



Mark Gordon
Governor

State of Wyoming Department of Workforce Services

Special Investigations Unit
1510 E. Pershing Blvd.
Cheyenne, Wyoming 82002
307.777.7597 ■ Fax: 307.777.5805
www.wyomingworkforce.org



John Cox
Director
Jason Wolfe
Interim Deputy Director

INVESTIGATIVE REPORT

CASE: WC# 00 [REDACTED]

INVESTIGATOR: Chad Seidel

DATE OF SUBMISSION: February 20, 2019

SUBJECT NAME: Jamie Mackay

ADDRESS: [REDACTED]
[REDACTED]

PHONE: [REDACTED]

SSN: [REDACTED]

DOB: [REDACTED]

VIOLATIONS:

- W.S. 27-3-703(a), W.S. 27-3-703(b) - Fraud by employing unit; refusal to furnish reports; failure to make required payments; failure to comply with injunction order; penalties.
- W.S. 27-14-506 - Employer's injury report; penalty for failure to report.
- W.S. 27-14-510(b)(ii) - . Misrepresentations or false statements; failure of employer to establish account or furnish payroll report.
- W.S. 27-3-107(g) - "Agricultural labor" defined; "farm" defined; "crew leader" defined; when domestic services included; exception.

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EXECUTIVE SUMMARY:

On September 28th, 2018 Victoriano Garcia-Perez and Juan Baez-Sanchez died in a trench collapse while working at 120 S. Indian Springs, Jackson WY. Juan was tasked with operating an excavator, rented to, and on location at request of the property owner, Jamie Mackay. Victor is believed to have been in the trench assembling a “French drain” designed to drain ground water away from the home that was under construction on the property. The men were buried in a 12’ – 15’ deep trench, absent all required safety precautions. The excavation work being performed that date was absent a required Teton County Grading & Erosion Control permit, the previous permit issued to applicant Jamie Mackay had been “finalized.”

Mackay was acting as the General Contractor for the 120 S. Indian Springs project, the property belongs to Mackay personally. Investigation finds Victoriano was an unreported employee of another of Mackay’s business, Fireside RV Resort where Victoriano has worked for approximately ten years. An account audit of Fireside RV Resort finds a history of hourly wages paid to Victoriano. Prior Fireside RV Resort Maintenance Supervisor, Jim Leas, testifies that Victoriano was a grounds maintenance employee of Fireside RV Resort. Victoriano was tasked in the course of his duties at Fireside, to also perform work at the 120 S. Indian Springs address at the request of Jamie Mackay, with payment for the Indian Springs work paid through Victoriano’s regular Fireside RV Resort pay. Supervisor Jim Leas was responsible for transporting Victoriano from Fireside RV Resort to the Indian Springs work location on the date of the fatalities at the request of Mackay.

In 2018 Mackay contracted with Mountain X, LLC to perform foundation and excavation work at his 120 S. Indian Springs property. Juan Baez-Sanchez was an employee of Mountain X, LLC during this work, Juan was responsible to operate the “mini-excavator” for Mountain X, LLC. Mountain X, LLC ceased work at 120 S. Indian Springs due to a payment dispute with Mackay. Mountain X, LLC foreman Jason Stroh learned Juan was “moonlighting,” continuing excavation work at 120 S. Indian Springs for Jamie Mackay. Mountain X, LLC terminated employment of Juan. The audit of Fireside RV Resort identifies payment to Juan Baez-Sanchez through Fireside RV Resort business account. The investigation also identified additional payment to Juan Baez-Sanchez in excess of \$1,000 from the personal account of

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Jamie Mackay. Text messages to/from Jamie Mackay found on the phone of Juan, support Juan was receiving direction for work at 120 S. Indian Springs direct from Mackay. Juan was reporting his hours directly to Jamie Mackay for payment, delivered by Brandy Larson, the office manager of Fireside RV Resort.

This investigation supports that Jamie Mackay was giving direction and control to both Juan and Victoriano to perform the excavation and trench work for the construction project at 120 S. Indian Springs. Mackay failed to provide safety measures or appropriate training to the men for the work they were performing, a gross deviation from the standard of care that a reasonable person would exercise. Mackay failed to perceive the substantial and unjustifiable risk that he exposed Victoriano and Juan to, for the excavation and trench work they were tasked to perform.

Fireside RV Resort failed to fully report employee earnings which resulted in a reduction of the Workers' Compensation and Unemployment Insurance employer premiums due, a felony violation of W.S. 27-14-510(b)(ii) and W.S. 27-3-703(b). Jamie Mackay also failed to report the domestic wages he paid to Juan Baez-Sanchez.

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ORIGIN:

On Friday, September 28, 2018 the Teton County Sheriff's Office responded to a 911 call of a trench collapse with possible fatalities. The Teton County Sheriff's Office, Teton County Coroner's office, and emergency personnel responded to find two men died while performing trench work at 120 S. Indian Springs Drive, Jackson Wyoming. The property is owned by Jackson businessman, Jamie Mackay. The men were performing the trench work absent all required safety measures. OSHA responded to the workplace fatality. Subsequent investigation determines Juan Baez-Sanchez (42) and Victoriano "Victor" Garcia-Perez (56) died of compression asphyxiation due to a trench wall collapse.

The Wyoming of Department Workforce of Workforce Services (DWS) Deputy Director John Ysebaert tasked the Special Investigations Unit with determining any employee / employer relationship of the deceased workers with the property owner, Jamie Mackay. An audit of Jamie Mackay's DWS accounts for "Moose Wilson Road Campground Inc." aka "Fireside RV Resort" was requested.

DECEASED:

The two deceased men are identified as:

Juan Baez-Sanchez:

• [REDACTED]
[REDACTED]

Victoriano "Victor" Garcia-Perez:

• [REDACTED]
[REDACTED]



Juan Baez-Sanchez
COURTESY PHOTO



Victoriano Garcia-Perez
COURTESY PHOTO

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TETON COUNTY SHERIFF'S OFFICE:

The Teton County Sheriff's office provided a copy of the agencies death investigation. (See Exhibit 1a)

Of note in the Teton County Sheriff's report:

- The initial call to 911 is made by Heath Leosh.
- Jamie Mackay, the property owner of 120 S. Indian Springs, reported through a phone conversation with Sgt. Chett Hooper that "Victor" was also to have been on site.

OSHA REPORT:

The Wyoming Department of Occupational Safety and Health Administration (OSHA) initiated a separate workplace fatality investigation. That report is available from the OSHA office, 307-777-7786.

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INTERVIEW OF HEATH LEOSH:

Heath Leosh



On 11/8/2018 I made phone contact with Heath Leosh, this call was recorded. I advised Leosh I had questions for him about the fatal trench accident. Leosh agreed to talk with me. Note - Leosh made the initial report to Teton County 911.

I asked Leosh how long he had known Juan Baez-Sanchez. Leosh replied "I worked along with his company, when he used to work for Teton Heritage Landscaping, when Jamie (Mackay) used to own that." Leosh told me "I've delivered parts to him (Juan) recently, even when I went to work for Silver Creek, I delivered stuff for the jobs that he's worked on." Leosh continued "that's what I was doing when I showed up to the job site that day, is I was delivering parts." Leosh is currently employed with Silver Creek Supply.

I asked Mr. Leosh if Juan had his own company or was working for Jamie Mackay. Leosh stated "I am under the impression he was working for Jamie. All the parts were ordered, all the pipe and everything was ordered through Mountain West Services, and, but everything was tagged for Jamie. Even Jamie's name was on it, and Jamie was the one calling in the parts." I asked about the parts ordered for Mountain West Services, Leosh said "they were ordered under account. Everybody around here believes that Jamie had, or has, some, some investment into Mountain West Services. But he would always order his parts and put it on Mountain West Services. Jamie would call in and order the parts and put it on Mountain West Services."

I asked Leosh if he knew who owns Mountain West Services. Leosh said Rodney VanDermyden was the Mountain West Services contact who was billed "but word on the street that Jamie had some involvement with that. We were always under the impression that Mountain West Services was created to start this project, this housing, this land

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development off Spring Gulch called Vogel Hill and it's behind Teton Science School. It's this multi, multi-million dollar project." Leosh estimated the land cost approximately \$35,000,000.00

Note – Vogel Hill LLC was filed with the Wyoming Secretary of State on 05/18/2016. Jamie Mackay was the initial registered agent for the LLC. A June 16, 2017 Jackson Hole Daily story reports the new residential development was sold by the Mead family to Vogel Hill in the fall of 2016. The developers subdivided the property into eight, 35 acre land parcels for home development. (See Exhibit 2a)

https://www.jhnewsandguide.com/jackson_hole_daily/local/article_d3729429-5aec-5f97-8790-79eafa7d6651.html

I asked Leosh about the day prior, (Thursday, September 27, 2018) and seeing Juan in "the hole." Leosh told me "I didn't see him in the hole, he was actually out when I showed up, but I did see the hole. And I did ask him that if he was in there, and I did tell him the day before that, that wasn't safe and let alone being by himself. But as we found out that didn't matter even that he was by himself."

I asked Leosh how long Juan has been in the Jackson area. Mr. Leosh said "yeah, I've been told, even Jamie (Mackay) told me he's known him for twenty years." I asked Leosh about the relationship between Juan and Mackay, if Leosh knew about the employment history of Juan while in the Jackson area. Leosh said "so, Jamie (Mackay) used to own Teton Heritage Landscaping, or THL. And Juan worked for them and about, gosh, at least ten years ago or so, maybe even fifteen years now, Jamie sold Teton Heritage Landscaping to Peter Cornfoot and Scott Hardeman."

Note – Teton Heritage Landscaping, Inc. was filed 02/19/2002. Jamie M. MacKay was the sole officer/director for the company. The company is "inactive" effective 4/12/2010. Neither Peter Cornfoot or Scott Hardeman appear on any report for Teton Heritage Landscaping, Inc. Peter Cornfoot and Scott Hardeman own "Westbank Garden Center, Inc" filed with the Wyoming Secretary of State (SOS) on 12/01/2009. The

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*company is in good standing with the SOS. From the company's webpage:
<http://westbankgardencenter.com/about.cfm> (See Exhibit 2b)*

"The Westbank Garden Center has enjoyed the high regard of the Wilson community for many years. The current owners, Scott Hardeman and Peter Cornfoot, acquired Westbank in 2011 and have continued that fine tradition and reputation. In addition to the garden center, they own Teton Heritage Landscaping, which has been completing high-end landscaping projects in the valley since 1993. Between these two established local businesses, you can be confident all your yard care needs will be met with reliable quality and creative excellence."

Leosh told me Juan had worked for Cornfoot and Hardeman until the beginning of the summer of 2017. Leosh said "Rodney (VanDermyden) and Jamie, the rumor has it, went to Juan, I think it was Juan, and asked him (Juan) to leave THL and brought, like six or eight of the guys with him. Basically took a large chunk of THL's, Teton Heritage Landscaping's workforce with them to Mountain West Services." Leosh told me he know this because he had recommended "one of my contractor buddies to do some work, for, irrigation work on the side" for Mountain West Services. Leosh told me the contractor had also done work for Teton Heritage Landscaping "and that didn't make Peter Cornfoot very happy so he called me and basically laid it out that Juan left to go work for these guys (Mackay and VanDermyden) and took everything and that Paul will not be working for Jamie and Mountain West Services. It kinda created a riff."

Leosh said Juan left working for Cornfoot and Hardeman approximately two years ago "on bad terms." Leosh said "a few weeks before the accident, actually asked Teton Heritage if they had work for him, but Peter (Cornfoot) was like no man, you kinda left us in that way. That you're not going to work for us ever again."

I asked Leosh after Juan's being turned down by Peter Cornfoot, if Juan went to work for Jamie Mackay. Leosh said "I don't think, no, he's was always, well he was working for Mountain West Services. And until, like, for as long as long as I've known, but Jamie (Mackay)

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was hiring him (Juan) to do the work at his (Mackay's) house, in Indian Springs." I confirmed with Leosh the 120 S. Indian Springs Drive address.

I asked about the type of work Juan had been performing at the time of the accident. Leosh said "it was all schedule 40, solidcore pipe," that Juan "was putting in a low-point drain on the back of the foundation." Leosh did not think the drain was necessary. Leosh said "but Juan told me that Jamie (Mackay) didn't, absolutely did not want any water in that basement or crawlspace, so they were putting that drain in and they were exiting it, it looked like to the, there was a pond just down from the house." Leosh said "they were almost to the pond, when it caved in."

Leosh continued "it was a massive, massive hole, the first day. It scared the crap out of me. He (Juan) actually told me to back my truck up, to the, closer to the hole and I said no way!" I confirmed with Leosh the purpose of the hole was for the drain. In closing Leosh told me Juan "had been there for weeks." Leosh said of Juan "there was a water feature, they were cleaning up, fixing, that was put in originally." Leosh said Juan had worked on the features "return line."

Leosh said he had delivered water service lines from the curb to the house etc. and estimated Juan had been working on the Jamie Mackay project for approximately one month, leading up to the date of the accident. I asked Leosh if he had seen Victor Garcia-Perez at the Mackay home. Leosh said he had seen "Victor" on the site one other time. Leosh told me "but on Thursday, when I was there to drop off the pipe before the accident, Victor was not there."

In closing Leosh described Juan as "usually the crew leader. I mean on every job I've ever seen him on he was the crew boss." I pressed Leosh about Juan being the crew boss and for who? Leosh said "when he was with THL. You know he was the, he was the crew boss. In, like I said, he just commanded respect when he was on jobs from the other workers." I confirmed THL was Teton Heritage Landscaping when he first met Juan, years ago.

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MOUNTAIN X, LLC:

Derek Schmidt

[REDACTED]
[REDACTED]

Mountain X, LLC is a limited liability company filed with the Wyoming Secretary of State, 11/10/2005. The company is owned by Derek Schmidt of Cheyenne Wyoming, phone number [REDACTED]. Mountain X, LLC has Wyoming Workers' Compensation account #00 [REDACTED]. Mountain X, LLC reported wages paid to "Juan Sancez" with Juan Baez-Sanchez's SSN. (See Exhibit 2c)

On 11/13/2018 I contacted Derek Schmidt at phone number [REDACTED]. I advised Mr. Schmidt who I was and the purpose of my call regarding Juan Baez-Sanchez. Mr. Schmidt agreed to talk with me, this call was recorded.

I asked Mr. Schmidt about his business Mountain X, LLC and the employment of Juan with the company. Mr. Schmidt asked if I had talked with Jason Stroh, his foreman in Jackson. I told Schmidt I had not, that Mr. Stroh may have spoken with OSHA. Schmidt told me Stroh runs the business, and that he (Schmidt) is the owner. Schmidt offered that Stroh would have better information to provide regarding Juan but offered to answer any questions he could. Mr. Schmidt has owned the business since 2006. Of Juan, Mr. Schmidt said "Never met him, and I just know he was let go a month or six weeks before the accident for, I think moonlighting."

Mr. Schmidt characterized the majority of the Jackson area business as "mostly excavation, material handling, some trucking." I asked Mr. Schmidt about any work his company had done for Jamie Mackay. Schmidt asked if I was asking about at the time of the trench accident or before. I invited an answer for both. Schmidt said "none during that time. We didn't get paid, and so we quit working for Jamie (Mackay) probably, oh I'm going to say six months or even before that." I confirmed this was prior to the trench accident, Schmidt replied "prior to the accident, yeah. We had been off his (Mackay) property for a while just because of a payment dispute." Mr. Schmidt said the payment dispute remains outstanding.

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I asked about the property where the work had been performed, if it was a Jamie Mackay investment property or personal to Jamie Mackay. Mr. Schmidt said "I think it was specifically Jamie's property but again that question's probably best for Jason (Stroh)." I asked how Jamie Mackay had representation his participation for the work performed by Mountain X, LLC on the property, as a home owner or General Manager. Mr. Schmidt told me "I've never even met Jamie."

I asked about Victoriano Garcia-Perez. Mr. Schmidt replied "that's the, Juan's guy, that's the other gentlemen in the trench?" I told him yes, Schmidt told me he did not know Victoriano, that Victoriano had never worked for Mountains X, LLC. I asked Schmidt if Juan knew better about getting into a trench with the depth and width as was being dug on the Mackay property. Schmidt replied "Oh you're asking questions I don't know anything about." Mr. Schmidt offered to get Jason Stroh on the call, I agreed. After a brief hold, Jason Stroh and Derek Schmidt returned to the joint conference call with me.

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CONTINUATION - PHONE INTERVIEW JASON STROH / DEREK SCHMIDT:

Jason Stroh



I introduced myself to Jason Stroh and told him I was calling to inquire about the prior employment of Juan Baez-Sanchez. Mr. Stroh agreed to answer my questions. Stroh told me he has prior been interviewed by OSHA in regards to Juan. Stroh said of employing Juan, "I let Juan go" on August 28th, 2018. Stroh told me "the main reason that we let him go is because, um, all my employees were notified not to work over at Jamie's place because of the outstanding debt that he (Mackay) had with the company." Stroh told me the Mountain X, LLC had performed approximately seven months of work for Jamie Mackay in 2017. Stroh characterized the work performed as "the initial foundation excavation, and the sewer tank, we put a bunch of trees, an we did some driveway work, and irrigation work but we hadn't been paid so. You know I let Juan go once he started working over there for Jamie (Mackay)."

I asked Mr. Stroh about any contract for the work Mountain X, LLC had performed for Jamie Mackay, if it was with Mackay or one of Mackay's businesses. Stroh replied "well, it was through Jamie, that's who asked me to come over and help him. And so the entire time we were working, you know, he'd contracted us to go over there and work but. We didn't have a contract, it was just basically a verbal deal that he needed the work done and, and we went over and started the work." I asked Stroh about who acquired the required permits to do the dig. Mr. Stroh said "that was Jamie, so, yeah we have, I dealt with the county as far as inspections on the work that we did, while we were there, but the permitting went through Jamie." I asked if the permit had been signed off a completed by the county. Stroh said "right, that was we bid the guest house foundation, the backfill. Um, the septic tank was a partial inspection because the forced main that runs to the main sewer line for the subdivision hadn't been installed as of November because we ran out of time last fall. Because it got too cold, so that was still left." Mr. Stroh told me the permit Mountain X, LLC was working under was for the guest house. Mr. Stroh said he did not know if Juan was working under a new

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permit for the main house, that he had not been back to the Mackay property since the fall of 2017.

Note - Force mains are pipelines that convey wastewater under pressure from the discharge side of a pump or pneumatic ejector to a discharge point.

I asked Mr. Stroh to describe Juan's work duties while employed with Mountain X, LLC. Stroh told me "he was basically my irrigation specialist. He ran the mini-excavator and he planted trees." Stroh estimated Juan was employed with Mountain X, LLC for approximately one year, beginning in June of 2016.

I returned to aspects of the construction project for Jamie Mackay. I asked Stroh if he was aware of a General Contractor for the project. Stroh said "no, he (Mackay) was the guy kinda, just giving orders. There was several other sub-contractors, you know that would show up, but Jamie was the guy calling the shots." I asked Stroh if he knew how Juan had been approached to be working on the Mackay property. Stroh said "yeah, he, well basically, you see Juan worked for Jamie when he first came to America. And that's back when Jamie owned Teton Heritage Landscape. But he (Mackay) sold that business and Juan stayed with the owner, and then in the Spring of 2016, the, he came to work with me but still had a connection with Jamie you know. And so what I think happened is Jamie, Jamie knew that we wouldn't go over and do any more work over there. That he could talk Juan into going over easily enough, on a weekend and, and, and work." Stroh became suspicious Juan was working for Mackay, Stroh said "is we were all working on a Saturday, and Juan said he had plans. And I just thought that, that was a first." Stroh said of Juan "he's never taken a day off while he was working for me."

Stroh said "I put two and two together." Stroh told me he figured out Juan was performing work for Jamie Mackay and he approached Juan about the issue. Stroh said "the day I let him (Juan) go I just told him that we couldn't have that. And, that you know it's just better off that he just stays, you know, where he's at as far as working for Jamie, because it, it just wasn't going to work out."

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I asked Stroh about the excavator that Juan had been operating while working for Jamie. Stroh said “well see, the first month that Juan was there, he started by tying into that forced main sewer and the propane lines from the main road. And so that was a mini-excavator that Jamie had rented. Because when we haul for Cat we know who rents the machines.” Stroh continued “I’m sure it was Jamie Mackay on the contract.” Stroh told me that after a month, Mountain X, LLC picked up the rented mini-excavator from the property of Jamie Mackay.

Note – This is for trench work performed in the weeks prior to the September trench collapse.

Stroh said of the excavator that was on site the day of the trench collapse, “that excavator was from Black Mountain Rental and was rented through Serenity, is what I heard.” Stroh said of this excavator, “that was a full size excavator that, and Juan had run a little bit of big machines for us but, his (Juan’s) machine was the smaller excavator.” Mr. Schmidt confirmed Mountain X, LLC had not been involved in delivering this second, larger excavator.

I asked Mr. Stroh if he knew Victor Garcia-Perez. Stroh told me he had met Victor “only met him one time, I think he came, came over to the Volvo project and helped one day.” Stroh said of Victoriano, “I know he (Victoriano) worked at Fireside.” Stroh described Victoriano as a “friendly guy.” I asked about Victoriano’s association with “Fireside.” Stroh believes Victoriano was a “handi-man” at Fireside and may also have done some landscaping at the RV resort, “that’s his main job for years.” Stroh said his Mountain X, LLC employees knew Victoriano and may be able to provide information.

Note – a review of Q3/18 wage listings for Moose Wilson Road Campground, Workers’ Compensation account #00 [REDACTED], does not find any reported wages for Victor Garcia-Perez. Jamie Mackay is improperly reported as an employee, Mackay is a corporate officer for the company. On 05/09/2014 the business name was changed to Fireside Resort Inc. The resort is also associated with “Wheelhaus,” another business venture of Jamie Mackay. Fireside Resort and Whellhaus are featured in a December 16, 2015 Jackson Hole News and Guide story. https://www.jhnewsandguide.com/news/business/biz_quiz/article_bdfc7e1b-a334-5a9a-9173-46238c03f896.html (See Exhibit 2d)

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I asked Stroh about Juan's excavation knowledge of safety requirements for a trench as was being dug on the Mackay property, September 28, 2018. Stroh said "he'd been around some trench boxes and stuff with us but it was never something that he took care of himself." Stroh continued "Juan was a really hard worker, he'd jump right into things and go for it. And he was talented but I think he was over his head and as soon as that trench got 12 feet deep, and it's four feet wide, and its unstable ground over there. You know, it just surprised me." Stroh said "he shouldn't never got in it."

Stroh said of the 120 S. Indian Springs excavation site "the section that they were crossing is an area where we filled a lot of that in with material, so it wasn't native." Stroh said the "import" was brought in "to build the grade up." He said it had been a "hilly area" and estimated approximately 10 feet of fill in that area.

In closing I asked Jason Stroh for his phone number should I need to contact him with additional questions. I provided Mr. Stroh my contact information and asked Stroh to share this with his crew, should any of his employees have further information about either Juan or Victoriano and any employer they had while working excavation at the Indian Springs property. Stroh stated of Jamie Mackay "well, and I can tell you right now, if anything, he (Mackay) was paying him cash man." Stroh continued "if he (Juan) wasn't legit and on the books with Workers' Comp and everything else like he (Juan) was with us, he (Mackay) was paying him cash. And that's a gray area but I can guarantee you he (Mackay) wasn't writing a business check to him for payroll. That's what I feel." I confirmed the only work Mountain X, LLC had performed was the initial dirt work at 120 S. Indian Springs. Stroh closed by telling me "I think he (Juan) was just following orders, you know, from Jamie."

