convened, Senator Griego agreed to assist Galisteo Street Inc. in a proposed purchase of certain improved property owned by the State of New Mexico through the Energy, Minerals and Natural Resources Department (EMNRD), with a physical address of 139-141 East DeVargas Street in Santa Fe, New Mexico, 87501.

3. The property is designated as a historic "contributing" property under the City of Santa Fe's historic preservation standards. It is adjacent to a hotel owned by Galisteo Street Inc. and, at all material times, was leased by Galisteo Street Inc. from the State of New Mexico. Exhibit A, Appraisal of 139-141 East DeVargas Street, March 21, 2014.

4. The lease agreement conferred upon Galisteo Street Inc. the absolute and unconditional first right to purchase the property at fair market value based upon an appraisal if the EMNRD ever offered the property for sale. Exhibit B, Lease Agreement.

5. The sale of any state-owned property with a value of more than $100,000 requires legislative approval through the passage of a joint resolution. See Section 13-6-3 NMSA 1978.

6. Senator Griego initiated the legislative approval process by obtaining the agreement of a member of the house of representatives to introduce the joint resolution as House Joint Resolution 8 (HJR 8). Senator Griego monitored the progress of HJR 8 throughout the legislative process. Exhibit C, Enrolled and Engrossed Copy of HJR 8.

of the House of Representatives, Fifty-First Legislature, Second Session, page 278.

8. On February 18, 2014, with fewer than 48 hours remaining in the legislative session, the Senate Rules Committee reported favorably on HJR 8, the resolution was withdrawn from the final committee to which it was referred and it was placed on the senate calendar for final consideration. Exhibit E, Journal of the Senate, Fifty-First Legislature, Second Session, page 516.


10. Senator Griego remained on the floor of the senate during the debate on HJR 8, and, consistent with the requirement of Senate Rule 7-5 that a senator vote on each question "unless he has a direct personal or pecuniary interest in the … question", Senator Griego exited the floor immediately prior to the vote and did not return to the floor until the vote was announced. Exhibit F.

11. Senator Griego did not publicly disclose any direct or indirect interest in the matter that was before the senate.


13. On March 24, 2014, Galisteo Street Inc., as buyer, executed an agreement entitled "Buyer's Agency Agreement" with Excalibur Asset Management LLC "acting by and through its broker, Senator Phil Griego". Exhibit H, Buyer’s Agency Agreement.

14. The agreement provided that Senator Griego, as agent, would receive $50,000, plus gross receipts tax, for "obtaining a signed Purchase Agreement, coordinating the documentation needed for closing, and assisting Buyer in matters that may arise prior to closing". Exhibit H.

15. After the 2014 legislative session ended, Senator Griego continued to monitor the required review of the proposed sale by the Capitol Buildings Planning Commission and did not disclose his interest in the transaction.

16. Galisteo Street Inc. paid the agreed-upon flat fee of $50,000, plus the applicable

17. The fee equaled 8.8 percent of the final purchase price, which was in excess of the customary percentage charged by real estate agents for the purchase and sale of improved property in Santa Fe, especially given the simplicity of the transaction.

**Acknowledgments by Senator Griego**

18. Senator Griego contends that he was unaware of the prohibition in Article 4, Section 28 of the Constitution of New Mexico against a legislator having an interest in a contract with the state that was authorized by any law passed during the legislator's term.

19. Senator Griego now understands the force and effect of that constitutional prohibition and that it applied to his interest in the purchase of the property.

20. Senator Griego understands the seriousness of his conduct and willingly submits himself to the disciplinary decision of the senate. Senator Griego wishes to make clear to the body that he has been a duly elected member of the senate for 18 years, that prior to that time he served as an elected member of the Santa Fe City Council, and, until this instance, he has never been accused of any ethical impropriety with respect to his elective duties.

**Stipulated Ethical Violations**

21. Senator Griego's receipt of a commission from Galisteo Street Inc. following the sale of the property violated Article 4, Section 28 of the Constitution of New Mexico, which prohibits "any member of the legislature during the term for which he was elected nor within one year thereafter, be[ing] interested directly or indirectly in any contract with the state ... which was authorized by any law passed during such term".

22. Senator Griego violated Senate Rule 26-1, which requires him to treat his office as a public trust, conduct himself in a manner that justifies the confidence placed in him by the people and maintain the integrity and discharge ethically the high responsibilities of his office.

23. Senator Griego violated the Senate Oath of Ethical Conduct in which he affirmed that he would "ethically and with integrity discharge the high responsibilities placed upon" him,
"abide by the spirit as well as the letter of the senate rules pertaining to ethical conduct" and
"scrupulously avoid any act of impropriety or any act that gives the appearance of impropriety".


24. Senator Griego, therefore, submits himself to the discipline of the senate.

\[signature\]
Senator Phil A. Griego
March 16, 2015

Accepted by the Senate Hearing Subcommittee of the Interim Legislative Ethics Committee

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Linda M. Lopez, Chair
March _____, 2015