

1 was proper because Taxpayer was a statutory resident of New Mexico by virtue of having lived in
2 New Mexico more than half the 2016 year. IT IS DECIDED AND ORDERED AS FOLLOWS:

3 **FINDINGS OF FACT**

4 **Procedural Findings**

5 1. On November 19, 2020, under Case Id. No. 109008, the Department issued a
6 Notice of Intent to Assess-Personal Income Tax letter to Taxpayer, indicating that Taxpayer's
7 2016 Federal Income Tax had been adjusted by the IRS, and Taxpayer was required to file an
8 amendment to his 2016 New Mexico Personal Income Tax return (PIT-1) within 180 days of any
9 IRS adjustment. The letter informed the Taxpayer that a response was required by January 18,
10 2021. [Administrative File].

11 2. On February 4, 2021, under Letter Id. No. L0913838512, the Department issued a
12 Notice of Assessment of Taxes and Demand for Payment, in the amount of \$2,741.00 of personal
13 income tax, \$548.20 in penalty, and \$473.94 in interest, with no credits or offsets, for a total tax
14 due of \$3,763.14. [Administrative File].

15 3. On February 26, 2021, Taxpayer submitted (by mail) a Formal Protest, Form
16 ACD-31094, challenging the assessment of tax, penalty and interest, alleging that the Taxpayer
17 was missing a 1099 form when he had originally filed his PIT return. The protest was stamped as
18 received by the Department Protest Office on March 2, 2021. [Administrative File].

19 4. On March 31, 2021, under Letter Id. No. L0017574320 the Department issued a
20 letter acknowledging receipt of Taxpayer's protest. [Administrative File].

1 5. On August 9, 2021, the Department, through Attorney Kenneth Fladager,
2 submitted a Request for Hearing to the Administrative Hearings Office, requesting a hearing on
3 the merits of Taxpayer’s protest. [Administrative File].

4 6. On August 9, 2021, the Department, through Attorney Kenneth Fladager, timely
5 submitted the Department’s Answer to Protest to the Administrative Hearings Office.
6 [Administrative File].

7 7. On August 9, 2021, the Administrative Hearings Office sent a Notice of
8 Videoconference Administrative Hearing to the parties, informing them of the merits hearing to
9 take place on October 5, 2021, by Zoom videoconferencing application, using an unique URL
10 provided. The hearing was scheduled pursuant to NMSA 1978 Section 7-1B-8 (2019) and
11 Regulation § 22.600.3.10 NMAC. [Administrative File].

12 8. The undersigned Administrative Hearing Officer Ignacio V. Gallegos conducted
13 the merits hearing on October 5, 2021, with the parties and witnesses present by
14 videoconference. Mr. Miller represented himself. Attorney Kenneth Fladager represented the
15 Department. Department witness Patrick Zeller appeared by videoconference. The Hearing
16 Officer preserved an audio recording of the hearing (“Hearing Record” or “H.R.”). At the
17 conclusion of the hearing, the Hearing Officer allowed 24 hours for the parties to submit
18 additional documentation that had been mentioned in their cases in support of testimony.
19 [Administrative File].

20 9. On October 5, 2021, Taxpayer submitted two exhibits by email. The Department
21 submitted one exhibit by email. Taxpayer submitted objections to the Department’s exhibit, and
22 the Department submitted a response the following day. [Administrative File].

23 **Substantive Findings**

1 10. Taxpayer Michael Miller, in 2016, was an individual physically present in both
2 New Mexico and Nevada. Mr. Miller has been a New Mexico resident since 2007. Mr. Miller
3 resided in New Mexico from the beginning of the 2016 year until August of 2016. In August of
4 2016 and through near the end of the year, Mr. Miller resided in Nevada. The amount of time
5 Taxpayer resided in New Mexico during 2016 was greater than 185 days. [Administrative File;
6 Examination of M. Miller, H.R. 21:30-23:45; Cross examination of M. Miller, H.R. 30:30-
7 31:00].