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INTERVIEW OF ISABEL BAEZ:

Isabel Baez
[REDACTED]
[REDACTED]

On 11/21/2018 I left a message with Isabel Baez, phone number [REDACTED] to contact me. Ms. Baez is the sister-in-law to decedent Juan Baez-Sanchez. On 11/26/2018 Ms. Baez returned my call. I introduced myself and the purpose of my call to inquire about the employment status of Juan and Victoriano Garcia-Perez, Ms. Baez agreed to talk with me. This call was recorded.

Ms. Baez told me their family had learned that Heath (Leosh) “from the supply store” had previously told Juan, that where Juan was working “was dangerous.” In regards to “Victor” being at the site of the trench collapse, Ms. Baez said “Jamie (Mackay), this is just speculating because we’re not for sure, but to where Victoriano never had that type of experience, because he was just a maintenance guy at Fireside.” Ms. Baez did not know how long Victoriano had been working at Fireside.

Ms. Baez offered she had inadvertently left Juan’s cell phone at the Spence Law Firm in Jackson Wy. She said this law firm was representing the interests of Juan Baez-Sanchez’s family. I asked about getting Juan’s cell phone, Ms. Baez stated “you can take it because like I said she only had it there because I accidently left it there.”

I asked about a possible phone for Victoriano? Ms. Baez was uncertain and suggested I talk with Marcos (Garcia). Ms. Baez told me Marcos Garcia is the nephew of Victoriano and that Victoriano had lived in Jackson with Marcos. Ms. Baez said Marcos does not speak good English.

I told Ms. Baez the phones may help determine how Juan and Victoriano came to be on the property of Jamie Mackay. Ms. Baez stated “so see this is the thing Chad, Ok, a month, I believe, was it a month? We had their cell phone, we got a text from Jeremy, the one who rented the excavation machine to Jamie. I don’t know if you’re aware of that part.” I asked

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if Jeremy had rented the excavator from Alpine, she told me “Jeremy is the one who rented it out to Jamie (Mackay) was what he told my husband the day after. Because after we found out that OSHA had, was done with the, investigation because of a gentleman that was there that had told them that Juan worked for, on his own, like a sub-contractor, then they stopped.”

Ms. Baez told me the family had reviewed Juan’s cell phone and found messages “saying like, hey, when are we going to get our checks? And Jamie had told them that, oh you know you can pick em up, or I think his secretary was going to go drop them off to them.” Ms. Baez said there were both calls and text messages on Juan’s phone. She told me her husband then called Jeremy (Moore) who admitted (to Ms. Baez’s husband) to renting the machine to Jamie Mackay. Ms. Baez told me “he (Jeremy Moore) was cool with us.”

Ms. Baez told me Jeremy Moore had contacted Juan’s cell phone approximately one month after Juan passed, “and he was saying, hey, this is Jeremy, um I was told I could contact Juan through this number, because he had done some work for me a couple of days before he had passed and I need to know how to pay him, blah, blah, blah.” Ms. Baez told me Jeremy Moore was in the contact list on Juan’s phone, she thought it odd.

Ms. Baez told me her husband again called Jeremy Moore in response to Moore’s inquiry to the family. Moore had asked how much Mackay had paid Juan “hourly, so I could pay him the same way, or more or less.” Ms. Baez told me this was in regard to work Juan “supposedly did for him (Moore) before he got killed.” Ms. Baez questioned her husband, “if my brother-in-law was a sub-contractor, don’t you think he would be putting the prices on his work, verses them paying him what they wanted to pay him?” She characterized the pay question from Moore as a contradiction.

Ms. Baez first told me when she reviewed Juan’s cell phone, a call had been placed to “either Jamie or Jeremy” after the estimated time of death. Ms. Baez told me she had been told law enforcement at the accident scene had placed the call, she did not know why the call had been made. At this point Ms. Baez asked again my purpose and role. I told Ms. Baez I was the Quality Assurance Manager, my inquiry was to determine any possible employee/employer relationships or independent contractor status for Juan and Victoriano.

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Ms. Baez said Victoriano's nephew has told her Victoriano "just did light work at the, at the Fireside, as a, what do you call it, maintenance worker." She continued, "why he (Mackay) had him (Victoriano) there is beyond me because he's never done that type of work." She continued "that we know of. Again, maybe he could have just had him just to be his, like his little..."

I asked Ms. Baez who Victoriano's nephew was, that I would like to talk with him. Ms. Baez provided me the name Marcos Garcia. On a later call back from Ms. Baez she provided a phone number for Marcos. I told Ms. Baez I wanted to inquire about how Victoriano had been paid for his work at Fireside. Ms. Baez offered "here's the thing, when we set up this GoFundMe, I went and spoke to this girl, her name was Gabby from the Rocky Mountain Bank there in Jackson. And she had mentioned that Juan had went in there and cashed a check, I believe it was around the 25th (September)." Ms. Baez told me "Gabby" had said Juan called the bank to inquire about cashing a personal check from Jamie Mackay, that Juan did not have an account at the bank. Ms. Baez said "Gabby" told her the bank did cash the personal check as Jamie Mackay had an account with the bank. Ms. Baez told me "Gabby" confirmed it was a personal check and not a payroll check.

I transitioned again to asking about getting possession of Juan's cell phone. Ms. Baez referred me to "Spence Law Firm in Jackson." She told me "Christina, Jason or Mark" could assist, Ms. Baez provided me a phone number to call the Spence Law Firm at 307-██████████. I told Ms. Baez I would also like to locate Victoriano's phone. She was uncertain if Victoriano's phone was with the Teton County Coroner's office or Marcos.

Ms. Baez offered to call back and provide a phone number for Marcos Garcia, that her husband could provide the number. In closing I told Ms. Baez I would continue my inquiry into the trench accident. Ms. Baez said "we're just glad that someone is doing something. And were not expecting anything just, just like I said, just justice." She continued, "nothing that happens or whatever is going to bring Juan or Victoriano back. You know, we just don't want it to happen again to somebody else, that's it."

I asked if Jamie Mackay had contacted the family reference the funeral or costs. Ms. Baez told me "he did Chad, but this is the thing. He messaged Juan's number because I was contacting

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him (Mackay) through that which has it all on there. And I asked him, I'm like, he knows. Chad he knows where the funeral home is, there's only one in Jackson. Why didn't he just go and give the money instead of, he has this other girl named Jamie get ahold of me, and I told her, he knows where to go and pay for it." Ms. Baez continued "why does he have to contact me through someone else? Or ask me like, and I even told him you can email me the receipt once you pay for it. And he never did."

Ms. Baez told me she had dealt with "Tyson" from the Valley Mortuary in Jackson Wyoming. Ms. Baez said of the funeral costs "we are so grateful that the community pulled together and in one week we raised the twenty thousand dollars to send them back to Mexico." I offered Ms. Baez my condolences.

Ms. Baez called back shortly after this call to provide a phone number for Marcos Garcia of [REDACTED]. She said Marcos would be available for my phone call on November 27, 2018 at 11:00 am. Ms. Baez believed Marcos also had possession of Victoriano's cell phone.

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INVESTIGATOR ACTIONS:

On 11-26-2018 I contacted the Spence Law Firm in Jackson, phone number [REDACTED] regarding locating the cell phones for both Juan and Victoriano. I was advised to contact attorneys Mark Aronowitz and also Pat Crank. On 11-27-2018 I made phone contact with Mark Aronowitz regarding the purpose of my inquiry and a request for both cell phones. Mr. Aronowitz agreed to allow access to the phones. (See also "Cell Phone Evidence" contained within this report)

Note – From <https://www.spencelawyers.com/attorneys/mark-l-aronowitz/>

"Mark was instrumental in the development of the Spence Association For Employee Rights (SAFER) during his time as L.A.W. Executive Director. As a nonprofit public interest arm of L.A.W., SAFER aims to increase workplace safety and reduce the number of on-the-job injuries and deaths throughout the state of Wyoming. Mark also played a key role in passing 2008 and 2009 legislation that sought to improve workers' compensation benefits for injured employees and their family members and, in 2009 and 2010, he helped secure the funding and preliminary legislation for Equal Justice Wyoming alongside the Wyoming Access to Justice Commission. Afterward, Mark served for six years on the Board of Commissioners for Equal Justice Wyoming."

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INTERVIEW OF MARCOS GARCIA:

Marcos Garcia
[REDACTED]
[REDACTED]

On 11/27/2018 I made phone contact with Marcos Garcia, phone number [REDACTED]. DWS employee Pamela Islas assisted with this conference call, Ms. Islas is proficient with Spanish and assisted with translation. This call was recorded.

Ms. Islas introduced both herself and me and the purpose of my call regarding Victoriano Garcia-Perez. Marcos confirmed Victoriano was his uncle and had lived with him (Marcos) in Jackson Wyoming. Marcos stated Victoriano has lived with him in Jackson for approximately ten years, the current address is [REDACTED] in Jackson Wy.

I asked Marcos where Victoriano worked. Marcos confirmed Victoriano worked at Fireside RV Resort. I asked how Victoriano was paid for his work at Fireside RV Resort, Marcos said up until approximately 2 – 3 years prior, Victoriano had been paid with a check. Marcos said Victoriano received cash payments. I asked Marcos if Victoriano worked at the Fireside RV Resort in Jackson, or the Fireside RV Park – Buffalo Valley in the Grand Teton National Park. Marcos said Victoriano worked primarily at the Fireside RV Resort in Jackson, but recently he had also worked at the Fireside RV Park in the National Park.

I asked Marcos about Fireside’s payments to Victoriano and how Victoriano received them. Marcos said cash payments were distributed by the business secretary at the direction of Jamie Mackay. Marcos did not know the name of the secretary. I asked Marcos how long Victoriano had been working for Mr. Mackay, Marcos replied nine to ten years.

I asked Marcos if anyone else worked at Fireside with a cash payment arrangement similar to his uncle’s. Marcos told me there had been a woman who had also worked but recently left. He did not know her name or if she had also been paid with cash.

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Next I asked Marcos how Victoriano came to work for Mr. Mackay. Marcos said Victoriano had started working for Jamie Mackay years prior when Mr. Mackay had a landscaping company. When the landscaping company was sold, Victoriano was told Jamie Mackay had cabins which Victoriano could work maintenance on. Marcos said the maintenance work was a better choice over landscaping for his uncle as Victoriano was getting older. At this point Marcos said Victoriano went to work for Mr. Mackay at the Fireside RV Resort.

Note – Jamie Mackay previously owned Teton Heritage Landscaping, Inc. in Jackson Wyoming, Wyoming Secretary of State initial filing 2/19/2002, inactive 4/12/2010. (See Exhibit 2b)

I asked Marcos if he knows Jamie Mackay, Marcos replied yes. I asked Marcos how he knows Juan Baez-Sanchez. Marcos told me Juan was a friend, he confirmed there is no family relationship between the men. I asked Marcos if he knew how Victoriano came to be on Jamie Mackay’s property (120 S. Indian Springs), working in the trench. Marcos replied that Victoriano was told by Jamie Mackay to help Juan, that Victoriano and Juan were working in a ditch to put in tubing. I asked Marcos how he knew it was Jamie Mackay who had directed Victoriano to do this work. Marcos said Victoriano had said this when they were at home together. Marcos said Victoriano had been working at the Mackay property (120 Indian Springs) prior to the trench collapse for “give or take two weeks.” Marcos added that Victoriano had also been working weekends at the Indian Springs property.

I asked Marcos if he knew how Victoriano was transported to the Mackay property. Marcos told me Victoriano typically took a public transportation bus (START) to work at Fireside RV Resort and if Victoriano had to be taken somewhere, one of Jamie’s other employees would transport Victoriano. On the date of the trench accident (Sept 28, 2018), Marcos told me Victoriano had taken the bus to Fireside RV Resort, and at around 0900am, then somebody took Victoriano to Mr. Mackay’s property (120 Indian Springs). Marcos said he knew this because he (Marcos) had later gone to the Fireside RV Resort to pick up the things of his uncle (Victoriano) and was told this by other employees at the Fireside RV Resort.

Note - START Bus – 307-733-4521 “Southern Teton Area Rapid Transit” (START) is a public bus service provided by the Town of Jackson and Teton County.

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Marcos did not know who transported Victoriano to 120 Indian Springs on the day of the trench accident, but said Victoriano had been taken by one of Jamie's other workers. Marcos said the employee who dropped off Victoriano was an American.

I asked Marcos about Victoriano's cell phone and if Mr. Mackay would call or text Victoriano. Marcos told me Victoriano had broken a previous cell phone and was using a newer one. Marcos did not believe Victoriano used his cell phone for text messages, but said Victoriano would place and receive calls. I asked if Jamie Mackay spoke Spanish, Marcos replied, a little bit. He said Victoriano did not speak English well but knew enough English to get some communications across. I asked Marcos who had possession of Victoriano's cell phone, Marcos said he had possession and an attorney had also requested Victoriano's phone. Marcos agreed to turn the phone over to the attorney (Mark Aronowitz) tomorrow (11/28/2018). Marcos said Victoriano's phone was an AT&T phone using a prepaid monthly plan.

I next asked Marcos about the work relationship between Juan, Victoriano, and Jamie Mackay. I asked whom had requested Victoriano to work at the Jamie Mackay property (120 Indian Springs), if it had been Juan, or Mr. Mackay. Marcos said Victoriano was friends with Juan, and Juan asked for Victoriano's help with the work. Victoriano told Jamie Mackay he (Victoriano) was available to help Juan. I asked Marcos if that had been the case on the day of the trench accident, Marcos did not know if Juan had asked for Victoriano's help that day. Marcos confirmed Victoriano had been helping Juan with work at the Mackay property for approximately two weeks prior to the trench accident.

I asked Marcos if he knew how much Victoriano was paid for his work. Marcos said Victoriano had recently received a raise to either \$17 or \$18hr. Marcos said Victoriano worked approximately 9 hours a day and also weekends. Regarding work at the Fireside RV Resort, I asked Marcos if he knew whom Victoriano took direction from. Marcos replied Victoriano had no one over him, that Victoriano took assignments directly from Jamie Mackay. Marcos said further, if Mackay was not available, Victoriano would do his work as usual. I confirmed Victoriano had been paid in cash by the secretary for this work. Marcos told me Victoriano had, in prior years, been paid with a paycheck and had deductions from

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his pay. Marcos told me several years ago, Victoriano began receiving cash payments without deductions.

I asked Marcos if Victoriano had worked for others in the Jackson area. Marcos characterized any other work Victoriano performed as side jobs and not related to work for Jamie Mackay. I asked if Juan had his own business, or was working for Jamie Mackay. Marcos said as far as he knew, Juan worked for Jamie.

I provided Marcos Garcia my contact information and thanked Marcos for his help.

12/13/2018 phone contact with Marcos

On 12/13/2018 the auditors assigned to the Workers' Compensation accounts and Unemployment Insurance accounts for "Moose Wilson Road Campground, Inc." and "Teton Range Resort" requested confirmation if Victoriano had his own landscaping equipment to include a "weed whacker" and/or also a riding lawnmower that was kept onsite at the Fireside RV Resort, but owned by Victoriano. I arranged with Pamela Islas to translate another call with Marcos. At 1:30pm phone contact was made with Marcos to inquire about the equipment. Audit Supervisor Jessica Clark observed this phone interview, the call was recorded.

Ms. Islas introduced us to Marcos and the purpose of our call. I asked Marcos if Victoriano took equipment to work with him to specifically include a "weed whacker." Marcos told me no. I asked if Victoriano owned a "weed whacker." Marcos replied that Victoriano did not own any of his own equipment, that the equipment Victoriano used belonged to the company (Fireside RV Resort). I asked if Victoriano ever brought company equipment home, Marcos replied the equipment was always at work. I asked Marcos if Victoriano owned or had ever owned a riding lawnmower. Marcos replied no, never, that Victoriano never had to buy anything.

I asked if after the trench accident, did anyone from Victoriano's family receive or retrieve a lawnmower from the Fireside RV Resort. Marcos again said no. I asked Marcos if Victoriano

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ever performed work for others, away from Fireside RV Resort. Marcos replied Victoriano did work with a couple of friends before but Marcos did not know if the work was for a company or just helping friends. I asked about the frequency of the work, Marcos told me the extra work Victoriano performed was not regular, only if Victoriano had a day off and his friends needed help.

I asked if Victoriano ever had others help with Victoriano's work at the Fireside RV Resort. Marcos said Victoriano worked alone at Fireside RV Resort, always. Marcos confirmed that Mark Aronowitz is representing the interests of Victoriano's family. I thanked Marcos for answering our questions, the call was ended.

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DWS ACCOUNT – FIRESIDE RV RESORT:

The “Fireside RV Resort” was originally known as “The Moose-Wilson Road Campground, Inc.” Jamie Mackay filed for this business as “Fireside Resort Inc.” with the Wyoming Secretary of State, initial filing date of 5/17/2007. Jamie Mackay is the initial incorporator, registered agent for, and current president of Fireside Resort Inc. The principal address is 2780 N Moose Wilson Rd, Wilson WY. (See Exhibit 2d)

The Moose Wilson Road Campground Inc. had Wyoming Workers Comp account # [REDACTED] and UI account [REDACTED]. A letter received from Mr. Mackay on 07/20/2010, closed the accounts effective 11-20-09. A Joint Business Registration received 10/25/2010 from Jamie Mackay with the same Federal Employer Identification Number (FEIN) as “The Moose-Wilson Road Campground, Inc.” requests accounts for “The Campground Inc.” doing business as “Jackson Hole Campground” be opened. The business’ has the same physical address, 2780 Moose Wilson Road. A note on the registration indicates the accounts were “cancelled accidentally.” Jamie Mackay is listed as 100% owner. The Unemployment Insurance accounts and Workers’ compensation accounts were reopened. (See Exhibit 2e)

Note – The “Jackson Hole Campground” and “Fireside Resort” share the 2780 N. Moose Wilson Rd. location. These are two facets of the same business. See <https://www.firesidejacksonhole.com> <http://jacksonholecampground.com>

A search of past wage reports for “Campground Inc.” find that “Victoriano Perez” with a reported SSN of [REDACTED] was reported as an employee on the Workers’ Compensation account of “Moose Wilson RD Campground.” Victoriano was reported for the account Q3/09, Q4/09, Q3/10, Q4/10, Q1/11, Q2/11, Q3/11, Q4/11, Q1/12, Q2/12, Q3/12. “Campground Inc.” and “Moose Wilson RD Campground” are the same account. (See Exhibit 2f)

Note – The employer wage reports are due at the end of each three month quarter. Unemployment and Workers’ Compensation taxes are calculated from these wage reports. The social security number (SSN) [REDACTED] is not consistent for Victoriano

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State of Wyoming Department of Workforce Services

Special Investigations Unit
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John Cox
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Jason Wolfe
Interim Deputy Director

Perez. The SSN is consistent for [REDACTED], DOB [REDACTED] of Minneapolis Minnesota.

The SSN also had wages reported with "RUI Inc." Q1/12, "Stans Trees" Q4/12 & Q1/13, and "135 E. Broadway, LLC" Q1/13 & Q2/13.

Other Wyoming Secretary of State business filings involving Jamie Mackay and Fireside RV Resort include:

- 5/17/2007 – Fireside Resort, Inc.
- 8/2/2011 – Fireside Resort Group
- 11/30/2012 – Fireside Glamping, LLC
- 7/31/2015 – FS Jackson Hole Campground Owners Association

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SERENITY DEVELOPMENT MANAGEMENT INC. / JEREMIE MOORE:

Jeremie Moore
[REDACTED]
[REDACTED]

On 12/03/2018 I contacted “Serenity Development & Management Inc.” at phone number [REDACTED]. Jeremie Moore is the president of the company, filed with the Wyoming Secretary of State on 12/15/2005. The company website indicates the company is a “General Contracting Company” with operations in both Jackson Wyoming and Park City Utah. The principal address is [REDACTED], Jackson Wy. <https://serenityinc.com> I left a message for Mr. Moore to contact me.

“Serenity, Inc., a General Contracting Company, is focused on Commercial Construction, Residential Building, and Land Development. Serenity, Inc. is a Design/Build firm overseeing projects small and large from conception to completion. Efficient, committed, and experienced Serenity, Inc. has spearheaded projects locally and across the country covering a variety of project types.”

At approximately 9:20hrs on 12-3-2018, Jeremie Moore returned my call. I introduced myself and advised Mr. Moore my call was in regards to the excavator Serenity Development Management Inc. had rented, which had been in use at the Jamie Mackay property (120 Indian Springs) on September 28, 2018. Mr. Moore was aware of the trench collapse and subsequent fatalities, Moore agreed to talk with me. This call was recorded.

Mr. Moore confirmed he (Serenity Development & Management Inc.) had rented the excavator from Black Mountain Rental. The rental agreement was dated 9/14/2018, I asked Mr. Moore how the excavator had come to be at the property of Jamie Mackay. Mr. Moore replied “Jamie had asked, for when, in working with Jamie on his house, he had a smaller machine there and had said that he was in need of a bigger machine and I had that machine sitting just about a mile away at another job site waiting for a foundation to be poured.” Mr. Moore continued “I said that I would get it up there, and, you know, charge him (Mackay) for

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use of the machine for a couple of days.” Mr. Moore told me he has billed Jamie Mackay for the use of the machine but has not yet been paid, “but he will.” (See Exhibit 3a)

I asked Mr. Moore about the possibility Juan (Baez-Sanchez) had requested the machine. Mr. Moore said “well, I mean, so exactly what happened was, so I actually had hired, I hired Juan as well about three days before..” Mr. Moore said of his employment of Juan “he on Monday, he dug a foundation for me. So I hired Juan to dig a foundation for me with that machine, and Juan had been like, oh this machine would be, you know great for the work I’m gonna do for Jamie.” Mr. Moore continued “Jamie knew I had the machine and so, it’s like we.. That’s the hard thing for me is with this whole situation is.. it’s just a reminder of, you know dotting i’s crossing t’s, cuz everything was kinda informal as far as, you know, how we were doing it.” Mr. Moore said “I knew Juan was doing the work, but it was Jamie’s house.”

Mr. Moore characterized the excavator arrangement as “I don’t want to say, it wasn’t like Jamie picked up the phone and said hey, you know we all kinda had that discussion as far as, I’ve got the machine, Juan’s got something to do, Juan said this machine would be great for what I got to do for Jamie, I talked to Jamie and said sure you guys can use it for a couple of days, and anyway, and then I got it delivered up there.” Mr. Moore arranged with Black Mountain Rental to transport the excavator to Jamie Mackay’s property (120 Indian Springs). As of 12-3-2018 Mr. Moore retained the rental equipment and continued to operate the equipment.

I asked Mr. Moore how he or Jamie Mackay had treated Juan, as an employee or “cash.” Mr. Moore said “I don’t know between him and Jamie, I don’t know how Juan was paid.” Mr. Moore has reached out to Juan’s brother to pay for the work Juan had done for Serenity Development & Management. Regarding Juan’s work for Jamie Mackay, Moore said “my assumption, I never asked, my assumption was Juan was working as a sub-contractor only because he had worked for Mountain X. And when I first went up to the property at Jamie’s, he (Juan) was putting in a irrigation line of some kind or something. And he (Juan) was there for quite a while.” Mr. Moore was not sure if Juan was working for Jamie Mackay at the time or Mountain X but said “he (Juan) was there during the week days.” Moore closed saying, “I’m not sure.”

