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**Bernalillo County Compliance Office**

Robert Kidd, Compliance Officer

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Code of Conduct Complaint 2018 - 001

**PRINT, COMPLETE AND HAVE NOTARIZED PRIOR TO FILING**

**(Information detailed in this Report will be shared with the Respondent and is a Public Record)**

DATE: January 9, 2018 NAME OF COMPLAINANT: W. Dennis Maez

MAILING ADDRESS: 20 First Plaza, Suite 700 CITY: Albuquerque STATE: NM ZIP: 87102

EMAIL: wdmaez@maezsecurity.com DAYTIME PHONE: 210-771-2458 ALTERNATE PHONE: 210-771-2458

FULL NAME OF RESPONDENT: Wayne Johnson DATE OF INCIDENT: July 12, 2017

SECTIONS OF CODE OF CONDUCT POTENTIALLY VIOLATED: Section(s) of the ordinance that you believe was violated: Sec. 2-130 (h)(2): No candidate or elected official shall accept a campaign contribution from an individual or group of individuals when the candidate or elected official knows, or has reason to believe, that the original source of the campaign contribution was a restricted donor.

**DESCRIPTION OF MISCONDUCT OR WRONG DOING WITNESSED:**

July 12, 2017: Bernalillo County Commissioner Wayne Johnson accepted a \$2,500 Contribution from Kevin Yearout for his mayoral campaign: Wayne Johnson for Mayor.

- Kevin Yearout is CEO and owner of Yearout Companies. YESCO is a company wholly owned and operated by Yearout Companies.
- Kevin Yearout is a "restricted donor" as defined by the County Code of Conduct.

Describe as much detail as possible the facts and events that you believe constitute a violation of the ordinance:

In Section 2-129 of the Bernalillo County Code of Conduct, a "restricted donor" is defined as: Restricted donor means any person or entity who: (1) Is seeking official action (i) by an elected official or volunteer, or (ii) in the case of an employee by the employee or by an elected official, a county department or an employee's supervisor. Such official actions shall include, but are not limited to, the decisions regarding legislation, employment decisions, contract approval, approval of permits or development plans or any other action or decision that is discretionary with an elected official or employee; (2) Does business with or seeks to do business (i) with the board of county commissioners, the county, an elected official or volunteer, or (ii) in the case of an employee, with an employee or his/her department, elected office or an employee's supervisor; (3) Conducts activities regulated (i) by an elected official or volunteer, or (ii) in the case of an employee, with the employee or his/her department or the employee's supervisor.

Kevin Yearout is a "restricted donor" because he "does business with or seeks to do business (i) with the board of county commissioners..."

Commissioner Johnson served on the Bernalillo County Commission during each of the following activities:

1. The Bernalillo County Commission approved a professional services agreement with YESCO covering a period of time beginning in December 12, 2012 and expiring December 11, 2037 for a total amount of \$13,862,921. Commissioner Johnson voted on final approval of the contract at the Bernalillo County Commission's Administrative Meeting on December 12, 2017 - Agenda Item 9F

9F. FLEET & FACILITIES MANAGEMENT: MDC Energy Efficiency Performance Contract  
Motion to:

1. Approve Administrative Resolution AR 2017- declaring the necessity and award of the Energy Performance Contract

with guaranteed utility savings to YESCO, Inc.

2. Approve and execute Exhibit A, Energy Performance Contract with guaranteed utility savings to YESCO, Inc. in the amount not to exceed \$13,862,921 including applicable New Mexico Gross Receipts Tax (NMGRT).
3. Authorize the County Manager to execute any subsequent amendments to the approved Energy Performance Contract with YESCO, Inc.)

2. Commissioner Johnson voted to approve a price agreement with Yearout Mechanical to provide HVAC services per RFP 28-14-CB at the October 28, 2014 Bernalillo County Commission Administrative Meeting

Conclusion:

From December 2012 through January 8, 2018, Yearout Mechanical qualified as a "restricted donor" as defined by Section 2-129 (2)(i). Commissioner Johnson actively voted to approve county contracts with Yearout Companies during that time. Commissioner Johnson violated the Code of Conduct by accepting a \$2,500 contribution from Kevin Yearout in excess of the \$1,000 cap on contributions from restricted donors.

CHECK HERE IF CONTINUED ON SEPARATE SHEET

I, Robert Trujillo, do depose on oath or affirmation and say that the information disclosed herein is true and accurate to the best of my knowledge on this 7 day of January, 2018.

Robert Trujillo  
Signature of Complainant

SUBSCRIBED AND SWORN TO before me this 7 day of January 2018 by W. Dennis Mazz

Robert Trujillo  
NOTARY PUBLIC

My Commission Expires 5-27-2020