8 11. Mr. Miller testified that he moved from New Mexico on August 27, 2016, when
9 he took up residence in Nevada to liquidate the estate of his recently deceased father. He
10 returned to live in New Mexico on December 23, 2016. [Examination of M. Miller, H.R. 21:30-
11 23:45].

12 12. Mr. Miller had previously been a teacher for five and a half years in New Mexico
13 and had during that time accumulated retirement savings through the Educational Retirement
14 Board (ERB). He withdrew these savings in the amount of \$14,487.19 while living in Nevada in
15 2016. Federal taxes were withheld, but no state tax was withheld. [Administrative File (Form
16 1099-R); Examination of M. Miller, H.R. 21:30-24:15; Cross examination of M. Miller, H.R.
17 31:00-31:30; Re-direct examination of M. Miller, H.R. 31:40-33:00].

18 13. When living in Nevada at the end of 2016, Mr. Miller accepted employment and
19 expressed and intent to remain in Nevada. [Examination of M. Miller, H.R. 22:30-23:00; Cross
20 examination of M. Miller, H.R. 30:30-31:00].

21 14. Mr. Miller's original PIT-1 did not report the income from the ERB withdrawal.
22 The 1099-R to report the income was sent to Taxpayer's address on file with ERB in New

1 Mexico. [Administrative File; Examination of M. Miller, H.R. 23:00-26:10; Examination of P.
2 Zeller, H.R. 36:25-36:55; Taxpayer Exhibit #1, #2].

3 15. Mr. Miller claimed to have filed an amended 2016 PIT return in January or
4 February of 2021 through his Certified Public Accountant (CPA), after he had received the
5 Notice of Assessment. The amended return was rejected. [Administrative File; Examination of
6 M. Miller, H.R. 26:10-29:05; Taxpayer Exhibit #1, #2; Department exhibit #A].

7 16. The amended return, prepared by a CPA, was not signed or dated by the
8 Taxpayer. The original return did not contain allocation or apportionment of income received in
9 Nevada, and allocation and apportionment claims were first made with the amended return. The
10 Department received but did not accept the amended return¹. [Administrative File; Examination
11 of M. Miller, H.R. 26:10-29:05; Re-direct examination of M. Miller, H.R. 33:00-34:00;
12 Examination of P. Zeller, H.R. 36:30-39:20; Rebuttal and AHO examination of M. Miller, H.R.
13 41:05-48:30; AHO examination of P. Zeller, H.R. 50:20-57:15].

14 17. Patrick Zeller is the Department's tax auditor supervisor assigned to the protest.
15 He reviewed the documentation associated with the protest. He explained that a Taxpayer
16 sending in an unsigned and undated amended return was not proper. He could not explain the
17 absence of a rejection letter in the Taxpayer's records, which would have explained to Taxpayer
18 both the fact that the return was rejected and the reasons for the rejection. [Administrative File;
19 Direct examination of P. Zeller, H.R. 35:25-36:55; Re-direct examination of P. Zeller, H.R.
20 1:09:25-1:10:10; Re-cross examination of P. Zeller, 1:10:10-1:14:40; AHO examination of P.
21 Zeller, H.R. 1:15:20-1:17:05].

¹ Under NMSA 1978, Section 7-1-13 (B), Taxpayer was required to file the amended return in the form prescribed by the Department's instructions on the return, which requires a signed return. *See also* Regulation 3.1.4.8 NMAC. *See also* NMSA 1978, Section 9-11-6.2 (G).

1 **DISCUSSION**

2 Taxpayer’s protest poses two main questions. First, whether Taxpayer’s 2016 New Mexico
3 income while a statutory resident of New Mexico, should include the income generated from his
4 liquidated retirement account which he withdrew while living for a short time in Nevada, a state that
5 does not impose a personal income tax. Taxpayer contends that *Comptroller of the Treasury of*
6 *Maryland v. Wynne* prevents the State of New Mexico from reaching over state borders to tax the
7 income at issue, even though Nevada declined to tax the income. Second, the Taxpayer contends
8 that New Mexico’s rules concerning allocation of income requires that he allocate all income
9 received while in Nevada in the 2016 year, including employment income, income from the
10 liquidation of his father’s estate, and the income received as withdrawn retirement savings from his
11 New Mexico ERB account to Nevada.