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Mr. Moore told me of the work Juan performed for Serenity, "I met Juan and I said here's what I need done, and Juan knew what he was doing, and he, anyways, he does foundations, great job." Mr. Moore continued on the morning Juan started the work for Serenity, Moore said to Juan, "obviously this is my machine, so this is not the traditional way of doing this, but you let me know how you want to do this, he (Juan) said O.K." Mr. Moore said Jamie Mackay was not involved with the work Juan was doing for Mr. Moore and Serenity Development & Management. Mr. Moore said he would have worked out with Juan, if Juan was to be considered an employee or sub-contractor, Mr. Moore confided he and Juan had "not got to that point."

Mr. Moore said he is working with Juan's brother (see also Isabella Baez) to pay for the work Juan completed for Serenity Development & Management. Moore stated "his brother claims he (Juan) was working for Jamie direct." Mr. Moore told me he does not pay cash but would have paid Juan with a check. Mr. Moore said if Juan had his own insurance, Moore would have paid Juan as a "10-99 sub-contractor." If Juan did not have his own insurance, Moore would have reported Juan on payroll. Mr. Moore assumed Juan would have asked between \$50 - \$55/hr "like a normal operator around here." Mr. Moore estimated Juan had performed approximately 20hrs of work over two and one half days, Moore estimated he owed Juan approximately \$1,000.

Note – Serenity Development & Management, Inc. has Wyoming Workers' Compensation account # [REDACTED]. For Q3/18 the company reported 27 employees, Juan Baez-Sanchez was not reported. (See Exhibit 3b)

In regards to Juan working for Jamie Mackay, Mr. Moore said "I assumed he (Juan) was out on his own like a lot of people have done here as of late." I asked Mr. Moore if his company, Serenity Development & Management, Inc. had been employed by Mr. Mackay to be the General Contractor for the Mackay home construction (120 Indian Springs). Mr. Moore replied no, stating "he (Mackay) hired me to do his, I firmed up his floor inside, and then installed his fascia." Mr. Moore described Jamie Mackay as the owner/builder for Indian Springs home project. I asked if Mackay was acting as his own General Contractor, Mr. Moore said "yeah, I mean I know he is, because again I, still we're doing soffit for him and maybe

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some rock.” Mr. Moore told me Mackay also has “his own electrician and own heating guy, both independent.”

Note - The soffit board is tucked away under the fascia board. It is usually the board that you see most of from street level. The soffit can be ventilated to allow the flow of air into the roof area.

I asked about the home being built by Mackay, Mr. Moore told me the project was “actually just a small guest house.” Moore continued “Jamie’s kinda of a land developer at heart, and so he, I think he bought this lot years ago and just with the intent to, he’s putting something on it to try and sell it.” Mr. Moore said the project has “been under construction for a while.”

I asked Mr. Moore if he knew Victoriano Garcia-Perez, Mr. Moore said he had never met Victor. In regards to the trench work Juan had been performing at 120 S. Indian Springs, I asked Mr. Moore if Juan knew how that trench should have been dug. Mr. Moore said “I was at that site maybe four times prior to doing any work there. Just meeting, I met Jamie a couple times. I went up to take some measurements, different things and Juan was there working. Doing those, he may have been putting water line in and stuff.” Mr. Moore provided a critique of Juan’s “dirt, trench work, how Juan laid the pipe, cleaned up and graded the job.” Mr. Moore said of Juan’s work, “I saw a guy that looked like a very experienced guy.”

Mr. Moore told me in the month prior to the trench collapse, “Juan had dug a foundation, like pop-out on this guest house. Jamie was going to do some kind of walk-out. He (Juan) had dug that previous to any of this happening, probably almost a month previous to any of this happening. And he (Juan) had kept that straight, and he had done it with a mini where he stair-stepped and back-filled it.” Mr. Moore told me the foundation work Juan had dug remained stable for that time and said Juan possibly believed the soil was stable. Mr. Moore said after the 120 S. Indian Springs accident scene was cleared by the authorities, he spoke to Mackay about getting the rented excavator back. Moore states he was the one who backfilled and cleaned up the site after the accident.

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Note – Stair-step is a method of protecting employees from cave-ins by excavating the sides of an excavation to form one or a series of horizontal levels or steps, usually with vertical or near-vertical surfaces between levels.

Mr. Moore said of the trench Juan had been digging, “I was just surprised that someone who seemingly knew quite a bit had, he put spoil piles right up to the edge of that trench.” Mr. Moore described the trench as 12’ to 15’ deep and the width of the bucket.” Of the prior work Juan had performed for Mr. Moore, Moore said “I was surprised. He (Juan) dug that little foundation for me, it was just an addition but still, it was super clean, it was cut.” Moore continued, “I didn’t have to give him any instruction other than here’s the footprint straight out.”

Note – “Spoil piles” are the soil and materials removed during excavation.

In closing Mr. Moore confirmed Serenity Development & Management Inc. billed Jamie Mackay directly “for the rental of the equipment, for those few days he had it.” Mr. Moore confirmed the billing was to Jamie Mackay.

My last question was about availability of a “trench box.” Mr. Moore told me most guys “step it” (benching) the trench which doesn’t require a trench box.

Note - Trench shields (also called Trench Boxes or Trench Sheets) are steel or aluminum structures used for protecting utility workers while performing their duties within a trench and avoid cave-ins. OSHA requires trenches 5 feet deep or greater require a protective system unless the excavation is made entirely in stable rock.

Workers’ rights include a working conditions that do not pose a risk of serious harm. Receive information and training (in a language and vocabulary the worker understands) about workplace hazards, methods to prevent them, and the OSHA standards that apply to their workplace. (See Exhibit 3c)

Jeremie Moore said of the accident site, “just walking up to that trench, when I went up to get the machine, I was just like holy shit.” He continued “I don’t know how anyone would even.. I’m claustrophobic by nature so I, you know..” Mr. Moore described the trench as “crazy” and

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“the trench had been cut with a 30” – 32” bucket” and that “that hole, that damn thing was cut with precision with that bucket.” Mr. Moore closed by saying “it was pretty crazy not to even have the tops peeled back.” He characterized the trench collapse as “unfortunate.”

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INTERVIEW OF CALLIE JORDAN-LORENZ:

Callie Jordan-Lorenz
[REDACTED]

On 12-4-2018 I made phone contact with Callie Jordan at phone number [REDACTED]. Ms. Jordan's Facebook profile includes "Front Desk Associate at Fireside Resort." I identified myself and the purpose of my call to inquire about Victoriano Perez and his work at the Fireside Resort. Ms. Jordan agreed to talk with me. This call was recorded.

Note – Callie Jordan-Lorenz is reported on Q2/18 wage report for this business.

Ms. Jordan was aware of that Victoriano had died in a trench collapse. Jordan told me she had left employment at the Fireside Resort prior to the accident, she worked at the business for approximately one month. Ms. Jordan confirmed she previously had been employed as a front desk clerk at the business. Ms. Jordan said "I worked at both Firesides, so the one in Moran and the one down at Wilson." Ms. Jordan told me Victoriano worked at the Fireside RV Resort in Wilson. She did not know Victoriano well, citing she had not worked at Fireside long. Ms. Jordan told me her sister works at the Fireside location in Moran.

I asked Ms. Jordan what work Victoriano had done at Fireside RV Resort, she told me Victoriano "worked maintenance." Ms. Jordan told me she received her pay for work performed by automatic deposit. She told me "Brandy" handled payroll. I confirmed Brandy Larson as the manager.

Ms. Jordan had read the "Buckrail" news story regarding the trench fatality. I asked who was in charge at the Fireside location, Ms. Jordan responded "Jamie Mackay." Ms. Jordan told me she did not see Mr. Mackay at the Fireside RV Resort "much," Ms. Jordan said she mostly "worked for Brandy."

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INTERVIEW OF NICOLE HARTLEY:

Nicole Hartley
[REDACTED]
[REDACTED]

On 12/4/2018 I left a message for Nicole Hartley at phone number [REDACTED]. On 12/5/2018 Nicole returned my call, I introduced myself and the purpose of my call regarding “Victor” Garcia-Perez and the Fireside RV Resort. Note - Nicole Hartley was reported on 2017 and Q1/18 wage listings for the Fireside RV Resort. Mrs. Hartley agreed to talk with me, this call was recorded.

Mrs. Hartley was aware of the trench fatality involving Victoriano. She told me she and her husband, Cory Hartley, had worked at the Fireside RV Resort for approximately 1 ½ years, leaving employment at the Fireside RV Resort in March of 2018. Mrs. Hartley told me she “worked the front desk.” She confirmed Brady Larson handled payroll.

I asked Nicole how she knew Victor, Nicole replied “he was one of the maintenance guys, he worked with my Husband.” I asked Nicole about Victor’s employment, she told me “he (Victoriano) showed up, Monday thru Friday, sometimes Saturday and Sunday. He worked 40 plus hours a week, he was always there.” Nicole continued, “Victor was one of those guys, he didn’t care what he do. He’d rake leaves all day, he’d cut grass, he’d shovel snow, he did, he did everything.”

Nicole told me Brandy is the General Manager for the Fireside RV Resort and Victor worked under a Maintenance Manager. Nicole told me “while we were there, there were three different ones.” Nicole identified the maintenance managers as “Dave” and two different “Jims.” I confirmed Jim Geiger was “the first Jim.” (See also interview of James Leas)

I next asked about the owner of Fireside RV Resort. Nicole told me “the owner is Jamie. But you never saw Jamie, he didn’t have anything, a part of it, at all.” I asked Nicole how Victor arrived to work, she replied “he took the bus, and he took the bus home. And every once in

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a while he'd work too late and somebody'd have to give him a ride. But that didn't happen very often." Nicole estimated the Fireside RV Resort is five miles outside of Jackson.

I asked about the trench work being done at the home of Jamie Mackay and how Victoriano may have been at the Mackay property (120 S. Indian Springs). Nicole disclosed "we'll he (Mackay) was building a new house when we were there. And my husband went and helped dug a trench, once or twice before the snow hit the last winter we were there. And then, so that would have been like way before this accident happened." Nicole also said "every once in a while they'd go over and shovel snow. Other than that, the guys didn't really go over there." Nicole offered to have her husband, Cory Hartley call. Nicole confirmed Fireside RV Resort employees would do work at the 120 S. Indian Springs property owned by Jamie Mackay "not very often, but.."

I thanked Mrs. Hartley for talking with me and advised I would like to talk with Mr. Hartley, I provided my phone number.

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INTERVIEW OF CORY HARTLEY:

Cory Hartley
[REDACTED]
[REDACTED]

On 12/7/2018 I made phone contact with Cory Hartley, phone number [REDACTED]. I advised Cory the purpose of my call to inquire about his employment while working at the Fireside RV Resort and also any work Cory may have done with Victoriano Garcia-Perez. Note - Cory Hartley was reported on the 2017 and Q1/18 employee wage listings for the Fireside RV Resort. Cory agreed to talk with me, this call was recorded.

Cory was aware of the fatal trench accident involving Victoriano. Cory began by describing Victoriano’s work ethic, Cory told me he “never had a problem working with him. He was always there when he needed to be there. Monday thru Friday and then sometimes he’d come in on the weekends as well.” Cory described Victoriano’s work as “regular maintenance stuff. He would take care of the lawn or, you know, grass, snow, picking up leaves or sticks. And every now and again if we had like a, something happen, he’d help out with an extra hand. You know as far as digging holes or moving stuff, things like that.” Cory described Victoriano’s work as primarily grounds keeping. Cory told me Victoriano “very rarely had him (Victoriano) do any work inside the cabins or what not.” Cory said if Victoriano was inside, it was only to provide “an extra hand” to whomever was doing that work. Cory told me Victoriano did not speak good English, but enough to get the job done.

Cory said he and Nicole had worked at the Fireside RV Resort for “two winters and one summer” (approximately 1 ½ years). Cory said Victoriano also worked at the Fireside RV Resort during this time. I asked if Cory had performed any work for Jamie Mackay at Mackay’s property (120 S. Indian Springs). Cory said “yeah he (Mackay) would basically, you know anytime he needed something whether it be at his house or a buddies house of his. Or, you know, it didn’t really matter. He just would call us and say, hey, I need you to come over here or over there and do this..” Cory said he had been called over to perform work at Mackay’s property while a home was being built in “Indian Springs I believe.” Cory described

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the work he performed as, “was just digging around the foundation and helping, you know, with some of that labor.” Cory did not perform any actual construction on the home. Cory said “Tyler” was providing most of the construction labor.

I asked Cory while he was working for Fireside RV Resort, how Cory was paid for the work he performed at the Mackay property (120 S. Indian Springs). Cory said “the few times I did go over there, I was still on the clock for Fireside.” I asked if Victoriano had also performed any work at 120 S. Indian Springs. Cory replied “the times that I went, it was usually me and Victor that went. And we just drove the, for lack of a better word, the company truck for Fireside.” Cory continued “so we would just drive over there together. The times that we, that I was not over there and I knew he (Victoriano) was over there, either Tyler took him over or they just somehow picked him (Victoriano) up.” Cory told me Victoriano lived in town “and generally rode the bus to work.” Cory told me Victoriano did not drive the Fireside RV Resort truck, but Victoriano did operate a small golf cart on the Fireside RV Resort property.

I asked Cory who provided the instructions or orders for daily work to be performed at Fireside RV Resort. Cory said “so, I guess in a hierarchy type deal, you had Jamie as the owner. And then you had Brandy Larson, I believe her last name was, that was like the General Manager, I would call her, of the facility there, the Fireside.” Cory told me “Kate” was the office manager and while Cory worked at Fireside RV Resort there had been three different maintenance supervisors. Cory had also been assigned to act as the maintenance supervisor while employed with the Fireside RV Resort. Cory continued “most everything was probably handed down from Kate, but you know, we got a lot of instruction from Brandy. And then there were days that Jamie would just show up and be like, this is what we’re doing today.”

I asked how Fireside employees were paid. Cory replied “paychecks were every two weeks.” Cory said initially when he hired the company issued checks, but the wage payment method later switched to direct deposit. I asked if he knew how Victoriano received his pay? Cory replied “most everybody, let’s just say from Victor’s area of the world, was paid either directly or, you know with just regular checks. I don’t think any of them had direct deposit.”

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I asked how many others, similar to “Victors situation” had worked at Fireside RV Resort. Cory estimated “as far as the housekeeping crew went, there was probably three to five girls,” he said the number fluctuated based on work load. Cory told me he did not get to know the housekeeping crew due to the “language barrier.” Cory was uncertain as to any immigration status of the housekeeping crew but suspected some may have been undocumented.

Cory said he began work for Fireside RV Resort in “mid-October of ‘16, and stayed till mid-March of ‘18.” In regards to the Mackay property (120 S. Indian Springs) while Cory was employed with Fireside RV Resort, Cory said “the house had been built. The foundation, and let’s say the exterior walls and interior framing was up. Windows were put in.” Cory said when he left in March of 2018, the home was unfinished and not yet livable, “but close.” Cory said of the home construction project, “changes were always being made.” Cory expanded saying, “something would happen and then Jamie would say well I want this done. So they’d tear that down and re-do it.”

I asked if there had been a General Contractor or foreman for the construction project (120 S. Indian Springs). Cory replied “if I had to say it, I would say Jamie was giving all the direction cuz Tyler was kind of a friend of Jamie’s that he had, came in from California or somewhere. And I wouldn’t say Tyler was, like a, actual contractor but he did do contracting work. So I wouldn’t say that there was a foreman unless you’re just saying, you know, the person giving the orders was the foreman. And then sometimes, most of the times when we went over there that would have been Tyler but, you know, the few times I was over there it was Jamie had made his voice heard and Tyler was just the one making sure we all followed through.”

Note – “Tyler” is likely Tyler Rowe. See also Interview of Marianne and James Leas.

I asked Cory if Mackay got involved with the work or gave direction. Cory replied “during my time there I would say he was more of a, not hands-on kind of guy. I know in my first year, time frame, I probably met him (Mackay) three times. And then towards the end he became, he was around more often but not in a capacity of doing the work. But more so to, kinda give direction and then he would leave.”

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In closing Cory said of the trench accident, “we weren’t surprised. Other than the fact that a person had passed. So it was a, you know, given our time there it was not surprising that something like that would have happened.” I asked Cory to describe the work he had performed with Victoriano at 120 S. Indian Springs. Cory described it as “more of a ditch” next to the foundation wall. Cory told me it was shovel work approximately 1’ to 3’ deep. Cory told me Fireside RV Resort does have a machine which was used for some excavation work at various properties. Cory said the machine had been used at the different campgrounds Mackay owns and also had been used at the Indian Springs property.

I asked about any training Cory received while employed with Fireside RV Resort. Cory replied “I would say it was just get it done. Because there was no training.” Cory continued “with the whole company in general, if you knew how to use a machine they kinda let you just go at it, until they thought otherwise. But, you know even if it was a simple job or a complicated job, it was just get the job done. It wasn’t, you know, we, there was never really a hey, let’s be safe and take proper precautions. It was just let’s get it done.”

Cory did not know Juan Baez-Sanchez, Cory said he may have met Juan once, but was not certain. I thanked Cory for answering my questions, he replied “no worries, and if you have any other questions pop-up feel free to give me a call. I’m happy to help as much as I can.” Cory provided a call back number of [REDACTED] and a physical address of [REDACTED], Livingston Texas.

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TETON GRADING AND EROSION CONTROL PERMIT:

Ted Van Holland
200 S. Willow St. Jackson WY
Office 307-733-7030

On 06/16/2017 an application for Grading & Erosion Control was received by the Teton County Planning Office. The application was signed by Jamie Mackay, dated 6/16/2017 as “owner.” The permit was for the property at 120 S. Indian Springs Drive, Lot 33, Indian Springs Ranch. A warranty deed was provided which indicated the property transferred on 3/16/2017 to Jamie Mackay from “Indian Springs Investments, LLC.”

Note - Indian Springs Investments, LLC was organized by Jamie Mackay and filed with the Wyoming Secretary of State on 7/23/2014. Mackay is the registered agent and also listed as “President” on the initial filing. The principal address for Indian Springs Investments, LLC is 2780 N. Moose Wilson Road. This is also the physical address of the Fireside RV Resort. (See Exhibit 4b)

On 7/20/2017 Teton County Engineering issued to permittee “Mackay, Jamie” a grading and erosion control permit #GEC 2017-0068. The permit was closed with a “Final Inspection” dated 9/19/2018. (See Exhibit 4a)

Note - The final inspection occurred before the fatal trench accident on 9/28/2018.

On 12/10/2018 I spoke with Ted Van Holland of the Teton County Engineering Department. Mr. Van Holland confirmed that Jamie Mackay had applied for the grading and erosion control permit (Exhibit 4a), Mr. Van Holland “signed off” that the permitted work was completed on 9/19/2018. I asked if the excavation work being performed after the sign off (9/28/2018) required a permit, Van Holland told me “yes” and confirmed no additional grading and erosion control permits had been applied for to accommodate the additional trench work. Van Holland characterized the excavation work being performed at 120 S. Indian Springs on 9/28/2018 as unpermitted excavation work and “not in compliance.” Mr. Van Holland provided the Teton County Sheriff’s office the approvals, applications, finalized

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permit, and photos of the permitted trench work. Mr. Van Holland said the additional drain being installed at 120 S. Indian Springs on 9/28/2018 was not necessary, nor was it included on the site plans.

Note - The provided Teton County Engineering Dept. photos are likely of work being performed in 2017 by Mountain X, LLC. (See Exhibit 4a, 4b, 4c).

Detective Hodges of the Teton County Sheriff's Department shared the following email from Ted Van Holland with me. (See Exhibit 4c)

Dave,

The more we can share information and learn what happened and how to avoid it recurring, the better we will be doing our jobs. I have attached the grading and erosion control permit (GEC2017-0068) for your reference. To recap my experiences with this permit that seem worth mention:

- During my review of this permit application, I spoke with Jamie Mackay, and informed him that trenching in a new waterline from his well would not be allowed because he is required to connect to the HOA's community water system. He told me he understood. I marked all the official sets of the drawings with red pen deleting the well water line, and issued the permit the condition (#6) emphasizing this status.*
- During a subsequent site visit I found that the well water line had been installed, contrary to my explicit conditions of approval. I followed up with Jamie Mackay, and instructed him that revegetation and erosion controls were required ASAP. He did that, and it actually recovered fairly well. He never really offered a defense of why he specifically violated the permit.*
- I made several trips to inspect phases of installation of the wastewater lift station and pressure piping, which connects to a community sewer system in the road. I have attached some relevant photos taken during my visits.*

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•*Some of the work was done in the Fall of 2017, and was headed by Jason of Mountain Excavation (I think, company name may not be right). I know Jason from a much larger job that Jamie Mackay is involved with, called Vogel Hill.*

•*The pressure sewer line was installed this summer, I believe by Juan and an assistant. There were no others performing excavation work during my summer visits. The trench for this line was only about 12" wide, and 6 to 10 feet deep. As far as I know, nobody was entering that trench. They did need to make a butt-fusion connection on the pipe, and opened up a much larger spot to get the fusion machine down in the hole. I believe they borrowed the machine from Casey Seaton, of Seaton Earthmovers. Casey may have his own observations to share.*

•*There were actually some technical issues with the sewer line installation that required making some cuts in the trench even deeper. I was ultimately satisfied with the work per the approved plans (prepared by David Dufault, PE, of Nelson Engineering), and closed their SWF permit as completed.*

•*Jamie Mackay then requested that I conduct my final inspection for the GEC permit, hoping it could be closed. At that point, he said that some potable water line was still to be installed from the road back to the house. I told him that I would wait until that was done, and then do the inspection, as I wanted all the dirt work finished.*

•*He emailed me later to tell me that was done, and on 9/19/18, I met with Jamie on site. I believe Juan and assistant were also there, but I am not certain. Jamie portrayed the outside work as being all complete, and revegetation efforts underway. I approved the closure of the GEC permit.*

The next thing I know about this project was that two men died in a cave in.

I would like to make a site visit to see things myself. The permit regulations allow me to do this, but I have been holding off until I receive confirmation that it won't affect any ongoing agency investigations.

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Everything I have in connection to this project is a public record, so if you would like to see any emails, other photos (including full resolution with meta-data, which I could provide on a CD, as it will be around 100MB) or ask me any questions, I'm glad to help.

Sincerely,

*Ted Van Holland, P.E.
Teton County Engineering Department*

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TETON COUNTY PLANNING & DEVELOPMENT DEPARTMENT:

The Teton County Planning & Development Department website provided application documents for the residential building at 120 W. Indian Springs, Application Number BDR2017-0105. Documents include a 7/7/2017 Small Wastewater Facility Permit application, from applicant/owner Jamie Mackay. A permit application status indicates the permit is valid until 3/18/2019. I note from the summary of this on-line document: (See Exhibit 4a)

Application Number: BDR2017-0105

Application Type: Building Residential

Application Status: Issued

Category of Work: New

Occupancy Code: Single Family Dwelling

Description of Work: SFD 1 bedroom, 1 bathroom 6-28-17 revision of 992sqft non-habitable

Revisions submitted for review 8/01/2018 M.R.

Permit on hold until a licensed contractor is listed. New West was notified by Jamie Mackay on September 5, 2018 that they would no longer be the contractor on this job. New West notified our department of that fact on October 2, 2018 in writing and in person. M.R.

Jamie requested that the contractor be listed as Owner/Builder. 10/3/2018 M.R.

Application Date: 06/16/2017

Expiration Date: 03/18/2019

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SEATON EARTHMOVER INC:

Casey Seaton
Seaton Earthmover Inc.
P.O. Box 1749
Wilson, Wyoming
Office 307-733-3400
[REDACTED]

On 12/14/2018 I contacted Seaton Earthmover Inc. at phone number 307-733-3400. Seaton Earthmover confirmed an invoice to Jamie Mackay on 9/7/2018 for the fusion machine noted in the above email of Ted Van Holland, Teton County Engineer. Seaton Earthmover provided a copy of their invoice to “Mackay, Jamie” [REDACTED] Wilson Wy. The invoice includes 4 hours of labor and 1 hour for “fusion machine.” The description for the work includes “INDIAN SPRINGS FUSE 2” H.D.P.E. PIPE.” (See Exhibit 5a)

At approximately 11:00am, I called Seaton Earthmover owner, Casey Seaton [REDACTED]. I advised Mr. Seaton I was calling reference the Teton County Engineer report of Seaton Earthmover equipment at the property where the September trench fatalities had occurred, 120 S. Indian Springs. Mr. Seaton agreed to talk with me, this call was recorded.

Regarding the invoice, Mr. Seaton told me “the owner, Jamie Mackay had called and he told me that he had, I think it was some 2 inch, a long 2 inch poly line that he needed fused together.” Mr. Seaton’s company owns fusion equipment and also performs trenching and water line work. Mr. Seaton continued “he (Mackay) had called and made arrangements. I agreed to send a crew up to fuse pipe together for him.” Mr. Seaton assigned his foreman and a laborer to perform the requested work from Mackay. Mr. Seaton confirmed Seaton Earthmover Inc. employees were responsible for performing the fusion work. Mr. Seaton identified the employees as Justin Peterson and Fernando Aguilar.

Note – “Butt fusion is a thermofusion process which involves the simultaneous heating of the ends of two pipe/fitting components which are to be joined, until a molten state

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is attained on each contact surface. The two surfaces are then brought together under controlled pressure for a specific cooling time and a homogeneous fusion joint is formed. The resultant joint is fully resistant to end loads and has comparable performance under pressure to the pipe itself."

Note – Seaton Earthmover Inc. has Wyoming Workers Compensation account # [REDACTED] in good standing. The company reported 8 employees for Q3/18 to include Justin Peterson and Fernando Aguilar.

Mr. Seaton told me Justin Peterson had called him (Casey Seaton) for instruction about the work request from Jamie Mackay. Mr. Seaton said "when my guys got up there they called me and asked me this, did you plan on us doing this in the trench or out of the trench. And I told them, I says well, what are the conditions? And Justin said, well we're not doing it in the trench. I said fine. The plan was to do it up on the bank and then pull it off, in, so nobody's got to be in, got to get in anyway. So that's what they did is they just got the, fished the pipe up out of the trench. Got it up on top, fused it, put it in, and then my guys left and that was the last trip we made up there."

Note – This was prior trench work at 120 S. Indian Springs.

Mr. Seaton confirmed his equipment was not rented out, that the fusion work was performed by Seaton Earthmover Inc. employees. In closing Mr. Seaton thanked me and stated "thats a tragedy that should never have taken place."

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CELL PHONE EVIDENCE:

On 01/03/2019, Patrick Crank contacted me regarding the cell phone information recovered from the phones of Juan Baez-Sanchez and Victoriano Garcia-Perez. Mr. Crank's law firm, Crank Legal Group, P.C. is representing the families of the decedents and has agreed to be the point of contact between Wyoming Workforce Services and the families for both Juan and Victoriano. Mr. Crank requested digital forensics on the mobile devices of Juan and Victoriano with "4Discovery, LLC." On 1/3/2019 the information recovered was shared with me by Crank Legal Group, P.C. in a digital format.

4Discovery, LLC
215 North Green Street
Chicago, IL 60607
www.4discovery.com

*Note - **SMS** stands for Short Message Service and is also commonly referred to as a "text message". With a SMS, you can send a message of up to 160 characters to another device. Longer messages will automatically be split up into several parts. Most cell phones support this type of text messaging.*

*Note - **MMS** stands for Multimedia Messaging Service and this type of text messaging is an evolution of the SMS. With a MMS, you can send a message including pictures, video, or audio content to another device. It is most commonly used to send a photo taken with a camera phone to another phone.*

JUAN BAEZ-SANCHEZ CELL PHONE:

Using the reader provided with the digital files "Cellebrite" I was able to review the SMS and MMS messages from the phone of Juan Baez-Sanchez, phone number [REDACTED]. (See Exhibits 6a - call log, 6b - SMS, 6c - MMS).

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Note - the MMS report in exhibit 6c does not contain a list of attachments to accommodate printing. The device's time zone was detected as UTC-07:00 Denver. The printout included a timestamp adjustment for the device time zone. The Samsung phone utilized an "Android" file system, Android ID# 382ee2169d52e040. The extraction summary indicates an extraction date of 12/11/2018.

The data extraction includes 146 SMS messages to/from a known phone number for Jamie Mackay, [REDACTED]. The messages were sent/received between the dates of 8/3/2018 and 9/29/2018. (See Exhibit 6c)

Note - included is a SMS message sent 9/29/2018 after the trench accident. This message is consistent with statements from Isabel Baez, the message reads:

"This is Juans family member please contact me on this cell phone we have questions"

Of interest to this investigation, I note the following SMS / MMS exchanges between the phones of Juan and Jamie Mackay:

From: + [REDACTED] Macay	8/6/2018 9:04:09 AM(UTC-6)	Know any construction guys?
From: + [REDACTED] Macay	8/6/2018 9:16:47 AM(UTC-6)	I need Like 4 good construction [REDACTED] Guys.
To: +1 [REDACTED] Macay	8/6/2018 9:17:48 AM(UTC-6)	Ok and call guys
From: + [REDACTED] Macay	8/6/2018 9:21:08 AM(UTC-6)	Would love good quality guys ASAP to build my house and a garage.
From: + [REDACTED] Macay	8/6/2018 9:21:18 AM(UTC-6)	I have lots of work for them
To: + [REDACTED] Macay	8/6/2018 9:23:15 AM(UTC-6)	Ok

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To: + [REDACTED] Macay	8/7/2018 7:45:08 PM(UTC-6)	Only 12 Rocks today
From: + [REDACTED] Macay	8/7/2018 7:55:19 PM(UTC-6)	Keep watching. Ha. Tell Malacio to call me

From: + [REDACTED] Macay	8/8/2018 9:27:07 AM(UTC-6)	What's your bet 14 Rocks today? ????
From: + [REDACTED] Macay	8/8/2018 9:27:25 AM(UTC-6)	Should be like 20 per day.

From: + [REDACTED] Macay	8/9/2018 6:39:23 AM(UTC-6)	I need really need to meet Malacio today for 30 min.
From: + [REDACTED] Macay	8/9/2018 10:22:56 AM(UTC-6)	What's the word from Malacio
To: + [REDACTED] Macay	8/9/2018 11:37:10 AM(UTC-6)	Hi call yuo
From: + [REDACTED] Macay	8/9/2018 12:12:42 PM(UTC-6)	Not yet.
From: + [REDACTED] Macay	8/9/2018 3:22:14 PM(UTC-6)	You got sprinklers tonight?
From: + [REDACTED] Macay	8/9/2018 3:22:34 PM(UTC-6)	Thanks man keep track of time and I will pay you cash.

*Note – On 8/9/2018 6:23 PM IMG_0961 is received from Mackay MMS
8/9/2018 4:00 PM Juan calls 307-733-2716 Aspen Automotive and Industrial Supply in Jackson*

From: + [REDACTED] Macay	8/10/2018 5:16:43 PM(UTC-6)	Sprinklers Monday
To: + [REDACTED] Macay	8/10/2018 5:18:08 PM(UTC-6)	Ok and not workin tomorrow
From: + [REDACTED] Macay	8/10/2018 5:18:13 PM(UTC-6)	????

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From: + [REDACTED] Macay	8/13/2018 9:12:41 AM(UTC-6)	What's up with Malacio?
From: + [REDACTED] Macay	8/13/2018 9:13:16 AM(UTC-6)	Can I call you later?
To: + [REDACTED] Macay	8/13/2018 9:13:27 AM(UTC-6)	Ok
To: + [REDACTED] Macay	8/13/2018 3:17:00 PM(UTC-6)	No Melecio
From: + [REDACTED] Macay	8/13/2018 3:17:18 PM(UTC-6)	What's up? He's not answering
To: + [REDACTED] Macay	8/13/2018 3:18:13 PM(UTC-6)	No

From: + [REDACTED] Macay	8/14/2018 8:51:56 AM(UTC-6)	Need to tie sprinklers to the end of that valve where the ball valve is can we do that after work today?
From: + [REDACTED] Macay	8/14/2018 8:52:18 AM(UTC-6)	Malacio is gone?
From: + [REDACTED] Macay	8/14/2018 3:03:54 PM(UTC-6)	Can I call you later?
From: + [REDACTED] Macay	8/14/2018 7:04:44 PM(UTC-6)	All good?

From: + [REDACTED] Macay	8/21/2018 4:43:08 PM(UTC-6)	On for Friday 305 all they have. Will be good for the trench.
From: + [REDACTED] Macay	8/21/2018 4:43:52 PM(UTC-6)	It will be good have 2 more guys.
To: + [REDACTED] Macay	8/21/2018 4:46:45 PM(UTC-6)	Ok
From: + [REDACTED] Macay	8/21/2018 4:52:15 PM(UTC-6)	Cool!

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From: + [REDACTED] Macay	8/21/2018 4:52:38 PM(UTC-6)	They are dropping it off Friday.
From: + [REDACTED] Macay	8/22/2018 1:00:33 PM(UTC-6)	Let's plan on you having 2 guys shovels etc. sat Sunday.
To: + [REDACTED] Macay	8/22/2018 1:00:58 PM(UTC-6)	Ok
From: + [REDACTED] Macay	8/22/2018 1:02:47 PM(UTC-6)	I would like to meet you over there and go over the plan this week.
From: + [REDACTED] Macay	8/22/2018 1:03:16 PM(UTC-6)	Like later today?
To: + [REDACTED] Macay	8/22/2018 1:03:26 PM(UTC-6)	Ok
From: + [REDACTED] Macay	8/22/2018 1:04:06 PM(UTC-6)	What time 4:30?
To: + [REDACTED] Macay	8/22/2018 1:06:32 PM(UTC-6)	I call yuo later
From: + [REDACTED] Macay	8/22/2018 1:09:16 PM(UTC-6)	Ok
From: + [REDACTED] Macay	8/24/2018 1:52:48 PM(UTC-6)	All parts are here for the job. Couplings etc.
To: + [REDACTED] Macay	8/24/2018 1:54:07 PM(UTC-6)	Ok
From: + [REDACTED] Macay	8/24/2018 1:57:59 PM(UTC-6)	Water line can go in and be backfilled as you go so that's good get that 6' down.
From: + [REDACTED] Macay	8/24/2018 1:58:16 PM(UTC-6)	Then do sewer line
From: + [REDACTED] Macay	8/24/2018 1:58:33 PM(UTC-6)	Thanks Juan. You have you and a few guys?
From: + [REDACTED] Macay	8/24/2018 1:59:33 PM(UTC-6)	Shovels etc. need some small tools for the couplings and a torch to heat the pipe up. I

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		want 3 clamps on each side of couple please so they don't leak.
From: +1 [REDACTED] Macay	8/24/2018 2:00:35 PM(UTC-6)	Can I call you later?
From: + [REDACTED] Macay	8/25/2018 6:43:14 AM(UTC-6)	Start the trench for the water line at the house dig slow / hand digging as there's a lot of stuff. Then go up to the road later like 8:00-8:30
From: + [REDACTED] Macay	8/25/2018 8:45:25 AM(UTC-6)	You good
From: + [REDACTED] Macay	8/26/2018 2:36:40 PM(UTC-6)	How's it going?
From: + [REDACTED] Macay	8/26/2018 2:39:02 PM(UTC-6)	I'm on my way.
From: + [REDACTED] Macay	8/26/2018 2:39:26 PM(UTC-6)	Keep working regardless of what anyone says.
From: + [REDACTED] Macay	8/26/2018 2:39:36 PM(UTC-6)	Call u in 5.
To: +1 [REDACTED] Macay	8/26/2018 2:39:50 PM(UTC-6)	Ok
From: + [REDACTED] Macay	8/26/2018 2:39:56 PM(UTC-6)	How far along are you
From: + [REDACTED] Macay	8/26/2018 2:40:12 PM(UTC-6)	Is the water done ? How's the sewer line.
To: + [REDACTED] Macay	8/26/2018 2:40:30 PM(UTC-6)	No
From: + [REDACTED] Macay	8/26/2018 2:41:23 PM(UTC-6)	Water line isn't done ?

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Director
Jason Wolfe
Interim Deputy Director

From: + [REDACTED] Macay	8/28/2018 8:58:22 AM(UTC-6)	All good?
To: + [REDACTED] Macay	8/28/2018 8:58:57 AM(UTC-6)	No
To: + [REDACTED] Macay	8/28/2018 8:59:06 AM(UTC-6)	Call
From: + [REDACTED] Macay	8/28/2018 8:59:11 AM(UTC-6)	Ok 3 min.
From: + [REDACTED] Macay	8/28/2018 2:22:07 PM(UTC-6)	Go to silver creek supply it's there for you.

To: + [REDACTED] Macay	8/29/2018 9:56:49 AM(UTC-6)	Seth told me you said that circle c was leaving because we kept messing up the grade and that Jamie and Rodney told you that they were unhappy with our production. Is that what you told Seth?
From: + [REDACTED] Macay	8/29/2018 9:57:46 AM(UTC-6)	Did Weber come out?
From: + [REDACTED] Macay	8/29/2018 9:59:05 AM(UTC-6)	Who is Seth?
To: + [REDACTED] Macay	8/30/2018 7:55:27 AM(UTC-6)	Hey call
From: + [REDACTED] Macay	8/30/2018 3:14:53 PM(UTC-6)	In Japan. I will have Rodney get with you.

To: + [REDACTED] Macay	9/3/2018 6:29:32 PM(UTC-6)	1 person : 31hrs \$23 Por hr 1person : 21hrs \$23 Por hr Juan hrs 71hrs \$36 Por hr
From: + [REDACTED] Macay	9/3/2018 6:53:59 PM(UTC-6)	Got it.
From: + [REDACTED] Macay	9/3/2018 6:54:35 PM(UTC-6)	See you after meeting around 12:30 keep digging around basement.

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To: + [REDACTED] Macay	9/3/2018 6:58:06 PM(UTC-6)	Ok
From: + [REDACTED] Macay	9/4/2018 8:01:32 AM(UTC-6)	You up there digging away?
To: + [REDACTED] Macay	9/4/2018 8:01:57 AM(UTC-6)	Yes
From: + [REDACTED] Macay	9/4/2018 8:02:17 AM(UTC-6)	Great I will swing by in 1.5 hrs.
To: + [REDACTED] Macay	9/4/2018 8:02:49 AM(UTC-6)	Ok
From: + [REDACTED] Macay	9/4/2018 8:09:43 AM(UTC-6)	Did you stake off the sage brush?
To: + [REDACTED] Macay	9/4/2018 8:10:09 AM(UTC-6)	Yes
From: + [REDACTED] Macay	9/4/2018 8:24:16 AM(UTC-6)	Thanks.
From: + [REDACTED] Macay	9/4/2018 8:24:28 AM(UTC-6)	Hopefully other workers are there today.
To: + [REDACTED] Macay	9/4/2018 8:25:15 AM(UTC-6)	Hopefully
From: + [REDACTED] Macay	9/4/2018 8:25:58 AM(UTC-6)	My construction guys there?
From: + [REDACTED] Macay	9/4/2018 8:26:05 AM(UTC-6)	You need victor?
From: + [REDACTED] Macay	9/4/2018 8:26:34 AM(UTC-6)	Can I call you later?

To: + [REDACTED] Macay	9/4/2018 3:25:27 PM(UTC-6)	Wher is fuel
From: + [REDACTED] Macay	9/4/2018 3:30:57 PM(UTC-6)	Coming.
From: + [REDACTED] Macay	9/4/2018 3:31:07 PM(UTC-6)	What parts you need to get water going.

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From: + [REDACTED] Macay	9/4/2018 3:38:14 PM(UTC-6)	Ok parts coming at 5:15
To: + [REDACTED] Macay	9/6/2018 9:06:05 AM(UTC-6)	I need fuel
From: + [REDACTED] Macay	9/6/2018 10:00:40 AM(UTC-6)	In how long?
From: + [REDACTED] Macay	9/6/2018 10:01:28 AM(UTC-6)	Also start parking car out at the road so you don't kill grass
From: + [REDACTED] Macay	9/7/2018 10:37:33 AM(UTC-6)	Hopefully you don't need diesel if you do you need to call Brandy. [REDACTED]

Note - on 9/8/2018 10:51 AM Mackay sends IMG_0847.jpg to Juan with "Use this tape."

From: + [REDACTED] Macay	9/10/2018 9:31:27 AM(UTC-6)	Get victor to help you backfill today.
From: + [REDACTED] Macay	9/10/2018 9:31:35 AM(UTC-6)	Call him.

From: + [REDACTED] Macay	9/11/2018 2:35:20 PM(UTC-6)	Hand dig around the gas line 3' around and 1' under it.
------------------------------------	--------------------------------	---

From: + [REDACTED] Macay	9/13/2018 10:05:59 AM(UTC-6)	Did you get chains? Victor knows where they are.
From: + [REDACTED] Macay	9/13/2018 11:59:39 AM(UTC-6)	Thanks.

Note - on 9/13/2018 11:58 AM Juan sends Resized_20180913_115818.jpeg to Mackay

From: + [REDACTED] Macay	9/14/2018 7:13:31 PM(UTC-6)	Foam the holes.
From: + [REDACTED] Macay	9/14/2018 7:14:47 PM(UTC-6)	Don't back fill tell we talk.
To: + [REDACTED] Macay	9/14/2018 7:17:21 PM(UTC-6)	Ok

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From: + [REDACTED] Macay	9/17/2018 8:56:42 AM(UTC-6)	Parts are at silver creek ask for Heath under Rodney's name.
To: + [REDACTED] Macay	9/19/2018 7:07:13 PM(UTC-6)	80 hours regular And 36 1/2 overtime
To: + [REDACTED] Macay	9/19/2018 7:10:05 PM(UTC-6)	Regular \$ 36
From: + [REDACTED] Macay	9/20/2018 1:26:23 PM(UTC-6)	Ok dig back and we will connect to one of them.
From: + [REDACTED] Macay	9/20/2018 1:26:25 PM(UTC-6)	Thanks
<i>Note – 9/20/2018 1:13 PM Juan sent to Mackay Resized_20180920_131326.jpeg</i>		
From: + [REDACTED] Macay	9/21/2018 7:20:12 AM(UTC-6)	How much pipe you say was delivered yesterday?
From: + [REDACTED] Macay	9/21/2018 7:20:38 AM(UTC-6)	Should have been 300' from one and 100' from another.
From: + [REDACTED] Macay	9/21/2018 12:38:49 PM(UTC-6)	How's it going.
To: + [REDACTED] Macay	9/21/2018 12:40:18 PM(UTC-6)	Is going
To: + [REDACTED] Macay	9/21/2018 12:41:53 PM(UTC-6)	Wher is may check
From: + [REDACTED] Macay	9/21/2018 12:43:02 PM(UTC-6)	Brandy is bringing it.

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From: + [REDACTED] Macay	9/22/2018 10:43:46 AM(UTC-6)	If you have time fix the driveway more still some bumps and pot holes.
------------------------------------	---------------------------------	--

+ [REDACTED] Macay	9/24/2018 7:43:45 AM(UTC-6)	Creek look.	IMG_0809.jpg
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From + [REDACTED] Macay		9/27/2018 11:02:20 AM(UTC-6)	Gate code # [REDACTED].
From + [REDACTED] Macay		9/27/2018 11:20:59 AM(UTC-6)	Yes
	+ [REDACTED] Jermy , + [REDACTED] Macay	9/27/2018 11:22:55 AM(UTC-6)	Ok

From + [REDACTED] Macay	10/4/2018 2:22:28 PM(UTC-6)	<p>Moses</p> <p>Please have all the bills for Juan and Victor's final arrangements sent to me, also If there are bills for their services here or for their transport to Mexico, please directly send those along also my address is below.</p> <p>Jamie Mackay PO Box 1749 Wilson,WY</p> <p>I'm very saddened by this tragedy and my heart goes out to both Juan & Victor along with their families.</p>
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INTERVIEW OF MARIANNE LEAS:

Marianne Leas
[REDACTED]
[REDACTED]

In January of 2019, Marianne Leas contacted OSHA regarding her prior employment at Fireside RV Resort. Marianne called to report concerns she had regarding events witnessed after the Sept 28, 2018 fatal trench accident. OSHA provided me Marianne Leas' contact information. I contacted Marianne at phone number [REDACTED] and asked to meet with both Marianne and her husband, Jim Leas, they agreed.

On 01/16/2019 I met with Marianne and James Leas at the Casper Workforce Center, 851 Werner Court Ste 120. I introduced myself and purpose of my request to talk with them regarding their prior employment at Fireside RV Resort in Jackson Wyoming. Marianne and James both agreed to talk with me.

NOTE - Marianne and Jim were interviewed separately; these interviews was recorded.

I introduced myself to Marianne and the purpose of my request to interview her regarding her employment at Fireside RV Resort. I told Marianne I was inquiring into possible employee / employer relationships between the two men who died in the September trench accident Jackson Wyoming.

I began by asking Marianne what had prompted her to contact OSHA. Marianne replied "I, my husband and I had worked there, we were there during the accident." Marianne told me following the trench accident, Brandy Larson had advised Marianne to "keep quiet" about it. Marianne described Brady Larson as the "Facilities Director" for Fireside RV Resort. Marianne said when Larson approached her, Larson said "this is a small town and, you know, it's best that, you know, you not talk about this incident."

Marianne was concerned, stating "when you're telling people to keep things quiet, there's something about that, that just..." Marianne said Brandy justified the request by saying it

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was out of for respect for the deceased men’s families. Marianne also told me after the fatalities, Brandy “was shredding a bunch of documents.” Marianne described the shredding incident as a “red flag.”

Marianne and Jim Leas stayed on with the Fireside RV Resort through the remainder of the 2018 season, she described their employment as seasonal work campers, not full time employees. Marianne told me “some things came to a head,” in November or December of 2018, that Fireside RV Resort hired a younger couple, “Gabby and Stephan.” Marianne told me of working at Fireside RV Resort “it became an environment that was just really difficult to work in, and then my husband got demoted as the Maintenance Supervisor.” Marianne told me the new couple was going to take over in early spring of 2019.

NOTE – Gabriela Delaguarique and Stephan Delaguarique are reported on the Q4/18 wage report for this business.

Marianne said working with Brandy, Gabby, and Stephan became very difficult. Marianne said most communications between them was only done using the phone app, “GroupMe.”

NOTE – From www.groupme.com - “GroupMe is the best way to chat with everyone you know. It’s absolutely free, whether you’re talking to a group of friends, or texting with one person. Best of all, it works on nearly every phone, via push or SMS. With GroupMe, it’s easy to reach anyone, anytime, anywhere.”

Marianne told me the work environment with Brandy and the Delaguarique’s became “volatile.” I asked Marianne how long she and Jim Leas had worked at Fireside RV Resort, Marianne told me “since April of 2018 and into the winter season.” I asked Marianne about the work she performed while at Fireside RV Resort. Marianne replied “I was front desk. It’s like a receptionist, clerk, and I did other small odd jobs. Sometimes for maintenance, when, like planting, and snow removal, and I offered to help when it got busy.”