12 New Mexico’s personal income tax is governed by the Income Tax Act, NMSA 1978,
13 Sections 7-2-1 through 7-2-39. Taxpayer’s factual contentions were largely undocumented. The
14 application of accepted facts, interpretation of the New Mexico Income Tax Act, and federal
15 jurisprudence are addressed herein.

16 **Presumption of correctness and burden of proof.**

17 Under NMSA 1978, Section 7-1-17 (C) (2007), the assessment issued in this case is
18 presumed correct. Consequently, Taxpayer has the burden to overcome the assessment. *See*
19 *Archuleta v. O’Cheskey*, 1972-NMCA-165, ¶11, 84 N.M. 428, 504 P.2d 638. Unless otherwise
20 specified, for the purposes of the Tax Administration Act, “tax” is defined to include interest and
21 civil penalty. *See* NMSA 1978, Section 7-1-3 (Z) (2019); *see also* Regulation § 3.1.1.16
22 (12/29/2000). Under Regulation § 3.1.6.13 NMAC, the presumption of correctness under Section
23 7-1-17 (C) extends to the Department’s assessment of penalty and interest. *See Chevron U.S.A.,*

1 *Inc. v. State ex rel. Dep't of Taxation & Revenue*, 2006-NMCA-050, ¶16, 139 N.M. 498, 134
2 P.3d 785 (agency regulations interpreting a statute are presumed proper and are to be given
3 substantial weight). Accordingly, it is a taxpayer's burden to present some countervailing
4 evidence or legal argument to show that they are entitled to an abatement, in full or in part, of the
5 assessment issued in the protest. *See N.M. Taxation & Revenue Dep't v. Casias Trucking*, 2014-
6 NMCA-099, ¶8, 336 P.3d 436. When a taxpayer presents sufficient evidence to rebut the
7 presumption, the burden shifts to the Department to show that the assessment is correct. *See*
8 *MPC Ltd. v. N.M. Taxation & Revenue Dep't*, 2003-NMCA-21, ¶13, 133 N.M. 217, 62 P.3d 308.

9 **New Mexico residency.**

10 It is well understood that New Mexico may tax the income of its residents. *See Shaffer v.*
11 *Carter*, 252 U.S. 37 (1919) (“In our system of government, the states have general dominion,
12 and, saving as restricted by particular provisions of the federal Constitution, complete dominion
13 over all persons, property, and business transaction[s] within their borders; they assume and
14 perform the duty of preserving and protecting all such persons, property, and business, and, in
15 consequence, have the power normally pertaining to governments to resort to all reasonable
16 forms of taxation in order to defray the governmental expense.”). *See also Lawrence v. State Tax*
17 *Commission of Mississippi*, 286 U.S. 276 (1932). A New Mexico resident is defined under NMSA
18 1978, Section 7-2-2 (S) (2014) as:

19 an individual who is domiciled in this state during any part of the taxable year or an
20 individual who is physically present in this state for one hundred eighty-five days or
21 more during the taxable year; but any individual, other than someone who was
22 physically present in the state for one hundred eighty-five days or more during the
23 taxable year, who, on or before the last day of the taxable year, changed the
24 individual's place of abode to a place without this state with the bona fide intention
25 of continuing actually to abide permanently without this state is not a resident for the
26 purposes of the Income Tax Act for periods after that change of abode.

1 Mr. Miller testified that he had been living in New Mexico off and on since 2007. In 2016,
2 he lived in New Mexico, but because of a death in the family, he left the state and went to live in
3 Nevada on August 27, 2016 and returned December 23, 2016. While his statements are of his own
4 experience, the following calculation of days in the state is based on Mr. Miller's credible testimony
5 alone. He lived in New Mexico for 239 days at the beginning of 2016 and another 8 days at the end
6 of the year, for a total of 247 days. Using the one hundred eighty-five-day statutory benchmark,
7 Taxpayer was a New Mexico resident regardless of his argument related to his intent to stay in
8 Nevada because he was physically present for 247-days. *See* §7-2-2 (S).