Marianne described Fireside RV Resort as two campgrounds, the front part being “the draw, it’s the luxury style cabins. The back part of the RV resort that’s older used to be an old KOA campground, the Jackson KOA.” She described the Fireside RV Resort as a “beautiful place.”

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I transitioned my questions to Juan Baez-Sanchez and Victoriano "Victor" Garcia-Perez, Marianne became emotional. Marianne said she did not know Juan but had known Victor. Marianne described Victor as, "he was a landscaper, a nice little guy." I asked about Victoriano's work status, Marianne offered Victoriano may have been "illegal, I'm not sure of his status." Marianne said "there are some other illegals that worked there that are housekeepers." Marianne said of Victoriano "he was there eight to five pretty much, Monday thru Friday sometimes on a Saturday, for hours mowing the lawn, cutting grass, doing landscaping."

I asked Marianne if Victoriano had used his own lawn mower. Marianne replied "no, they would use the facilities, the lawn mowers that were there." She continued that Victoriano would use the tools provided by Fireside RV Resort.

I asked Marianne if she knew how Victoriano was paid by Fireside RV Resort, Marianne did not know. Marianne received her pay from Fireside RV Resort through direct deposit. Marianne said Jim Leas may know more about how others at Fireside RV Resort were paid. Marianne said of Victoriano "I believe he (Victoriano) had a time card that he clocked in and out on. Because he would walk in, he'd clock in and out on his lunch hour." Marianne confirmed she witnessed Victoriano "clock in" stating her desk was near the time clock. Marianne said "the other Hispanic people that worked there also had time cards."

Regarding the placement of the time cards and clock, Marianne said the machine was near the back entrance of the main office and "employees came in through the back entrance." Marianne told me the front entrance was for guests. Marianne said "the time clock sat right there next to the housekeeping room. There was a camera up above that pointed towards the clock machine." Marianne did not have access to the camera system, saying only Brandy (Larson) and "Kate Thomas" had access. Marianne told me Fireside RV Resort has numerous surveillance cameras on the property to include the Maintenance shop.

I asked Marianne how Victoriano arrived to work at Fireside RV Resort, Marianne said "the START bus." She did not know Victoriano to drive or own a vehicle. I asked Marianne about her interactions with Victoriano, she said Victoriano did not speak English but she and Victoriano would interact playfully, each saying "como esta" (how is it going). Marianne said

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Victoriano “almost every day he would come to the front desk and pay cash, a dollar cash for like a soda.”

I asked about how Victoriano received work assignments. Marianne said “on Fireside property, he kinda had, because he was there before we were, my understanding, Jim might have, it might be different because he (Jim) was eventually, was asked to be the supervisor of maintenance. Victor kinda knew what he was supposed to do; mow the lawns, cut the grass because he’d been doing that for years. Jim might have asked him to, you know, focus on this, or rake the leaves, rake the twigs that fall of the trees when the wind blows, so Jim might have had a direct say, but I was pretty much in the office so I’m not sure exactly how Jims management affected his (Victoriano) work.”

I asked how involved Jamie Mackay was with the day to day operations of Fireside RV Resort. Marianne responded “not, not at all. I would rarely see him (Mackay).” Marianne offered an opinion of Mackay as “a charmer,” but hard to “pin down on any one thing.” Marianne gave an example, saying Mackay would offer help to Jim with work at Fireside RV Resort, but Mackay consistently did not show up when the help was actually needed. Marianne told me after the deaths, Mackay did “show up” at the Fireside RV Resort along with “Tyler (Rowe).” Marianne described “Tyler” as Jamie Mackay’s “buddy” who also worked for Mackay at Wheelhaus. Marianne told me Tyler lives at the Fireside RV Resort, cabin [REDACTED].

Note – See <https://wheelhaus.com> the webpage includes information to “try before you buy” with a hyper-link to the Fireside Resort. Both businesses are owned by Jamie Mackay. Units range in cost from \$79,750 to over \$382,500

“Founder and CEO, Jamie Mackay, was raised in Jackson Hole, Wyoming. His father worked in log cabin construction, which instilled in Jamie at a young age the value of quality construction that is built to last. Jamie’s original intention was to buy a Recreational Park Trailer. Touring multiple companies, he realized that nothing was being produced that met his high standards. With this experience as his impetus he set out to create the next generation of Park Model Homes. His intention was to provide the same quality and durability as the log cabins he grew up with, while incorporating his values of green production and modern design.”

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Marianne said Fireside RV Resort has numerous Wheelhaus “cabins” on the property and that Fireside RV Resort staff would show the Wheelhaus cabins to potential buyers. Marianne said after the deaths, Mackay and Tyler, offered to take herself and Jim to dinner. Marianne was not comfortable with the offer and declined. Marianne told me Mackay made the offer approximately two – four weeks after the September trench fatalities.

Marianne said Tyler was studying to take the MCAT (Medical College Admission Test). Marianne described Tyler as “a nice guy” who performed occasional maintenance work for the Fireside RV Resort. She described Tyler’s relationship with Fireside as “convoluted,” stating Tyler did not “clock in” but did perform “odd jobs” on the property.

I returned my questions to specifically asking about Brandy Larson possibly shredding time cards. Marianne did not know specifically if Victoriano’s time cards were destroyed. Marianne said it was “coincidental,” she continued “the thing that really caught my attention, and it came, I thought afterwards, like ohh, that’s interesting.” Marianne drew a sketch for me to illustrate the layout of the facility, main office, and time clock. (See Exhibit 7a)

Marianne gave a context by recalling learning of Victoriano’s death. Marianne told me on the evening of the accident (September 28, 2018) she received a call from Brandy Larson about “a problem.” Marianne went to find her husband, she and Jim Leas had lived on-site at Fireside RV Resort. Marianne went to the main office looking for Jim where she witnessed Matt Brewer, Brandy Larson’s son, pull a time card from near the clock-in machine. Marianne said Matt also lives on-site at the Fireside RV Resort in a room above the main office. Marianne believes Matt Brewer to be a salaried employee, “he (Matt) doesn’t clock in.”

Note – Matthew Brewer is reported as an employee on the Fireside RV Resort wage listings.

Marianne asked Matt if he had seen Jim, Matt replied no. Marianne left the office to look for Jim, she did not find him. Marianne returned again to the office and went towards the back. Matt had told Marianne his mother Brandy was on the phone. Marianne said while in the office she witnessed Matt at the time clock, pulling a time card. Marianne said “he (Matt) would have no reason to be at the time clock because he’s not punching out for anything or

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he's salary, he doesn't punch in." Marianne said Matt also works the front desk in the office. Marianne told me "what I thought I saw was him (Matt) pulling a time card. I don't know if it was Victor's or not." She left the office again to find Jim. Once Marianne found Jim, they called Brandy and learned that Victor "had passed." Marianne said this was at approximately 7 pm on September 28th, 2018.

Marianne told me other work-campers were becoming aware of the tragedy. Marianne said in the following days, she was questioning herself why Matt would have been at the time clock when she saw him there? Marianne said on the Monday following the fatal accident, (October 1, 2018) she returned to work in the office and witnessed Brandy shredding documents. Marianne stated "I come in, and I'm like it's like Enron. It's, you know, a lot of shredding going on and that's not something typically you hear on a day to day basis."

Marianne continued stating Brandy later pulled her aside and said, "when I put Jim in charge, you know, I need you guys to keep things quiet. And this is a small town and, you know I'm trusting you guys because I see you as the senior people here." Marianne told Brandy "I apologize for that, you know, I was in just in shock and I wanted to talk to the other work campers." Brandy said the request was out of respect for Victoriano's family, to give the family notification of Victor's death.

Marianne said of the shredding, it was "interesting" and she questioned herself if Victor's time cards were being shredded? Marianne stated "and then in my mind I thought, did he (Matt) grab the time card and they're shredding evidence of him (Victoriano) working there?" Marianne continued, "was it factual, was it true? I can't say, I'm kinda, was putting pieces together." Marianne characterized the shredding as suspicious, that the shredding "was not a normal occurrence." Marianne said other employees of Fireside RV Resort, Martha Vazquez and that Becca Beattie, may have additional information. Marianne believes Martha Vazquez to be a relative of Victoriano's.

Marianne later had a conversation with Becca Beattie (November or December) regarding the deteriorating work environment at Fireside RV Resort, stating to Becca "something's changed here. Jim got demoted, I don't know what's going on." Becca told Marianne of a similar prior situation involving Brandy, Kate, Cory and Nicole (Hartley) which became

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volatile and resulted in a screaming match where the police were called before the Hartley's left employment at Fireside RV Resort. Marianne said she and Jim wanted to leave Fireside RV Resort, they "had stayed too long." During Marianne's conversation with Becca, Becca confided to Marianne, "I (Becca) was asked to do something, you know around the death of Victor and the other guy. She (Becca) said I was asked to do something and I just had to put my foot down, she (Becca) wouldn't say what."

Note – Martha Vazquez and Rebecca Beattie are reported as employees for Fireside RV Resort.

I asked Marianne how on the day of the accident (September 28, 2018), Victoriano came to be at the Mackay property (120 S. Indian Springs). Marianne confirmed Victoriano arrived to the Fireside RV Resort as usual on the Jackson START bus that date, and her husband, Jim Leas was requested by Brandy to take Victoriano to the Indian Springs property. Marianne said of Brandy, "she (Brandy) would ask the guys to drop them off over at the property, at Jamie's property, Indian Springs." Marianne had "GroupMe" messages with some of these requests, she later e-mailed me select "Fireside maintenance" "GroupMe" messages. (See Follow-up from Marianne Leas below)

Marianne told me "these guys were asked to do things, kinda beyond their normal work duties at Fireside. Jim wasn't in charge of Victor or Juan, he wasn't, he at Jamie's property. They were asked to go over there and drop em off. And I'm like, oh my god Jim, are they like, pin you for something?" I asked Marianne if work at the 120 S. Indian Springs property was related to work at Fireside RV Resort. Marianne said "those are both Jamie's properties." She told me "because Victor worked there, he didn't have any other transportation, he would have to take the bus. So the guys would have to go drop him off over at Indian Springs, bring tools for Juan. It was probably more for convenience and efficiency than anything." She stressed to me her husband, Jim Leas did not supervise Victoriano or Juan while at Indian Springs. Marianne said "Juan was apparently the contractor and the supervisor over Victor" while at Indian Springs. Marianne said the work contract she and Jim Leas signed was with Fireside RV Resort. She provided a copy of their "Fireside Resort Workamper Contract." (See also Exhibit 7b)

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Regarding Fireside RV Resort maintenance personnel performing work at 120 S. Indian Springs, Marianne said “everybody was asked to, all the maintenance guys were asked to go do stuff at Jamie’s property.” She gave an example that “Dave Wilcox, he was a part-time maintenance guy. He was asked to go spray weeds over at Jamie’s property. And he, Jim will talk about, that he battled with the idea of, wait a minute, if I was a contractor I could be charging a lot more money for this. And Jim’s like yeah, cuz I don’t know, if you’re on the clock there and you’re doing this for them there, you’re going to have to figure this out.” Marianne characterized the circumstances as “it’s mixed up.”

Marianne did not know if Victoriano clocked-out prior to doing work at 120 S Indian Springs. Marianne said of her own off-site work for Fireside RV Resort, on occasion she went out for wood or groceries, but “front desk never had to go to Indian Springs.” I asked Marianne if she had seen the Indian Springs property, Marianne said yes, “on the day before it happened.” Marianne said she and Jim walked around the 120 S. Indian Springs property on their day off. Marianne said “he (Jim) showed me this big hole, right beside the front of the house, and I said wow, that’s deep.” Marianne did not know if the excavation she saw was the one that collapsed.

In closing Marianne confided “did we leave on a bad note? Yes we did.” Marianne described working at Fireside RV Resort after the accident as becoming “tense.” Marianne said she and Jim “were the last of the work campers that knew of Victor’s employment.” I asked Marianne if she had anything else to offer regarding Fireside RV Resort. Marianne expressed concerns about safety and training at Fireside RV Resort. She cited a general lack of safety and training protocols and gave examples of lacking MSDS information (Material Safety Data Sheet), flammables cabinets etc.

Marianne agreed to cooperate further if needed. Marianne expressed concern the Fireside RV Resort owner and staff may retaliate against her and Jim stating “this guy’s (Mackay) got a lot of money and I don’t know who he has on his side over there, and I felt at that point that she (Brandy) would do something.”

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INTERVIEW OF JAMES LEAS:

James "Jim" Leas
[REDACTED]
[REDACTED]

On 01/16/2019 I met with Jim Leas at the Casper Workforce Center, 851 Werner Court Ste 120. I introduced myself and purpose of my request to talk with Jim regarding his prior employment at Fireside RV Resort in Jackson Wyoming. Jim agreed to talk with me.

NOTE - Marianne and Jim were interviewed separately; their interviews were recorded. Jim has also previously been interviewed by OSHA.

Jim confirmed his current address as [REDACTED] phone [REDACTED]. Jim began by telling me he and Marianne found their jobs at Fireside Resort RV through an on-line job posting on www.workamper.com, a website used by RV parks to hire seasonal employees. Jim and Marianne began their work at Fireside RV Resort on April 15, 2018, Jim said Brandy Larson was the primary contact for the job. Jim described Larson as "the hiring manager. She's kinda the Fireside Resort business manager, chief operating officer, whatever you want to call it I guess, for that location." Jim continued, "she (Brandy) does do a lot of the books for Jamie Mackay."

I asked Jim how he knew Juan Baez-Sanchez and Victoriano "Victor" Garcia-Perez. Jim replied "Victor I knew from April 15th, Victor was the grounds keeper at Fireside Resort. His (Victoriano) job was basically, watering grass, cutting, trimming bushes, trimming trees, you know, that's what his job was." Jim told me Victor had been introduced to him "as a grounds keeper" by Brandy Larson. Jim told me "on day one introduction kinda by Brandy. Victor does all the landscaping, he's been here ten years and worked for Jamie Mackay, you know for all that time. Victor didn't speak a whole lot of English, you know he was an illegal alien. And you know, that's not my prerogative to say hey, you know, you need to go get it, get it, so you tried to speak your little Spanish with him."

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Jim said several times during the summer of 2018, Brandy had sent messages using “GroupMe” directing Jim to “take Victor over here, he’s supposed to help another guy dig some ditches, or do some work for Jamie at his property in Indian Springs.” Jim said he was removed from Fireside maintenance “GroupMe” when he and Marianne left on January 1, 2019. Jim confirmed his position at Fireside RV Resort included being the Maintenance Supervisor. Jim said the “GroupMe” messages included instructions such as, “Juan and Victor need these tools, they’re going to come by Saturday morning and pick up, you know six shovels, four rakes, a chainsaw, this type of stuff.” Jim said the “GroupMe” messages originated with Brandy Larson, who was relaying a directive from Jamie Mackay “that, hey Juan need, or Victor needs to go over there.”

I asked Jim to describe Victoriano’s work at Fireside RV Resort. Jim said Victoriano did not have a driver’s license, that Victoriano arrived to work using the bus (START) from Jackson, which stopped at the Calico restaurant (2650 Moose Wilson Rd, Wilson WY). From the restaurant, Victoriano would walk the remaining block to Fireside RV Resort. Jim described Victoriano’s work day as beginning at approximately 0730am thru 5:00 pm, “he was there five days a week, Monday through Friday.”

Jim said “there was times when he (Victoriano) would show up on Saturdays. You know he had talked to Brandy about working extra days because he was, you know experiencing money difficulties or trying to send more money home. Found out that his wife had passed in March or April (Victor’s wife) in Mexico. He had a son that was in jail in California and was getting ready to be deported in October or November time frame.”

I asked if Victoriano brought any of his own equipment such as a “WeedWacker” to work, Jim replied “no.” I asked Jim if Victoriano owned a “WeekWacker,” Jim responded “no, he used the one that was in the shop.” I asked if Victoriano owned the lawnmower that was used at Fireside RV Resort to cut the grass. Jim responded “no, there was, there’s a push mower and then a riding mower on site at Fireside. And then a Hedgehog that, you know is like one of these, it’s like a lawnmower but it’s for the thick terrain or thick bushes.”

I transitioned to how Victoriano got to 120 S. Indian Springs on the day of the accident. Jim said “on the 28th of September, yeah the 28th of September, I got a message from Brandy

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saying hey, I need you to take Victor over to Indian Springs. They're working, Juan needs his help." I confirmed this message was received using the "GroupMe" cell phone messaging application. Jim continued "so I drove him (Victoriano) over there that day. You know, talked to Juan and, you know, previously a couple of us had gone over there to drop Victor off. We had, me and another gentlemen had gone over there to take a truck over there because they needed to borrow our flatbed to take weeds, or branches out of there. So we were looking at it, and you know there's this big long trench that they put gas lines, sewer lines, electric lines into that ran from the street up to the property." Jim Leas drew a diagram to assist as he described the property. (See Exhibit 7c)

Jim told me of a previous visit to the 120 S. Indian Springs property, "both Juan and Victor" were digging a big hole. Jim said of the two men "Juan spoke better English, operated the backhoe. Victor do all the shovel." Jim believed the hole next to the house was to cut windows into the foundation. Jim continued "he's got three ponds that ran up and down here, you know they were going to be on a circulation system and they were cutting the French drain that was going down here, and this is the one I believe that is collapsed. The, and this one was 12 to 15 deep, probably three feet wide." Jim told me he observed the trench "just afterwards." Jim said "when I dropped Victor off the last day, the backhoe was parked, kinda straddling a line that he (Juan) was getting ready to cut in."

I asked Jim what he knew about "Tyler." Jim replied "Tyler Rowe works for Jamie Mackay, you know, off and on. Tyler would do stuff at Fireside Resort, but the majority of his work was moving, how do I say this, supplies and trailers and you know, tiny homes from one point in the country to another." Jim told me Tyler worked primarily for the Jamie Mackay business "Wheelhaus."

Note - Wheelhaus has locations to include Idaho Falls, 3773 E 49th N, Idaho Falls, ID 83401 and also Salt Lake City, Utah. Jim believes Wheelhaus is building another tiny home community in Salt Lake City, Utah.

Jim was unsure of the personnel involved in the construction for the property at 120 S. Indian Springs. Jim told me "I didn't pay that much attention to it. I had one of my workers, David, who previous, in a previous life had worked weed eradication. And, July, Brandy had says

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hey, I need you and David to go over here, kinda look at this property and, we need you to remove all the thistles and everything else.” Jim told me he and “Dave” went to the 120 S. Indian Springs property and “Dave took that job on as a private contractor and worked his, you know, job of cleaning the weeds and thistles, and houndstounge and all these invasive species out of there. And, you know, got paid by whoever.” Jim told David of this extra work, “I said, you’re not going to be on the clock to do this, you need to do this as a private contractor.” Jim said David performed the extra work during days off from Fireside RV Resort. Jim described David’s Fireside RV Resort work week as “Wednesday, Thursday, Friday, Saturday at Fireside.” Jim did not recall David’s last name. Jim said David had been a “private caretaker at, you know one of these rich people’s houses up in Teton Village.” Jim described David’s work at Fireside RV Resort as “a season laborer, worked part time.”

Note – The Q4/18 wage listing for Fireside RV Resort lists David Wilcox as an employee. Wilcox does not appear on prior wage listings for Fireside RV Resort.

I asked Jim to describe his job while he worked for Fireside RV Resort. Jim replied “I was the maintenance supervisor in charge of six guys, doing maintenance.” Jim confirmed Victoriano Garcia-Perez was one of the individuals he supervised. Jim identified the remaining maintenance crew as “David, Phil, Keith, and Kurt.” Jim described the work as “scheduling, doing the maintenance, you know cutting grass, trimming trees, you know changing oil on golf carts, and lawnmowers, and sharpening blades on mowers. And you know, whatever else.”

I asked if Victoriano had been directly responsible to Jim. Jim replied “yes and no, you know I could say hey I need you to do this. But most part he knew what his job was. Kept everything, you know because he had been there, it’s like OK you don’t come in as a brand new guy and say hey, I need you to do this and this and this and this. It’s like I’m going to go cut grass, and you know, he’d go out and cut the grass.” Jim gave an example “if we had a wind storm, and trees came down. Hey Victor, I need you to go pick up all the branches that fell in the front half and the back half, or hey, I need you to cut, you know this one, this one, this one, or this row for the RV’s today because, you know, whatever.”

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Jim described Victoriano as “he was always knowing his job, kinda busy, taking care of things. He wasn’t messing around that much.” Jim recalled an incident “one Saturday we caught him (Victoriano) drinking on the job. So, Brandy says oh yeah that happens every year. You know one day I sent him home because he was, a hazardous, a hazard to himself and others.” Jim said Victoriano did not have his own tools or equipment, that Victoriano was an employee of the company who “would clock-in, clock-out on a day-to-day basis.” Jim also “clocked-in” and out of work at Fireside RV Resort.

I asked about the date of the fatal accident, if Victoriano had clocked-in. Jim replied “I believe he clocked-in. I mean he normally checked in, you know when he got in from the bus. You know, I’m assuming he did because he started doing some of his morning chores, you know looking at the trash to make sure that, you know our dumpster wasn’t full, or if it was full in one side we’d push the trash in the middle and move steps to the other side of the dumpster. That type of stuff.”

On the morning of September 28, 2018 Jim said “I actually had to go look for him (Victoriano) and he was out setting up hoses for watering. I says hey, we need to go over to Indian Springs.” Jim confirmed this was regarding the “GroupMe” message from Brandy. I asked if Victoriano had clocked out before Jim and Victoriano left for Indian Springs, Jim replied “no.” I asked Jim if he had ever personally been tasked with performing any work at Indian Springs, Jim replied “I was not tasked to do anything at Indian Springs. You know, drive or go over there and take gasoline over there for the Bobcat that we had.” Jim gave an example of delivering diesel for equipment in use at Indian Springs.

I asked Jim specifically if Jamie Mackay had been involved in the “GroupMe” message directives. Jim said “never saw anything from Jamie Mackay, but I’m, you know making the assumption that hey, you know because Brandy’s telling me to do this, hey you know, Jamie says Victor needs to go help Juan today. You know you’d talk to her afterwards, or in the text and it said that.”

Jim had not seen Jamie Mackay at any time while Jim was at the 120 S. Indian Springs property. Jim said beginning in May or June, Tyler Rowe had been away until mid-October 2018 due to Rowe taking “MCAT” testing prep. Jim said Rowe had not been on-site during

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the September time frame of the trench accident. I asked about the heavy equipment being used at the Indian Springs property, Jim replied “for the backhoe, I was not aware of that one but the Bobcat that was over there was the Bobcat that we used at Fireside.”

I asked Jim about any personal interactions he had with Jamie Mackay. Jim replied “not that much.” Jim continued “once a month he (Mackay) would come by, you know Fireside Resort.” Jim said Mackay would sometimes offer help, but was a no-show when the actual work needed to be done. Jim had occasional cordial interactions with Mackay, but of Mackay’s involvement, Jim said “for the most part, he wasn’t involved in the day-to-day operations at Fireside.”

I asked Jim how he met Juan Baez-Sanchez. Jim replied “dropping Victor off, you’d talk to him, hey what are you guys doing, and you know..” Jim characterized Juan’s involvement at the 120 S. Indian Springs property as “he (Juan) kinda knew what he was supposed to do. I don’t know if he had all the proper training on it though.” Jim continued of Juan, “to me he could operate a backhoe, and you know, he seemed to, you know make sense what they were doing. Cutting this line from here to, you know from the main house up there. And then you know, running the sewer line, that you know, the electric line, the gas line under the admin. Putting black board down or blue board down and whatever else. He seemed to know what he was doing. You know when I saw those ditches that deep I was like, wait a minute. I don’t know if I’d want to be the guy that has to get in the middle of it.” Jim said of work in the trench, “didn’t seem like I would want to be the guy doing that. And that was, I think Victor’s job was, climbing in the ditch.” Jim said “you know I saw the ladder hanging out a couple of times.”

Jim said Juan was using tools and equipment from Fireside RV Resort, for the work at 120 S. Indian Springs. Jim gave an example of Juan using a shovel which Jim needed, and was equipment of Fireside RV Resort. Jim once asked Juan, “when am I getting my tools back to the Fireside? You know you’d go over there and, hey I need my shovels, you know I’m working on a project over at Fireside. And you know, (Juan) oh yeah, I’ll be done with them this week or whatever.” I asked how Juan received direction for Juan’s work at Indian

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Springs. Jim said “my assumption is from Jamie. You know because he’d (Juan) would say Jamie told me to do this, and I was like, OK.”

I stressed to Jim my purpose to determine Victoriano’s position at Fireside RV Resort. Jim said “he was a full time employee.” I asked Jim if Fireside RV Resort offered any safety training, Jim replied “no safety training.” Jim said of Fireside, “there wasn’t any training for safety done there. Oh, you know the first thing they ask you is can you operate a Bobcat? Yeah I’ve been in a Bobcat, I know what I’m doing for the most part. You know, can you push a lawnmower? Yeah I can do that. Can you work a chainsaw? Yeah, everybody’s done it for the most part.” Jim told me as the supervisor he was in charge of training the new “workampers.” Of the Fireside employee orientation Jim stated “we’d go through our daily duties, our weekly duties, monthly duties. Kinda give em a tour of the facility. You know, here’s the tools, have you operated it before? That’s about it, it wasn’t necessarily, you know any formalized training.”

Note - Jim has 33 years’ experience in the “Army Guard” to include numerous safety courses, risk assessments, etc.

Jim had talked with Brandy about weekly staff meetings etc. but was told by Brandy there were none. Jim said Brandy told him, “you take care of that.” Jim told me he would talk with his “guys” daily but “it really wasn’t a safety program.” Jim told me he pushed Fireside RV Resort to install Flammable lockers, MSDS sheets, and had requested first aid kits, eye wash stations etc. But when he and Marianne left in January 2019, Fireside RV Resort still did not have Flammable lockers. Jim said “we did get some of the stuff but we never got it all.” Jim closed by stating “safety wise, safety was not necessarily a priority. You know, it was get the job done.”

Jim told me after the accident, “nobody came and talked to us. Brandy and her assistant, Kate, who is kinda the Marketing Director and, you know would be in charge when Brandy wasn’t there was just saying, don’t say anything to anybody. Don’t talk to reporters, don’t talk to the police, we will do that.” Jim said “we were kinda isolated.”

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Jim said he and Marianne came forward to OSHA once they left Fireside RV Resort, “we’ve got some information and I think the biggest thing they were looking for was that employee / employer relationship. And I don’t know if any of that documentation is still there, whether it was shredded, but you know, ten years there’s gotta be, ok we wrote a check for this, or gave cash you know to this guy, you know for a two week period for ten years. You know financial records can’t lie.” I asked Jim about Victoriano working at both the Fireside RV Resort, and also at 120 S. Indian Springs. Jim interjected “without any other further guidance except, you know taken from Juan.”

I inquired with Jim about Victoriano’s employment status between the two properties (Fireside RV Resort and 120 S. Indian Springs). If Victoriano had been “on, off the clock?” Jim replied “he was on the clock as far as I know. Because you know, every time I got the call he (Victoriano) was already at work and he was pretty religious about punching in, punching out. But you know, at the end of the day, but you know, when we left it was like hey, we need to go over there and then, you know, you go home with Juan from there.” Jim said of taking Victoriano to 120 S. Indian Springs on September 28th, 2018 “and that’s one of the things that’s bothered me is, you know I was probably the guy who saw those two last.”

Jim said on September 28th while at 120 S. Indian Springs, Jim spoke with Juan. Jim described the scene as “they were working, you know behind here. You know I saw the backhoe there, you know sitting, you know basically straddling on a line from the big hole that was there with no shoring, down to the pond. And he says oh, I says what you guys doing now? Putting in more, you know water lines? He (Juan) goes no, we’re putting in a French drain. And I was like ok, so you know to collect water and drain down into the pond to keep water in that pond if there’s no rain. They don’t have to, you know keep filling it up I guess.”

Jim said on a previous occasion while at 120 S. Indian Springs, he witnessed Victoriano working in a trench. Jim replied “I saw Victor inside this one, putting blue board down on a couple of days. You know after they were running those lines and then they filled that one in.” Jim confirmed on this prior occasion he had also been tasked to bring Victoriano to 120 S. Indian Springs from Fireside RV Resort. Jim said he brought Victoriano to the Indian

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Springs property using a Fireside vehicle, a company truck Jim described as a 1996 Dodge flatbed dually truck. Jim said this vehicle is kept on-site at Fireside RV Resort.

Note – the trench and work described by Jim Leas is consistent with photos collected from the phone of Juan Baez-Sanchez, photos created August 25th and 26th, 2018. Two of the images show a man believed to be Victoriano Garcia-Perez in a trench. Img 20180826_170611.jpg includes a tape measure indicating the man in a trench with a depth of approximately 8'. Additional images exist on the cell phone of Juan Baez-Sanchez. (See Exhibit 7d)



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I asked Jim about the work relationship between Brandy Larson and Jamie Mackay. Jim described Brandy as “a hard-nosed lady and she protects Jamie quite a bit.” Jim continued, “Jamie has lots of money, just kinda throws it around and doesn’t necessarily know what’s going on. She (Brandy) is very fiscally responsible.”

CLOSING WITH JIM AND MARIANNE LEAS:

In closing Jim Leas inquired about the investigation and next steps. Both Jim and Marianne agreed to cooperate further as needed. Marianne agreed to provide any “GroupMe” “Fireside maintenance” messages she may still have. Jim reiterated several other Fireside RV Resort employees had also been tasked with delivering Victor to the 120 S. Indian Springs property on numerous prior occasions.

Marianne expressed concern about possible issues implicating her or Jim, arising from their coming forward with information. I advised Marianne and Jim their conversations with me would remain confidential, however a possibility exists their cooperation may be requested at a later time.

Follow-up from Marianne Leas:

On 1-17-2019 Marianne Leas emailed me a sample of the “GroupMe” messages and pictures. (See Exhibit 7b)

To: Chad Seidel

Here are the photos that you have requested per our mtg on 16th. I've also attached our initial contract. We did not sign another contract for the the winter 18/19 season.

Marianne B Leas

I note several references to “Victor” on the “Fireside maintenance” GroupMe” conversations:

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Keith – No Victor

Kurt – Does anyone know the status of Victor? If he isn't coming. You may want to consider asking Dave to come in. The lawn maintenance need to be addressed and Keith and I need to focus on cabin 22 and the normal Resort task. July 17, 2018 at 8:22 AM

Jim Leas – Just saw Victor with a rake coming from front of cabins, he is beside cabin 22 now

Fireside – yep, I also just saw him

Becca – No Victor today. He hurt his knee Aug 15, 2018 at 11:16 AM

Kurt - FYI I need to take Victor to Indian Springs. While I'm out. I'll get gas go to Ace to pick up plumbing supplies Sept 14, 2018 at 9:32 AM

Kurt - FYI I need to get diesel for Juan Sept 14, 2018 at 9:54 AM

Included in the information received from Marianne is a "GroupMe" photo of parts. I note the same image was collected from the phone of Juan Baez-Sanchez, Img 20180917.090353.jpg (See Exhibit 6d, exhibit 7b)

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Collected from the phone of Juan Baez-Sanchez

Collected from "Fireside maintenance"
GroupMe



Brandy Larson - Can someone go to silver creek and grab two of these (the water version) and take to Juan at ISR. Also need to take Victor over there. Thanks! Sept 17, 2018 at 11:32 AM

Note - The image file, 20180917.090353.jpg is consistent with being a photo taken using the cell phone of Juan Baez-Sanchez, September, 17, 2018 at 9:03 AM.

Also on Sept, 17, 2018 at 8:56 AM was the below text message received by Juan Baez-Sanchez from Jamie Mackay.

From: + [REDACTED]	9/17/2018	8:56:42	Parts are at silver creek ask for Heath under Rodney's name.
Macay	AM(UTC-6)		

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REBECCA BEATTIE:

On 2/5/2019 I made phone contact with Rebecca Beattie, phone number [REDACTED]. Rebecca was reported as an employee of Fireside RV Resort thru Q4/2018. I introduced myself and the purpose of my call to discuss her employment at Fireside RV Resort. Rebecca agreed to talk with me, this call was recorded. Rebecca was aware of the September 2018 trench fatalities of Victoriano Garcia-Perez and Juan Baez-Sanchez.

Rebecca told me she worked “seasonally” at the Fireside RV Resort for “two summers and then a full year.” Rebecca started work at Fireside RV Resort in June of 2016. Rebecca returned in the Spring of 2017, working through the Summer season, Rebecca has since left the Jackson area and employment at Fireside RV Resort at the end of 2018. Rebecca stated she and her partner have left the Wyoming area and are currently traveling between Texas and Oklahoma to visit family. Rebecca worked the front desk and office while at Fireside RV Resort. Rebecca said she also occasionally helped with housekeeping “at times,” stating “I was the only one that was somewhat fluent in Spanish.”

Rebecca identified Brandy Larson as her supervisor at Fireside RV Resort, but said she also worked for “Kate” (Thomas). Rebecca told me Kate Thomas was the “Guest Relations Manager.” I asked Rebecca about Victoriano, Rebecca said Victoriano had “been there a long time, and he worked pretty much the same hours, rode a bus in and just did whatever grounds work that needed to be done.” Rebecca described Victoriano as knowledgeable about what grounds work needed to be accomplished, that Victoriano “knew more than most of the other guys, you know, the seasonal guys did.” Rebecca said Victoriano kept mostly the same daily schedule, he rode the bus (START) to and from work. I asked if Victoriano used a time card, Rebecca replied “yep, I believe so.”

I asked if Victoriano was a Supervisor, or answered to someone. Rebecca replied “he really just kinda did his own thing.” Rebecca offered, “while I was there, they went through a couple of head maintenance guys, and I know that he (Victoriano) worked with them to kinda get them up to snuff, on what they could understand from him.” Rebecca gave an example of “from whats going on with the park, like with sewers and different stuff like that.” Rebecca

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said of Victoriano, “he was kinda his own duck, he wasn’t really a supervisor or anything like that.”

Rebecca did not know how Victoriano was paid by Fireside RV Resort, Rebecca was paid by direct deposit for her work. I asked Rebecca if Victoriano had his own equipment, or would use equipment belonging to Fireside RV Resort. Rebecca replied “I never saw him bringing his own stuff. He worked with whatever was supplied at the maintenance shed.” Rebecca confirmed this included “weedwhackers” and lawnmowers etc. I asked if Rebecca knew how frequently Victoriano was tasked with going to Jamie Mackay’s other property (120 S. Indian Springs) and how Victoriano was taken there? Rebecca answered “usually one of the guys from the property would come over that was working there, would either come pick him up or one of our maintenance guys would take him (Victoriano) over there.”

I asked Rebecca about Victoriano’s working at the Indian Springs property, she responded “he (Victoriano) just told me he had to go work over at the other property. Or one of the guys would tell me they had to leave to go take him (Victoriano) over there to work.” Rebecca said she was never tasked with working at 120 S. Indian Springs. I asked Rebecca if she knew what work Victoriano may have been performing there, Rebecca replied “as far as I know they were building Jamie’s house. And he (Victoriano) was just helping.” Rebecca continued “and the other gentleman, but I had never met him.” Rebecca confirmed the other gentleman she was referring to was Juan Baez-Sanchez.

Rebecca fondly recalled working with Victoriano, “I always kinda gave him (Victoriano) a hard time because he would always, tried to pay with less money, his coke for lunch and stuff. And I would get on his ass because I’m like, dude (laughter) give me my money.” I asked Rebecca if any employees working for Fireside RV Resort may have been “off the books” or potentially “illegal to work.” Rebecca replied, “I honestly don’t know. Um, there is a lot of our housekeeping came and went while I was there. And I didn’t ask any questions.”

I asked Rebecca about Jamie Mackay’s involvement in the operations of Fireside RV Resort. Rebecca said “honestly he’s (Mackay) pretty hands-off. Brandy has taken Fireside itself, and Brandy made it, if this is, you know off the books, made it more productive for him.” Rebecca

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told me she had seen Mackay only “once or twice a season.” Rebecca stated of Mackay, “he wasn’t heavily involved in the day to day of Fireside.”

I asked if Rebecca knew “Tyler.” Rebecca said “yeah, he (Tyler Rowe) came in working for Jamie, building his house I thought.” Rebecca continued “some things went down where the house had to, slow down or whatever so he (Tyler) started working with us.” Rebecca told me Tyler was living at the Fireside RV Resort in Cabin ■. Rebecca said while Tyler was working at Fireside RV Resort, Tyler was doing “head maintenance, kinda organizational things there at Fireside.”

I asked Rebecca about the messaging app used while she worked at Fireside RV Resort. Rebecca said “yeah, we all had to have it on our phones.” She identified the app as “GroupMe.” I asked if Rebecca still had any of the messages, she said no. Rebecca stated when she left, she was removed from the group and had also uninstalled the “GroupMe” app from her phone.

I next asked Rebecca about the work environment in the days after the September 28, 2018 death of Victoriano and Juan. Rebecca was away to Montana when the accident happened. Rebecca told me when she returned to Fireside RV Resort the mood was “somber and tight lipped.” Rebecca stated “I never really got a clear, a clear story I guess you could say of what was going down.”

I asked Rebecca to describe Victoriano’s employment status at Fireside RV Resort, if Victoriano was “an employee or something else?” Rebecca replied “I know that they said that he (Victoriano) was contract labor but I would consider him an employee because he’d been there so long.” Rebecca continued, “we kinda just joked because he was always so faithful, whether he was hung-over or whatever or not. He always came in and did his job, and did his exact hours and took his fifteen minute lunch and so, to me he was an employee. But I know he was paid as contract labor, is what they told me.” Rebecca could not recall if it had been Kate (Thomas) or Brandy Larson who had stated this of Victoriano’s employment status as contact labor.

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I asked Rebecca if she had personally witnessed, or had been asked to do anything by Brandy or Kate regarding Victoriano's employment which would be cause for concern. Rebecca replied "I did not." Rebecca asked for clarification, "as far as texts or anything like that?" I asked specifically about Victoriano's time card, Rebeca replied "I mean he (Victoriano) definitely had some time cards I believe. But, no, I didn't, there's nothing else I can think of." I asked if Brandy or Kate had asked anything of Rebecca which made her "uncomfortable." Rebecca paused, then said "I mean, honestly I knew he (Victoriano) was probably off the books and that made me uncomfortable, cuz I like rules personally. But, yeah that would probably be the most uncomfortable and I just didn't ask any questions."

Rebecca agreed to cooperate further if needed. In closing Rebecca stated "I was very heart broken cuz he (Victoriano) was a really nice guy. And you know you work with people day in and day like that you kinda just get the comradery I guess with them. So, it was very tragic to hear."

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DWS AUDIT:

The Wyoming Department of Workforce Services audit of the Fireside RV Resort findings include personal check #1269 drawn on the account of “Jamie Mackay,” payable to “Juan Sanchez” in the amount of \$3,752.00. The personal check was drawn on Mackay’s account with Rocky Mountain Bank, 890 W. Broadway, Jackson Wyoming. The check was dated “9/4/18.” (See Exhibit 8a)

Note – On 9/3/2018 a SMS message was sent from Juan’s cell phone to Mackay:

To: + [REDACTED] Macay	9/3/2018 6:29:32 PM(UTC-6)	1 person : 31hrs \$23 Por hr 1person : 21hrs \$23 Por hr Juan hrs 71hrs \$36 Por hr
----------------------------------	-------------------------------	--

The hours and rate of pay totals \$3,752.00

The audit also identified check #2410 drawn on the business account of “Fireside Resort,” this business account is also with Rocky Mountain Bank, 890 W. Broadway, Jackson Wyoming. The check was dated “9/21/18” and payable to “Juan Baez Sanchez” in the amount of \$4,851.00. This check was signed by “Brandy Larson.” (See Exhibit 8a)

Note – On 9/19/2018 SMS messages sent from Juan’s cell phone to Mackay include:

To: + [REDACTED] Macay	9/19/2018 7:07:13 PM(UTC-6)	80 hours regular And 36 1/2 overtime
To: + [REDACTED] Macay	9/19/2018 7:10:05 PM(UTC-6)	Regular \$ 36

The hours and rate of pay total \$4,851.00

On 9/21/2018 SMS messages sent from Juan’s cell phone to Mackay include:

To: + [REDACTED] Macay	9/21/2018 12:41:53 PM(UTC-6)	Wher is may check
----------------------------------	---------------------------------	-------------------

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From: + [REDACTED] Macay	9/21/2018 12:43:02 PM(UTC-6)	Brandy is bringing it.
------------------------------------	---------------------------------	------------------------

The audit(s) identify unreported wages of Fireside RV Resort result in an additional tax/premium due of:

	2017	01/01/18-09/30/18
Unemployment Insurance	\$1,244.34	\$369.53
Workers' Compensation	\$3,460.98	\$2,671.41

Brandy Larson was the designated representative of Fireside RV Resort for the audit. I note the following narrative from auditor Jared Bayles regarding statements made by Brandy Larson regarding payments to Victoriano Garcia-Perez:

“Per the designated representative, these payments were for landscaping and snow removal services. The designated representative advised that Victoriano used his own tools and landscaping equipment, including a weed-whacker and a lawn mower. An interview conducted by ETD and SIU with this individual’s nephew, Marcos, who lived with the individual, provided information that Victoriano did not use his own equipment and used tools or equipment that belonged to the employer. Per the designated representative, employees on site performed similar landscaping services alongside this individual, Victoriano was the only individual allowed to trim the trees. This indicates that the individual was not able to provide a substitute as he pleased. The interview with Marcos found that Victoriano did not have his own workers or helpers. The designated representative advised that the individual came and went as he pleased. An interview between SIU and a former employee of this business found that Victoriano used a timeclock just like the other employees. The designated representative advised that the individual performed similar services for other individuals in the area. The interview with Marcos found that the individual did not work or provide services for anybody else but the employer and shareholder of the employer other than occasional assistance to friends. The employer was unable to provide any documentation to show

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that this individual represented himself to the public as an independent contractor or self employed individual. The designated representative stated that the individual did not provide invoices, just provided a hand-written sticky note indicating the amount he was due. Auditor determines this individual is not free from the employer’s direction or control, could not provide a substitute, and did not represent himself to the public as an independent contractor. Therefore, the individual is an employee and payments were reclassified as wages.”

Payments identified to Victoriano by Fireside RV Resort for Q1/17 thru Q3/18 are as follows:

Total Q1/17 9,652.01
Total Q2/17 9,370.39
Total Q3/17 12,584.66
Total Q4/17 11,302.22
2017 Total 42,909.28

Total Q1/18 9,370.14
Total Q2/18 12,016.68
Total Q3/18 10,539.96
2018 YTD 31,926.78

Note - Fireside RV Resort had improperly characterized payments to Victoriano as “Contract Labor.” The auditor determined Victoriano to be an employee of Fireside RV Resort and reclassified Victoriano’s payments as wages.

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INTERVIEW REQUEST – JAMIE MACKAY:

On 2/11/2019 I called the phone of Jamie Mackay, phone number [REDACTED]. A voice message identified a voice mailbox for Jamie Mackay, I left a voice message for Mackay to return my call, the call was not returned.

On 2/13/2019 I sent an email to Mackay at [jamie@\[REDACTED\]](mailto:jamie@[REDACTED]):

Mr. Mackay,

I am Chad Seidel, the Quality Assurance Manager for the Wyoming Department of Workforce Services. My unit has been tasked with an inquiry into your company, Fireside RV Resort and employment questions, specifically involving Juan Baez-Sanchez and Victoriano Garcia-Perez.

I am extending an invitation for an interview in Jackson on February 20th at 2pm. I would like to meet at the Wyoming Department of Workforce Services office in Jackson, 155 W Gill Ave. I anticipate approximately 1 hour of your time. My inquiry is specific to Employer Services.

Please confirm you are able to meet on this day.

Thank-you,

Chad

Note – The email [jamie@\[REDACTED\]](mailto:jamie@[REDACTED]) was listed by Mackay on his April 9, 2018 Wyoming Secretary of State Annual Report for Fireside Resort Inc. (See Exhibit 2d)

No response to this request was received from Jamie Mackay.

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U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE):

I contacted ICE Agent [REDACTED] with the [REDACTED] to inquire about any immigration contact with either Juan Baez-Sanchez or Victoriano Garcia-Perez. ICE had no record of contact with Victoriano Garcia-Perez, Agent [REDACTED] identifies Victoriano's presence in violation of U.S. Immigration law.

Juan Baez-Sanchez does have a record of contacts with ICE to include a [REDACTED] [REDACTED] and a [REDACTED] [REDACTED]. Juan has immigration contacts to include:

- 8/18/2014 encounter with Enforcement and Removal Operations (ERO) which resulted in a release by Teton County due to an ICE detainer miscommunication.
- 4/12/2002 "Voluntary Return" from Nogales, AZ.
- 4/9/2001 "Voluntary Return" from Douglas, AZ (Juan was using alias Fernando Alvarez-Martinez DOB 12/27/1976).
- Juan has an expired H-2B work visa, expired 11/01/2000. [REDACTED] suggests this work visa is responsible for the SSN used by Juan. This expired work visa allowed Juan to work in Jackson WY for "Rainmaker." (See Exhibit 9a)

Note - The H-2B visa nonimmigrant program permits employers to hire foreign workers to come temporarily to the United States and perform temporary nonagricultural services or labor on a one-time, seasonal, peakload or intermittent basis.

(See Exhibit 9a)

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JAMIE MACKAY BUSINESS':

Jamie Mackay has business involvements include:

- AEDIFICO DEVELOPMENT LLC
 - Formerly CALDONIAN DEVELOPMENT, LLC
- FIRESIDE RESORT GROUP INC
- FIRESIDE RESORT INC.
 - Formerly THE MOOSE-WILSON ROAD CAMPGROUND, INC.
- JACKSON HOLE CAMPGROUND
- OSPREY CREEK RESORT, LLC
- PETON HERITAGE LANDSCAPE AND GARDEN CENTER
- ROLLING CABINS, INC
- WHEELHAUS INC
- TETON HERITAGE LANDSCAPING, INC.
- WILSON LAND COMPANY, LLC
- WYOMING LAND COMPANY, LLC
- AVIATOR'S ALLIANCE LIMITED PARTNERSHIP
- BRIAN PAULSEN LIMITED PARTNERSHIP LOT 35 , 3 CREEK RANCH
- BRIAN PAULSEN LIMITED PARTNERSHIP LOT 36 , 3 CREEK RANCH
- C & J, LLC
- CACHE CREEK INVESTMENTS, LLC
- COMMUNITY DESIGN, INC
- FIRESIDE GLAMPING, LLC
- FOOT FLOPS, LLC
- FS BUFFALO VALLEY CAMPGROUND OWNERS ASSOCIATION
- FS BV 1 LLC thru FS BV 21 (21 separate LLC's)
- FS JACKSON HOLE CAMPGROUND OWNERS ASSOCIATION
- FS JH 1 LLC thru FS JH 21 (21 separate LLC's)

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- INDIAN SPRINGS INVESTMENTS, LLC
- JACKSON HOLE REAL ESTATE BROKERAGE, LLC
- JORDANELLE RESERVOIR BONDS LLC
- JORDANELLE RESERVOIR, LLC
- MACKAY DEVELOPMENTS, LLC
- MACKAY INVESTMENTS, LLC
- PYW INVESTMENTS
- SHAKE-A-DAY INC.
- TETON HERITAGE IRRIGATION, LLC
- TETON RANGE RESORT, LLC
- VALHALLA INVESTMENTS LLC
- WALK TALL FOUNDATION
- WESTBANK LAND COMPANY, LLC
- WYOMING INVESTMENTS, LLC

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DISPOSITION:

Forward to the Teton County Prosecuting Attorney (Erin Weisman) for review.