9 As for the intent to stay in Nevada, this is an element of the consideration of "domicile" and
10 a "bona fide intention." *See* Section 7-2-2 (S) ("who, on or before the last day of the taxable year,
11 changed the individual's place of abode to a place without this state with the *bona fide intention* of
12 continuing actually to abide permanently without this state") (emphasis added); *see also* Regulation
13 3.3.1.9 (C) NMAC (12/15/2010) "Domicile" defined. First, it must be noted that a change of
14 domicile by the end of the calendar year does not change the residency status of a person, like Mr.
15 Miller, who was physically present in New Mexico for 185-days or more. §7-2-2 (S). Even so, as to
16 domicile Mr. Miller provided no documentary proof of the claim of change of address (a rental
17 agreement or sale or purchase of a home), change of employment, a change of location of a spouse
18 or children, change of financial institutions, change of community affiliation or professional
19 organizations, change of voting registration, change of driver's license or professional licensure,
20 change of location of possessions or other information. What we are left with are the Taxpayer's
21 assertion alone, and a post office box number placed on the unsigned, undated amended PIT return
22 which was rejected by the Department. Unsubstantiated statements are insufficient to overcome the
23 presumption of correctness that attaches to an assessment. *See MPC Ltd. v. N.M. Taxation &*

1 *Revenue Dep't*, 2003-NMCA-021, ¶13, 133 N.M. 217, 62 P.3d 308; *see also* Regulation 3.1.6.12
2 (A) NMAC (1/15/2001). While Mr. Miller testified credibly, his statements are unsubstantiated by
3 any kind of acceptable documentation. New Mexico law requires that taxpayers retain records used
4 for the taxpayers' tax reporting so that those records may be used to accurately compute state taxes.
5 NMSA 1978, Section 7-1-10 (A) (2007). New Mexico tax law does not set a specific amount of
6 time for records to be maintained by taxpayers. *See* Regulation § 3.1.5.15 (I) NMAC (12/29/2000),
7 Regulation § 3.1.5.8 (A) (12/29/2000). Here, Mr. Miller provided neither reliable summary
8 documents nor original documents showing a change of domicile. He was a statutory resident of
9 New Mexico, which makes his uncorroborated testimony as to a change of domicile and a "bona
10 fide intention" to remain outside New Mexico wholly unconvincing in light of the fact that he
11 returned to New Mexico at the end of December of 2016 and remains a New Mexico resident as of
12 the date of the hearing.

13 **Federal law.**

14 Under Federal law, there is clear law preventing states from imposing an income tax on the
15 retirement income of an individual resident or domiciliary of another state. *See* 4 U.S.C.S. §114 (a).
16 Mr. Miller resided in New Mexico for more than 185 days, therefore he was a statutory resident of
17 New Mexico in 2016, as explained above. *See* Section 7-2-2 (S). Even considering at face value
18 Taxpayer's contention that he moved to Nevada at the end of August of 2016, spending the majority
19 of the remainder of the year in Nevada with the intention to stay, this does not affect the application
20 of New Mexico law as it applies to Federal law.

21 Taxpayer argued that the case of *Comptroller of Treasury of Maryland v. Wynne*, 575 U.S.
22 543, 135 S.Ct. 1787 (2015) controlled the outcome of this case, as he could have been taxed by the
23 State of Nevada, and a New Mexico tax on the same income would have been two potential taxes.

1 The *Wynne* court follows a line of cases holding generally that the dormant commerce clause
2 disallows any State’s tax scheme “which discriminates against interstate commerce either by
3 providing a direct commercial advantage to local business, or by subjecting interstate commerce to
4 the burden of multiple taxation.” *Wynne*, at 549-550 (internal quotation marks and citations
5 omitted). The *Wynne* case addressed a tax scheme that discriminated against out-of-state taxpayers
6 with income from activity within the state. Here, Mr. Miller was not an out-of-state taxpayer, he
7 was a resident of the state which taxed him, New Mexico.