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§ 6-1-104. Definitions.

(a) As used in this act, unless otherwise defined:

(i) "Bodily injury" means:

- (A) A cut, abrasion, burn or temporary disfigurement;
- (B) Physical pain; or
- (C) Impairment of the function of a bodily member, organ or mental faculty.

(ii) "Coin machine" means a mechanical or electronic device or receptacle designed to:

- (A) Receive a coin, bill or token made for that purpose; and
- (B) Automatically offer, provide or assist in providing or permit the acquisition of property or service in return for the insertion of the coin, bill or token.

(iii) "Criminal negligence" is defined as the following conduct: A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that the harm he is accused of causing will occur, and the harm results. The risk shall be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation;

§ 6-2-107. *Criminally negligent homicide.*

(a) Except under circumstances constituting a violation of W.S. 6-2-106, a person is guilty of criminally negligent homicide if he causes the death of another person by conduct amounting to criminal negligence.

(b) Criminally negligent homicide is a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than two thousand dollars (\$2,000.00), or both.

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1510 E. Pershing Blvd.
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www.wyomingworkforce.org



John Cox
Director
Jason Wolfe
Interim Deputy Director

Unemployment Violations:

§ 27-3-107. "Agricultural labor" defined; "farm" defined; "crew leader" defined; when domestic services included; exception.

(a) As used in this section, "agricultural labor" means remunerated service performed:

- (i) On a farm for any person involving cultivating the soil or raising or harvesting any agricultural or horticultural commodity including training and managing livestock, bees, poultry, wildlife or furbearing animals;
- (ii) For the owner, tenant or other operator of a farm involving the maintenance of the farm and any tools and equipment if the major part of the service is performed on the farm;
- (iii) For the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, delivering to storage or market in its unmanufactured state or delivering to a carrier for transportation to market, any agricultural or horticultural commodity if the operator produced more than fifty percent (50%) of the commodity;
- (iv) For the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes;
- (v) In the production or harvesting of an agricultural commodity as defined under 12 U.S.C. § 1141j(g);
- (vi) For a group of farm operators or a cooperative organization of which the operators are members for services specified under paragraph (iii) of this subsection if the operators produced more than fifty percent (50%) of the commodity. This paragraph does not apply to service involving commercial canning, commercial freezing or any agricultural or horticultural commodity after delivery to a terminal market for distribution for consumption.

(b) As used in subsection (a) of this section, "farm" means stock, dairy, poultry, fruit and furbearing animal operations, truck farms, ranches, nurseries, ranges, orchards, greenhouses and other operations primarily engaged in the raising of agricultural or horticultural commodities.

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(c) Agricultural labor is employment under this act [§§ 27-3-101 through 27-3-704] if it is performed for a person who:

(i) Paid cash wages of twenty thousand dollars (\$20,000.00) or more during any calendar quarter in the current or preceding calendar year to individuals employed in agricultural labor; or

(ii) Employed ten (10) or more individuals in agricultural labor for a part of one (1) day for twenty (20) calendar weeks within the current or preceding calendar year.

(d) For purposes of this section, any member of a crew furnished by a crew leader to perform service in agricultural labor for any other person is an employee of the crew leader if:

(i) The crew leader is certified under 29 U.S.C. 1801 through 1872; or

(ii) Substantially all crew members operate or maintain tractors, mechanized harvesting or crop dusting equipment or other mechanized equipment provided by the crew leader; and

(iii) The individual is not an employee of any other person under W.S. 27-3-104 through 27-3-108.

(e) As used in this section, "crew leader" means an individual who:

(i) Furnishes individuals to perform agricultural labor for any other person;

(ii) Pays for himself or for others the cash wages of individuals furnished by him for agricultural labor; and

(iii) Has not entered into a written agreement with the other person designating the individuals as employees of that person.

(f) If an individual furnished by a crew leader to perform agricultural labor for another person is not an employee of the crew leader pursuant to subsection (d) of this section, the other person is the employer and shall pay cash wages of the individual equal to the amount paid by the crew leader for the service performed for that person.

(g) Employment under this act includes domestic service performed for a person in a private home, local college club or local chapter of a college fraternity or sorority for which cash wages

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of one thousand dollars (\$1,000.00) or more are paid for any calendar quarter of the current or preceding calendar year.

(h) Service performed during any period in which exemptions from federal unemployment tax liability are provided for under 26 U.S.C. § 3306(c)(1)(B) including any amendments or extensions thereto, by an alien admitted to the United States to perform service in agricultural labor under 8 U.S.C. §§ 1101 through 1503, is exempt from this section.

§ 27-3-609. Legal representation in civil and criminal actions.

(a) In any civil action to enforce this act, the department may be represented by a qualified attorney employed by the department or by the attorney general at the request of the department.

(b) All criminal actions for violation of this act or any rules or regulations issued pursuant to this act shall be prosecuted by the attorney general or at his request and under his direction, by the district attorney for the county in which the prosecution is brought.

§ 27-3-703. Fraud by employing unit; refusal to furnish reports; failure to make required payments; failure to comply with injunction order; penalties.

(a) No officer, agent or any other individual of an employing unit shall knowingly make a false statement or misrepresentation or knowingly fail to disclose a material fact with the intention of preventing or reducing the payment of benefits to any entitled individual, to avoid being subject to this act or to avoid or reduce any contribution or other payment required from an employing unit under this act, or willfully fail or refuse to make any contribution or other payment. Any such individual violating this subsection is guilty of a misdemeanor punishable by imprisonment for not more than ninety (90) days, a fine of not more than seven hundred fifty dollars (\$750.00), or both. Each false statement, misrepresentation or failure to disclose a material fact is a separate offense.

(b) Any employing unit or if the employing unit is a corporation, any officer or director liable under W.S. 27-3-510(e), fraudulently failing to pay contributions required under this act for a period of two (2) or more consecutive calendar quarters or the total of which exceeds five

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hundred dollars (\$500.00), is guilty of a felony punishable by a fine of not more than five thousand dollars (\$5,000.00), imprisonment for not more than five (5) years, or both.

(c) Any officer, agent or other individual of an employing unit who willfully refuses or fails to furnish any report or to produce or permit the inspection of records required by this act is guilty of a misdemeanor. Each day of any failure or refusal is a separate offense.

(d) Any employing unit failing to comply with a court order issued pursuant to W.S. 27-3-502(h), or any partner or corporate officer of the employing unit aiding or assisting the employing unit in not complying with the court order, is guilty of a misdemeanor.

(e) This section shall not preclude prosecution under any other applicable state law.

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Workers' Compensation Violations:

§ 27-1-108. Penalties generally.

Any person who violates or omits to comply with any of the provisions of this act, or any final order of the department of workforce services is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one thousand dollars (\$1,000.00), imprisonment in the county jail for not more than one (1) year, or both.

§ 27-1-109. Prosecution of violations.

The district attorney for any county in this state shall, upon receipt of a verified complaint from the director of the department of workforce services or a final agency decision of the department of workforce services prosecute to termination before any court of competent jurisdiction, in the name of the state of Wyoming, actions or proceedings against any person or persons charged with violation of any of the provisions of this act, or any of the laws of this state enacted for the protection of employees.

§ W.S. 27-4-203 Record of work of employees required.

Every employer subject to this act shall make, and keep for a period of not less than two (2) years in or about the premises wherein any employee is employed, a record of the name, address and occupation of each of his employees, the rate of pay, and the amount paid each pay period to each such employee, the hours worked each day and each work week by such employee.

§ 27-14-506. Employer's injury report; penalty for failure to report.

(a) When an injury is reported by any employee, the employer shall file an employer's injury report with the division within ten (10) days after the date on which the employer is notified of

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the injury and he shall mail or deliver a copy of the report to the employee. The employer's injury report shall be certified and shall contain any information provided by rules and regulations adopted by the director. The employer shall state on the injury report that either the injury is:

- (i) Compensable and under the jurisdiction of this act; or*
- (ii) Not compensable under this act and the reasons therefor.*

(b) Repealed by Laws 1996, ch. 82, § 2.

(c) Willful failure or gross negligence to report occurrences causing injury to any of his employees by an employer is a misdemeanor, punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.

§ 27-14-510. Misrepresentations or false statements; failure of employer to establish account or furnish payroll report.

(a) Any person who knowingly makes, authorizes or permits any misrepresentation or false statement to be made for the purpose of him or another person receiving payment of any kind under this act is guilty of:

(i) A misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both, if the value of the payment is less than five hundred dollars (\$500.00);

(ii) A felony punishable by a fine of not more than ten thousand dollars (\$10,000.00), imprisonment for not more than ten (10) years, or both, if the value of the payment is five hundred dollars (\$500.00) or more.

(b) Any employer who knowingly makes a false statement in a payroll report or reports resulting in the avoidance of or reduction in the employer's premium obligation within a one (1) year period is guilty of:

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(i) A misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both, if the avoided premium or reduction in premium is less than five hundred dollars (\$500.00); or

(ii) A felony punishable by a fine of not more than ten thousand dollars (\$10,000.00), imprisonment for not more than ten (10) years, or both, if the avoided premium or reduction in premium is five hundred dollars (\$500.00) or more.

(c) Any employer who knowingly makes a false statement in an injury report with the intention of denying a worker benefits due under this act is guilty of:

(i) A misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both, if the value of the benefits is less than five hundred dollars (\$500.00);

(ii) A felony punishable by a fine of not more than ten thousand dollars (\$10,000.00), imprisonment for not more than ten (10) years, or both, if the value of the benefits is five hundred dollars (\$500.00) or more.

(d) Any employer who knowingly fails to establish an account or knowingly fails to furnish a payroll report as required by this act is guilty of:

(i) A misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both, for a first conviction; or

(ii) A felony punishable by a fine of not more than ten thousand dollars (\$10,000.00), imprisonment for not more than ten (10) years, or both, for a second or subsequent conviction.

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INVESTIGATIVE REPORT:

SUPPLEMENTAL

CASE: WC# [REDACTED]

INVESTIGATOR: Chad Seidel

DATE OF SUBMISSION: February 28, 2019

INVESTIGATOR ACTIONS:

On 2/20/2019 I met with Teton County Detective Dave Hodges at the Jackson Workforce Center, 155 W. Gill Ave, Jackson Wyoming. I had prior provided a digital copy of this investigative report to Detective Hodge and advised Det. Hodges I had arranged an interview with Brandy Larson, Operations Manager for Fireside RV Resort. Detective Hodges asked to sit-in and observe my interview with Larson. I agreed, contingent on the consent of Brandy Larson.

INTERVIEW OF BRANDY LARSON:

Brandy Larson
Director of Operations - Fireside RV Resort
2780 N. Moose Wilson Road (WHY 390)
Wilson, Wyoming 83014
[REDACTED]

On 2/20/2019 at 11:00am I meet with Brandy Larson at the Jackson Workforce Center. I asked Brandy if Detective Hodges could sit-in and observe our meeting, Brandy agreed, replying "oh

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yeah, absolutely.” I introduced myself and the purpose of our conversation to discuss Fireside RV Resort. This interview was recorded.

I asked Brandy to tell me about her involvement with Fireside RV Resort. Brandy told me she has been employed at Fireside RV Resort for approximately six years, beginning in October of 2013. Brandy described her position, saying “I manage all his operations for both, both locations and, you know do bookwork, payroll, HR.” Brandy continued “I kind-of shoot the gap for everything, Jamie.”

Brandy described Fireside RV Resort as having 24 cabins and a 68 space RV park. Brandy said the lodging operation includes a small store. Brandy said “we have people that work in the front office, people that work in housekeeping, people that work in maintenance. And then I just oversee all of them.” Brandy handles book-keeping for both Fireside locations stating “I’m in charge of Jamie’s best interest, of, as far as money goes.” The smaller Fireside operation has its own manager. Brandy described the relationship between the two Fireside locations as “sister locations.”

Note – The two Fireside resort locations were subject to separate DWS audits.

I asked Brandy about Wheelhaus, she told me Wheelhaus currently manufactures “tiny homes” in Idaho Falls with an office location in Wyoming. Brandy said the Wyoming location includes Jamie Mackay’s office. Regarding the manufacturing of Wheelhaus homes Brandy stated “all of their manufacturing is out of Idaho Falls. And when they do that, that’s, it’s general contracted out. So we have a general contractor, and he hires all of his own employees to build the houses.” Brandy continued “we purchase the materials and then pay him for labor but like, we have a working contract with him, he’s got his own general liability and Workers Compensation and all of that jazz.”

Brandy offered their Wheelhaus truck driver “Al,” delivers the completed Wheelhaus homes and had been operating Wheelhaus owned trucks, but was paid as an independent contractor. Brandy said the driver is now reported as an employee due to liability and insurance concerns. Brandy said of the Wheelhaus driver “so it was just kind of, especially with all of this stuff and

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everything else, it was like, no. Everything's an employee. Everybody's an employee now, so and it just kind of covers all of our bases, every which way." Brandy is currently working on the Wheelhaus wage reports "going back." I asked Brandy if the Wheelhaus mini homes at Fireside were a "time share." Brandy denied this, stating the Wheelhaus mini homes are rented in accordance with Teton County regulations and lodging ordinance.

I next asked Brandy specifically about Victoriano "Victor" Garcia-Perez. Brandy replied "so, Victor started working, er, he started kind of contracting work with us previous to me working there." Brandy continued "when I came in, it was registered, as that he (Victoriano) is a 10-99 contractor, and it was him and another guy and they were like buddies." I confirmed this was in 2013. Brandy continued "so they had already been doing that for multiple years. And so when I walked into that, it was just kind of an explanation of, what's going on here." I asked Brandy who had given her this explanation, she replied "that would be, like them, and Jamie. So they, they both said we're independent contractors, we want to be independent contractors, we do not want to be W-2 employees." Brandy said she has W-9's from the men but no other paperwork or contacts with them.

Brandy told me Victoriano did not speak good English, that she and Victoriano could not sit and have a conversation. Brandy described Victoriano as "rudimentary." Brandy continued "so a lot of the times how he would tell me, how he needed to be paid was he would write the amount that I owed him on a sticky note. And he would put it on my desk and I would come in, and it would be, I could tell his handwriting." Brandy said she would then transfer this amount to her other timesheets. Brandy said she also did this for Tyler (Rowe).

Brandy said Tyler Rowe performs miscellaneous work, on an irregular basis to include maintenance etc. Brandy told me of working with the DWS auditors, Tyler Rowe is now reported as an employee, that Rowe is paid a salary.

I returned to asking Brandy about Victoriano and a time clock used by employees at Fireside RV Resort, Brandy confirmed a time clock is used. I asked if Victoriano used the time clock, Brandy replied "well I think that, um, I never directed Victor to do the time card, or the time clock. If he

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did do it, it was probably for his own records. And he was, it was kind of, like I would see something there but I never saw it when I got the time, like when I got the time cards. Like his stuff was never there, it was always this is the sticky note and this is kinda what it is. So I, it was never kinda calculated on my behalf. And so I think that maybe he might have done it, if he did do it, like there were, it was to kinda calculate his own hours for himself of what he was doing. But he was not bound by the rules of employees, like employees must clock in and out every day. They must, um you know clock out every half hour for lunch after the six hours, like we would be, you know stuck for that. Like he was there when he was there.”

Note – Brandy’s statement is not consistent with the statements of other Fireside RV Resort employees who report Victoriano was habitual with clocking in and out using the employee time clock.

I asked Brandy how Victoriano arrived to work at Fireside RV Resort. Brandy said “so I don’t know exactly how Victor got to work, but I do know that he did not have a driver’s license and he did not have a car.” Brandy said Victoriano may have used the “START” bus. Brandy said in prior years, Victoriano came to work with “Nester,” the other worker she referenced as Victoriano’s buddy in 2013. Brandy said of Victoriano and Nester “they would show up every day in Nester’s car.” Brandy continued “they would show up and leave, and, like on their own kinda schedule, of what they did.” Brandy said that ended in 2016. Brandy told me the START bus stops at the “Calico” restaurant.

I pressed Brandy about Victoriano’s reported use of the time clock and that Victoriano would clock in like other employees. Brandy replied “yeah, I mean I think that’s something where its, as someone who doesn’t, as other people that don’t handle that? That was something where if he was doing that here. You know, I did give him, kinda of a permission, that if you’re having trouble, you know keeping track of what you are and, er what your doing and, and we are here, how your doing it, then you can use that, but you can use that for your own record. That wasn’t for my record that was for his record.” Brandy continued “but those were never turned in to me. Like I never received those to approve and review.”

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I asked Brandy about the equipment Victoriano used to perform his work. Brandy replied “and that’s, there’s a big question about this, um, and everything.” Brandy told me the equipment concern “kinda goes back to the Nester and Victor thing, with their split off.” Brandy said “there were things that were brought there, kinda previous to, um, to me being there or after I was there but before their kinda relationship split.” Brandy told me Victorino “had things that he had brought here” to Fireside. Brandy reference seeing Victoriano walking into work “holding a rake.” Brandy described a “co-mingling of equipment,” that took place stating “and so it was just always kinda of, you know, an agreement of, like if he needed to use something that was of ours, he did.”

I continued with questions about the equipment Victoriano used at Fireside RV Resort. Brandy told me “if he was out there with a snow blower, or he was out there with a lawnmower, in his mind it didn’t matter that he brought it or not.” I asked Brandy about Victoriano having his own lawnmower. Brandy replied “he did have a riding lawnmower, he brought a riding lawnmower.” I challenged Brandy’s claim that Victoriano owned any lawnmower, that Victoriano only operated Fireside equipment. Brandy replied “well, there might be a riding lawnmower out there then that’s his. It’s just never been picked up.” Brandy said there has been little communication with Victoriano’s family.

Brandy told me after the trench collapse, Marcos and Moses had shown up at Fireside to collect Victoriano’s things. Brandy said “one of the major things they were looking for was his (Victoriano) backpack.” Brandy said Marcos and Moses also took a “trimmer thing.” Brandy said “there’s a lot of confusion about those things because, there, you know, this was kinda implemented and put in place, um before, I ever got there.” Brandy told me once she started work at Fireside RV Resort she began to make changes, giving an example “you can’t climb on the roof without a fall arrestor on.” Brandy confided “there were other things I couldn’t necessarily fight.”

I asked about the direction and control that was given to the reported maintenance crew and specifically if Victoriano received any direction or control from the maintenance supervisor. Brandy gave an example where Victoriano may be given a request to turn water off for a

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particular site if needed but in regards to specific direction and control Brandy stated “that was kind of the only, like real direction that I saw. Now, otherwise Victor like, showed up when he wanted to, left when he wanted to, and nobody was supposed to tell him how to do anything. Now if they did, I don’t really have, like a lot of control over that.” Brandy gave another example citing, “he didn’t show up and shovel porches based on the direction of who was arriving that day. It was, you know he showed up and he started from the road and went all the way off and shoveled porches. Like he didn’t have that direction from them.”

I asked Brandy how Victoriano was at the 120 S. Indian Springs property on the day of the trench accident (September 28, 2018). Brandy replied “I don’t know exactly how that is.” I next asked if that day had been the first time Victoriano had been at the Indian Springs property, Brandy replied “no.” Brandy did not believe Victoriano had a driver’s license and said Victoriano did not operate Fireside vehicles. Brandy continued “and so I think that there was, sometimes some correspondence between him (Victoriano) and like other guys that worked there. That, you know Juan called me (Victoriano) and I need to go, over there to Indian Springs.” Brandy said Victoriano and Juan were friends and also had a family relationship. Brandy continued “and so, they would, I think sometimes push back on him for that. So then he would, he would say, you know like I know, I kinda had to go and look back in the GroupMe and look and there was like a thing where I said, you know Victor needs to go over to the ISR.” I confirmed ISR was Indian Springs. Brandy again said Victoriano “got a little bit of pushback from the guys when he asked for them to take him over.”

I asked Brandy about her GroupMe message to deliver Victoriano to Indian Spring. Brandy confirmed she had sent a GroupMe message for someone from Fireside to take Victoriano “..that time, but I don’t know how he (Victoriano) got there that day.”

Note – The Following GroupMe message from Exhibit 7b:

“Brandy Larson - Can someone go to silver creek and grab two of these (the water version) and take to Juan at ISR. Also need to take Victor over there. Thanks! Sept 17, 2018 at 11:32 AM”

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I asked Brandy why she had sent the request to take Victoriano to Indian Springs. Brandy said “um, it would either be, a lot of times it was Victor. So Victor and I were the King and Queen of Google translate.” Brandy said she and Victoriano used the Google translate phone application to communicate with each other. Brandy continued, “so my job, during the summer months and everything, does that, is essentially like, I’m the hammer for these people. Like for the herding of the cats.” Brandy continued “and so if I got involved in doing something with that, it had to do with the direction of, like Victor kind of needing my help to make sure that he did that, err, that he could get over and do that.” Brandy told me Juan and Victor corresponded directly. She said “like I never had any kind of communication via telephone, or text message or anything with Victor before the day that he disappeared.”

I asked how many times Jamie Mackay had requested to have Victor sent to Indian Springs. Brandy replied “I don’t know. I don’t know, but I don’t think, I think he (Mackay) would send me a thing saying, he being Jamie, that he sent me messages saying, you know, Juan wants Victor today. And so I would go out and I would find Victor and I would tell him, call Juan. He’s, he needs your, he wants your help today. And so I never got involved in those kind of things.”

I asked Brandy how she knew Juan (Baez-Sanchez). Brandy told me she had first met Juan in September of 2018. Brandy stated “Juan never did any work for Fireside. I never knew him, I never paid him before that, I never did anything with that.” Brandy continued “and so my understanding of the situation was that, and this is according to Jamie telling me, was that he (Juan) like worked for someone else, another company. But he (Juan) was branching out into doing his own thing. And so he had essentially, like left that other company that he was working for and then this was his first job of doing that.”

Brandy told me “because originally it was like, Jason Stroh with Mountain X was going to do the work for it. And then I didn’t know anything more, or hear anything and then I get a text message from these, I think it was from Jamie, that was from Juan. I’d have to kind of go back and look, where it was him (Juan) and two other guys. Those two other people I would not speculate, I didn’t have any names, I didn’t have any paperwork, I didn’t have anything about that, and so then I corresponded back to Jamie about it and I was like, am I just writing this check over to him

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(Juan) and he’s paying these guys out?” Brandy told me there were two checks paid out to Juan, the first one was from the personal account of Jamie Mackay. A second check was from paid from Fireside RV Resort.

Brandy said of the first check to Juan was from Mackay’s personal account, “it was like initiated that this was, that this guy (Juan) is a subcontractor and he’s paying himself and two other guys.” Brandy told me she had this understanding from the text messages from Juan. Brandy received a “screen shot” from Mackay “that was a conversation between him (Mackay) and Juan, and he put this amount and it says like, Juan, and then guy one, guy two. But it doesn’t say what their names are, and I didn’t have any of this. And so at that time I clarified with Jamie, because I don’t even think I knew that Juan was on site doing this stuff.” I confirmed with Brandy the site was Indian Springs. Brandy told me she had wrote the first “stamp signed” check to Juan from Jamie Mackay’s personal account. Brandy confided “I have a book of checks for Jamie that I can write and pay his (Mackay) personal bills.”

Note – This corresponds to a 9/3/2018 message between Mackay and Juan. (See Exhibit 6b,8a)

To: + [REDACTED] Macay	9/3/2018 6:29:32 PM(UTC-6)	1 person : 31hrs \$23 Por hr 1person : 21hrs \$23 Por hr Juan hrs 71hrs \$36 Por hr
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Brandy told me the personal account for Mackay is separate from the Fireside RV Resort bank account, “same bank, different account.” Brandy continued about this first payment to Juan, “and so then there’s me on the back side of it going, ok we’re going to have to do a draw for your house and in that, it’s like I’ll need a line item of what work he’s doing and an invoice, and we’re also going to need like, his (Juan) general liability certificate because this is all things that Zion’s bank will ask for.” Brandy confirmed Zion bank holds the house construction loan for Mackay’s Indian Springs project. Brandy said Mackay told her “ok, I’ll get it, I’ll take care of it.”

Note – Zions Bank has a location at 25 S. Willow St. #201, Jackson Wyoming.

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Brandy stated “I never had any communication with Juan, kind of really before that day. And that was the fourth of September, I think it was right before Labor Day.” Brandy continued “and Jamie was like please take him (Juan) a check. And so I wrote up his check and did this and everything. And at that time I showed up, they’re, he was like digging a hole, and there were other guys with him.” She described the “other guys” as Juan’s crew. Brandy said she gave Juan the check “and he looked at the check and I said this is right, right? Your not, you know like you’re doing you own thing and he (Juan) said yes. And I said OK, I’m going to need some information from you before the next check that I give you. In these things and so, he was like, OK. I’ll get it to you.” Brandy confirmed this was the first time she had met or spoke with Juan.

Brandy told me Juan had her phone number, “like somehow Jamie had given it to him or something.” Brandy stated Juan had sent messages directly to her requesting Victor or to make other requests. Brandy stated “and so then he (Juan) was trying to get me to get my guys to go buy materials for him. And I caboshed him on that, I was like no.” Brandy continued “to me, it kind of came from that stand point of like the amount of money that he (Juan) was getting paid to do it, where it was like you can call Silver Creek yourself, and place this order, and do that. Like and have it delivered or do whatever.” Brandy cited an example where Juan “threw a hissy fit about getting diesel for a machine that he had rented, that was rented from Mountain States.” I asked Brandy to confirm who rented the equipment, she replied “I think that was rented under Jamie’s name.” Brandy continued “but, it was for the equipment that was on site that Juan was using.”

Note – This corresponds to SMS messages recovered from Juan’s cell phone between Juan and Mackay:

To: + [REDACTED] Macay	9/4/2018 3:25:27 PM(UTC-6)	Wher is fuel
From: + [REDACTED] Macay	9/4/2018 3:30:57 PM(UTC-6)	Coming.
From: + [REDACTED] Macay	9/4/2018 3:31:07 PM(UTC-6)	What parts you need to get water going.
From: + [REDACTED] Macay	9/4/2018 3:38:14 PM(UTC-6)	Ok parts coming at 5:15

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To: + [REDACTED] Macay	9/6/2018 9:06:05 AM(UTC-6)	I need fuel
From: + [REDACTED] Macay	9/6/2018 10:00:40 AM(UTC-6)	In how long?
From: + [REDACTED] Macay	9/7/2018 10:37:33 AM(UTC-6)	Hopefully you don't need diesel if you do you need to call Brandy. [REDACTED]
From: + [REDACTED] Macay	9/17/2018 8:56:42 AM(UTC-6)	Parts are at silver creek ask for Heath under Rodney's name.

Brandy continued “I mean there were just things where, like Jamie would be like, ohh, can you, you know, take, can you have one of the guys take some diesel in, if they’re going to get, um take the trash in, or do whatever. And so I kinda pushed back on him (Mackay) about it, and Jamie was kinda like, this isn’t a fight that I have time to fight, this over Juan going to get his own diesel.”

I asked Brandy how “co-mingled” the Indian Springs project was with the accounts of Fireside RV Resort. Brandy replied “the only thing that I really ever did for Indian Springs was the construction draws and writing out checks to vendors.” Brandy told me the Indian Springs work was “all paid through Jamie’s personal account, through his checks.” Brandy then said “that was where we kind of had, the flip.” Brandy chuckled and continued, “the flip in the timeline.”

Brandy next spoke of the second payment to Juan. Brandy told me she received a text message from Juan with hours, overtime hours, and an amount. Brandy said of this text, “and so that, was when I called Jamie and I was like, why am I paying? Like why is he charging overtime hours for this? He’s a contractor, like contractors don’t get paid overtime hours.” Brandy told me it had been a busy time for her “and then there’s this guy (Juan) with this. So the first question about it was the overtime hours. And I was like I don’t think that we should do that. Well Jamie’s response to that was, well Jason Stroh wants to charge me One Hundred and Seventy Nine thousand dollars (\$179,000) to do this. He was like, I feel like, you know him (Juan) billing us out a little bit of this thing, even though its, you know, kind of classified as, as that, is really not that big of a deal, to do that.”

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Brandy described Jamie Mackay as “very rapid moving, everything that he does is very ADD.” Brandy continued “he’s (Mackay) like I don’t care, I don’t want to deal with it, write him (Juan) a check, move on. Do that.” Brandy considers herself an employee, working for Mackay citing “he’s (Mackay) like in charge of my livelihood and having to do that.” Brandy said “so there’s certain aspects of it, where the argument is just kind of not worth it.”

Brandy told me of the 2nd payment to Juan with the overtime, she went to pay with a check as she had for the first payment. Brandy said she was out of Mackay’s personal checks for this 2nd payment. Brandy said “so I get this thing and I have to like send a check, er like go get a check out that day. There’s no, you know like turn it in and give me five or six days so that I can turn around and do, you know pay this bill and do this. It’s no, this, this, and I gotta do a check right now and do that.” Brandy said she considered getting a check from Mackay and called Mackay directly. Brandy said of the conversation with Mackay, he was out-of-town to New York, and Mackay’s truck was at the airport. Brandy said “it was decided at that point that I would, will write a check out of Fireside and mark it as a shareholder distribution on his (Mackay’s) behalf. Because he (Juan) needs that check today, he’s got guys that he has to pay.”

Brandy told me of this Fireside account payment to Juan “it also kind of convolutes and get weird with Zions bank if I do a draw and that check isn’t coming from Jamie.” Brandy continued “it’s hard to explain that it was actually his (Mackay’s) expense, and not just an expense that I made up, so that I could get a draw out of his construction loan.” Brandy asked Mackay “what do you want me to do with this? And he (Mackay) was like write a check out of Fireside.” Brandy told me she delivered the check from the Fireside account to Juan, who was working at the Indian Springs work site.

Note – Brandy’s statement corresponds to SMS messages recovered from Juan’s cell phone. (See Exhibits 6b,8a)

To: + [REDACTED] Macay	9/19/2018 7:07:13 PM(UTC-6)	80 hours regular And 36 1/2 overtime
To: + [REDACTED] Macay	9/19/2018 7:10:05 PM(UTC-6)	Regular \$ 36

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To: + [REDACTED] Macay	9/21/2018 12:41:53 PM(UTC-6)	Wher is may check
From: + [REDACTED] Macay	9/21/2018 12:43:02 PM(UTC-6)	Brandy is bringing it.

Brandy said she had originally asked that Juan come to Fireside RV Resort for the 2nd check. Brandy said of the first visit to the Indian Springs work site, “because, when I went to that, the Indian Springs job to take that first check, kind of realistically, it just scared the shit out of me Chad. Because there were like holes, and things happening. And my husband kind of freaked out a little bit. And he was like, you have no place being there on a construction job site.” Brandy told me she had also been tasked by Mackay and his banker to take pictures of the Indian Springs job site to document construction progress.

Brandy described the Indian Springs job site when she responded to take photos. “So I pulled in there and there were just like, trenches everywhere.” She parked and walked onto the site, Brandy said of the trenches that day (September 4, 2018) “I guess kind of the thing that they say, is like, if trenches, if it’s like more than four feet. So maybe they weren’t necessarily four feet, like I wasn’t down there like measuring them or anything but I knew that there were holes in the ground and I had a brand new car.” Brandy took the needed photos and left the Indian Springs site.

Brandy said when she delivered the 2nd check to Juan on the 21st of September, she called Juan over to her, Brandy did not want to walk onto the property. Brandy did not know what equipment had been on site but did say some things had been “filled in.” I asked Brandy what she knew about any of the equipment being used on site at Indian Springs. Brandy stated “the only thing I know about it is the invoice that I had to pay for it.” Brandy described equipment consistent with a tracked mini-excavator on her first September 4th visit for the first payment to Juan.

Note – This corresponds to the statement from Jason Stroh “well see, the first month that Juan was there, he started by tying into that forced main sewer and the propane lines

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from the main road. And so that was a mini-excavator that Jamie had rented. Because when we haul for Cat we know who rents the machines.” Stroh continued “I’m sure it was Jamie Mackay on the contract.” Stroh told me that after a month, Mountain X, LLC picked up the rented mini-excavator from the property of Jamie Mackay.

I asked Brandy about the home being built at 120 S. Indian Springs. Brandy said the home is still under construction and has never been lived in. I asked Brandy who is in charge of the home construction project. Brandy stated “originally it was, it was like Jamie. Jamie was GC’n this himself.” Brandy said “and then Tyler (Rowe) was kind of, you know privy to that kind of stuff and Jamie was just kind of negotiating, you know like this plumber, this electrician, this dry waller.” Brandy said she had to “stalk” Mackay regarding various invoices and what payments were for. Brandy stated of Mackay “he’d send me a text message and be like write out check for so-and-so for this amount. And I’d be like where’s the invoice?” Brandy continued “and he’d be like just don’t worry about it.” Brandy told me she would have to press Mackay for an explanation or invoice for various payments required to satisfy the construction lender (Zions Bank). Brandy said of Mackay, “but to him (Mackay), he’s, it wasn’t like, just don’t worry about it because he was doing something shady. It was, just don’t worry about it because, just pay the guy and take care of it and we’ll get you that stuff later.”

Brandy said Tyler Rowe helped keep the Indian Springs project on track. Brandy said “I don’t really know how many qualifications that he (Tyler) had, but Tyler is very good with people.” Brandy told me “New West Builders” and “Serenity Builders” were also involved with the Indian Springs project. Brandy said of New West Builders, “I don’t know if they were General Contracting, or just doing some carpentry work or whatever.” Brandy said after New West Builders, Serenity Builders was then working “as the General” but Serenity Builders has yet to submit any bill or invoice. Brandy noted the Serenity Builders “trailer was on site when I pulled in, in September.”

I transitioned our interview back to Victoriano’s status as an employee, or independent contractor. I confirmed with Brandy it had been Mackay who directed her to treat Victoriano’s employment status as an independent contractor. Brandy said “yeah, and going back to that,

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when I first started working at Fireside, I had little to no interaction with Jamie. And so the manager at that time was kind of who said to me, these guys are independent contractors. So that was kind of how the battle lines were drawn.”

I asked Brandy how much safety training, or any type of training Victoriano received. Brandy replied “well I don’t think he would have received any training because he was a contractor. And the same with Juan, like I don’t know what their qualifications are.” I asked Brandy about who makes the determination if an employee is reported on payroll, or considered an independent contractor. I asked specifically about the unreported members of the Fireside RV Resort housekeeping staff which were identified in the DWS audit. Brandy replied “well, I mean I think that that’s something where, its very hard for Jamie to find people that he can entrust with things.”

Brandy expanded on her answer to describing Jamie Mackay’s personality as the combination of two fictional personalities played by Leonardo DiCaprio. Brandy referenced the personality mix as the portrayal of Jordan Belfort from “The Wolf of Wall Street” and also the character Jack Dawson as portrayed in “Titanic.” Brandy said she and Mackay have conversations which have been described by other employees “as like when mommy and daddy fight with each other.” Brandy referenced these situations as “he’s pushing me and I’m pushing him back, to do these things.” Brandy stressed however, “Jamie would never do anything, to anyone, to cause them any harm.” Brandy continued “and so for me, it’s kind of one of those things where its like he’s moving really fast, and he doesn’t have time for the details, he doesn’t want to know how the burger is made, he just wants to eats it, he just wants to go.” Brandy continued “but at the same time, he’s the same, and you know, he can kind of be a little rough and brisk in how he does that and everything.” Brandy gave examples of Mackay’s charity, citing Mackay “likes to fix things, and he likes to be the savior of it. And so when he’s got his, he wants to make this the easiest that it could possibly be for someone who’s doing something for him. And so that’s where it comes out of it of just write the guy the check. Just do this.” Brandy said “so sometimes that might cross that border line of, we’ll we didn’t get the W-9, and we didn’t get the invoice, and we didn’t get the certificate of insurance. But for, as far as he’s (Mackay) concerned, that’s my job after the fact.”

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Brandy spoke of Juan’s work stating “like when Juan was done, with everything that Juan was doing, and we were done doing it. And, when that last check came, was coming for that, that’s when I was gonna be, that’s when I have to come in with my hammer and say, where’s that W-9? I need copies of all these invoices. I need you (Juan) to do that. The work is done and this is how, you know, and you’re holding off on this last little thing.”

Note - Form W-9 is used in the United States income tax system by a third party who must file an information return with the Internal Revenue Service. It requests the name, address, and taxpayer identification information of a taxpayer.

Brandy said “I’d rather put the hammer down in the beginning and that’s what I do with all of my employees.” Brandy gave the example, “if they’re starting work and they’re doing stuff, and it’s like I want your, you know, your I-9, and your W-4, and a I want a copy of your driver’s license and your social security card.”

Note - Form I-9 is used for verifying the identity and employment authorization of individuals hired for employment in the United States.

Form W-4 is an Internal Revenue Service tax form completed by an employee in the United States to indicate his or her tax situation to the employer. The W-4 form tells the employer the correct amount of tax to withhold from an employee's paycheck.

I asked Brandy about the approximately 8 housekeepers identified in the DWS audit where wages were paid, but not reported by Fireside RV Resort. Brandy replied “and one of those people, are like, they blip off, when you ask them for identifying information.” I asked Brandy if she had form I-9 for the Fireside housekeeping staff. Brandy said “no.” Brandy continued regarding the housekeepers, “so that stuff is, so there’s kind of a mixture of two things that you have here. When you’re, especially when you’re operating in a place like Jackson where there are so many, migrant workers and doing stuff. You have, this person will come in and help to do this. And then they want a paycheck, or they want a check, they want their money. But then I have to go hey, I mean, I need all this identifying information, and to do this. Well then, this person’s related to this person, that’s related to this person that’s related to this person that’s doing this. And

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they're like, oh, we'll get it, we'll get it, we'll get it for you, we'll get it. And so then, you have this thing where it's like this person did one hundred and seventy dollars' worth of work. They came in for a weekend when we were slammed to do something and they did that. So do I write them this check for one hundred and seventy dollars and take it in the shorts that I don't have any of their identifying information, and I do that. Or do I come to work one day and someone's put a rock through our picture window, because they didn't get paid for one hundred and seventy dollars?"

I asked if the housekeepers were paid by check or cash. Brandy stated it was all by check. I suggested some housekeepers were not legal to work, and asked Brandy whom made the decision to employ them. Brandy took responsibility for the hiring decision stating, "I made that decision." I asked if Mackay had any involvement in the decision, Brandy stated "no, never, no." Brandy said the housekeepers had led her to believe, they had legitimate paperwork. Brandy stated "so I don't know if I'm doing that wrong, by kind of, not completely onboarding them before doing that." Brandy said she received excuses from the housekeepers, but not the required paperwork.

Brandy offered she has also sent Fireside housekeepers to clean the home of Mackay's disabled mother. Brandy described Mackay's mother as "eccentric" and "she's known to like, throw some stuff, at a housekeeper, and tell them to get out, and be a little racist." Brandy admitted she was paying the housekeepers who were tasked with work at Mackay's mother's home with checks from Mackay's personal account. I asked if Mackay had been involved in that decision, Brandy stated "he (Mackay) told me to, yeah, to like send someone over to clean my mom's house." Brandy expanded saying "and that was something where it's like, I didn't want to send one of my employees, because one, we have a lot of work to do at our location (Fireside) and I can't necessarily like, expend them. And two, I can't manage them when they're at Jamie's mom's house." Brandy said of the payment for housekeepers sent to Mackay's mother's home "some of them I wrote through Fireside, and then um, and then I kind of was like, ahh, I probably shouldn't do this and I wrote them out of Jamie's account."

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I asked if Victoriano had been paid for his work at Indian Springs from the Fireside account, if Victoriano received only one check for his work? Brandy replied “no, so I, there’s a variable there that I don’t know. I know that when he (Victoriano) would turn in, you know his little sticky note of what it was with things, that.. I don’t know. I don’t know if Juan paid him extra.” Brandy said of the Fireside payments to Victoriano “I don’t know if they were hours that were involved in that or not. Like Victor could have, he could have cut out his hours that he was doing that and got paid from Juan. Or he could have double-dipped, like I, I don’t know.”

I confronted Brandy with other Fireside employee reports that Victoriano was a maintenance employee, and not a contract laborer who submitted an invoice on a sticky note. I asked Brandy for clarity regarding the discrepancy of Victoriano turning in a time card and not a sticky note as she claimed. Brandy replied, “no, I mean, I get that thing but, like the message that was conveyed to me on how that was versus what he (Victoriano) was doing. Like if it was turned in, or done whatever like, the relationship between Victor and, and us as a contractor was not necessarily, you know if I had someone who did, you know calculated those time cards for me and did that.” Brandy said either herself or “Becca” processed the time cards.

I challenged Brandy that Victoriano’s time cards had been destroyed. Brandy denied the accusation stating, “no.” Brandy continued “they were destroyed by him (Victoriano) I mean, or whatever. I don’t have that, to do that. And I think that that’s something that, if um, if he did that, like I did not destroy..” Brandy asked “is Kate saying that there were time cards destroyed?” I asked Brandy about shredding documents in the days after the trench accident. Brandy replied “but I shred all the time.” Brandy continued “but I’m also like, in the process of doing that, I’m doing like quarterly and year end reports, and there’s a lot of checking account statements and so, I mean I think that this is something that maybe, with that, that, like Trey Overdyke should probably get involved in with doing that because I never destroyed anything.” Brandy told me Trey Overdyke is their OSHA attorney.

Note – Wyoming Occupational Safety and Health Administration (OSHA) has a separate investigation into the trench fatalities involving Victoriano and Juan.

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Brandy continued “everything that I had, I was, I turned over to them and do that.” Regarding the shredding of documents Brandy stated “and there’s things that are like, they’re destroyed kind of on a regular basis that wasn’t in. So kind of at this point I feel like I’m a little uncomfortable um, answering some things.” I expressed to Brandy my concern there had been an effort to conceal the employment relationship regarding Victoriano and Fireside. Brandy offered that she has been transparent and went on to discuss the time cards. Brandy offered “once I have, like if time cards were created and maintained, and then there was a time sheet that was created and maintained, then after that, there was, you know, there are certain kinds of things that they, you know that they require as far as like keeping the records of that. And so if I have one thing of this and it’s easier for me to file, then that’s not necessarily, um, like a destruction of that.”

I asked if Mackay directed Brandy to treat the sticky notes, with hours from Victoriano, as an invoice. Brandy replied “yeah, I mean in essence that was how.” I asked Brandy where are the sticky notes? Brandy stated “so I would take the sticky note, there were some things where it’s like I had it and was done on there. But a lot of times what I would do, kind of for the efficiency of filing things, was um, like write that amount on the time card that thing I had, and then like circle it.”

I asked who had taken Victoriano to Indian Springs the day of the accident. Brandy stated “it could have been Tyler, or it could, like Jim could have taken him over there.” Brandy stated she had left work early on that day to go boating. I asked if Mackay had been there. Brandy replied “no, Jamie was, I mean I don’t even know if he was in town or what. Because I know that I showed up there and worked for a couple of hours. I left there and then my husband and I, like took our boat to Palisades.” Brandy said “and Jamie called me when I was like going over Palisades and told me that Juan was dead.” Brandy told me she texted Jim Leas asking “is Victor there, is Victor there at the site, did you take him over to ISR?” Brandy had hoped of the situation “this shitty thing happened and, but that Victor was scared and he ran off.” Brandy said of Jim Leas’ reply, “I think he said, I (Jim) took him (Victoriano) over there earlier today.” Brandy stated “I think that Jim actually took him, to answer your question, Jim took him (Victoriano) over there that day.”

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I asked Brandy about any conversations she had with Mackay regarding Fireside, Victoriano and Juan. Brandy replied “no, I mean there were many conversations about us trying to find Victor and doing that. And then there were conversations about, after, because my biggest concern was that when, like, if Victor had gone to Fireside that day, and then he went from Fireside over to Indian Springs, like I would ask Victor to, like put on a Fireside hat, or put on a Fireside t-shirt if he was out doing work on the site (Fireside). Because we were getting a lot of guest complaints about some random guy, and that was not, everybody else was wearing Fireside t-shirts and Fireside hats, and name tags, and you know, all that different stuff aside from me.” Brandy said Fireside employees wear identifying clothing, “guests were calling us, because here’s Victor, like you know, plucking weeds out of the flowerpot, or whatever. And he’s like got a hat, and sunglasses, and a scarf and like he virtually can’t be identified.” Brandy said Fireside guests would complain so Brandy asked Victoriano “I was like hey, can you (Victoriano), you know can you identify yourself in this way. It’s not like he pulled in, in a vehicle that was like Singleton Electric that, or the plumbing company where, it’s on the side of his, um things.” Brandy continued “so that was kind of the biggest thing for me was, it’s like you know, he wasn’t, he wasn’t keen on separating it and so then that’s going to pin us with that.”

Brandy expressed concerned about the Fireside clothing Victoriano may have been wearing and stressed to me, “but Victor didn’t, you know, he didn’t separate that time out.” Brandy continued “if he showed up, and was like at Fireside and he was wearing a Fireside shirt, and then he left and did this. Like is he going to take off his Fireside shirt? Was he going to take off his Fireside hat?” Brandy confirmed it had been her request of Victoriano t wear the identifying Fireside attire.

I thanked Brandy for her time, I told Brandy I had extended an invitation to meet with Mackay which was unanswered. Brandy said “I think he’s in San Francisco right now.” Brandy stated “we have like kind of a very big deal happening right now.” She offered to pass on to Mackay my request, I provided Brandy with my business card. I told Brandy I was concluding my inquiry, in closing Brandy stated “well I think that we’ve all kind of deemed at this point that Victor should have been an employee. Its whether, um, and Juan too, have been, as far as, kind of what I see. But you guys have deemed that Juan should have been an employee and Victor should have been

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an employee.” Brandy expressed concern about possible “kick-back” regarding my investigation with employees I have spoken with. Brandy offered to cooperate further if needed and departed the Jackson Workforce Center to return to work at Fireside RV Resort.

Note – On September 28, 2018 the body of Victoriano Garcia-Perez was recovered from the collapsed trench at 120 S. Indian Springs. The Teton County Sheriff’s department confirms Victoriano was wearing an identifying Fireside Resort t-shirt at the time of his death. This evidence is documented in Teton County Sheriff’s Office investigative photographs.

DISPOSITION:

Compile with case file.

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