8 Here, the Taxpayer’s argument also fails because Nevada does not impose a personal
9 income tax, so double taxation is not possible. Further, as a statutory resident of New Mexico,
10 Taxpayer is required to report and pay New Mexico personal income tax and report any deviations
11 from the normal course, by reporting claimed deductions, exemptions, or allocation and
12 apportionment. He provided no evidence of such reporting when he originally filed his PIT return,
13 and the only tax return document in the file was the Taxpayer’s rejected amended PIT-1 which
14 contained a 1099-R which contained a New Mexico address for the Taxpayer and reported no state
15 tax withheld.

16 **Allocation and apportionment.**

17 New Mexico provides a tax credit using income allocation and apportionment. The statute
18 provides that: “Net income of any individual having income that is taxable both within and without
19 this state shall be apportioned and allocated.” NMSA 1978, Section 7-2-11 (A) (2016). The statute
20 goes on to say: “compensation and gambling winnings of a resident taxpayer shall be allocated to
21 this state.” Section 7-2-11 (A) (3). While the term “compensation” is defined at Section 7-2-2 (C),
22 the Department’s regulations add the following: “Retirement income is compensation for purposes
23 of the Income Tax Act.” Regulation 3.3.11.13 (A) NMAC (12/14/2000). The regulations

1 interpreting the credit for income allocated to a different state also provide a good example very
2 much like the Taxpayer's case. Regulation 3.3.11.11 (B) NMAC (12/14/2000) provides the
3 following example:

4 X is a "resident" of New Mexico pursuant to Section 7-2-2 NMSA 1978. For six
5 weeks during the taxable year, X was employed in the state of Nevada where X
6 received compensation for personal services rendered. During this six-week period,
7 X did not return to the state of New Mexico. X points out that inasmuch as Nevada
8 does not impose an income tax, X is not eligible for a tax credit pursuant to Section
9 7-1-13 NMSA 1978. X's compensation earned in Nevada is allocable to New
10 Mexico. There is no specific exemption or deduction which would authorize X to
11 exclude the compensation earned in Nevada from the New Mexico base income.

12 As the example points out, the allocation of the compensation for a New Mexico resident working
13 in a state that does not tax personal income is still allocated to New Mexico by virtue of the person
14 being a New Mexico resident. Here, the retirement account distribution is "compensation" so, to a
15 statutory New Mexico resident the income is not deducted from the Taxpayer's base income when
16 calculating tax. The Taxpayer's argument as to allocation and apportionment of the retirement
17 account distribution which he earned while a New Mexico resident and received while temporarily
18 residing in Nevada is not persuasive.

19 **Taxpayer's concerns over timeliness.**

20 The Taxpayer's concerns over timeliness were multi-fold. First, Mr. Miller, at the outset of
21 the hearing, objected to the fact that the hearing was being held within ninety days of the
22 Department's request for hearing, as required by NMSA 1978, Section 7-1B-8 (F) (2019). Section
23 7-1B-8 (F) of law requires "[i]f the department files the request for hearing with the answer to the
24 protest, the chief hearing officer shall set a hearing to take place within ninety days of that request."
25 The Department filed its request for hearing along with its answer to protest on August 9, 2021.

1 The first and only hearing was held on October 5, 2021. This was fifty-seven (57) days after the
2 request was filed, so it meets the timeliness requirement of “within ninety days of that [the
3 department’s] request.”

4 Second, Taxpayer raised the issue that the protest had been pending since March, and he had
5 not heard back from the Department, which he called dragging their feet. Section 7-1B-8 (B)
6 requires that the Department request a hearing “[w]ithin one hundred eighty days, but no earlier
7 than sixty days after the date of the protest.” The protest was filed by Taxpayer on February 26,
8 2021, by mail, and stamped as received by the Department on March 2, 2021. The Department’s
9 request for hearing, as noted above, was filed on August 9, 2021. This was one hundred sixty-
10 four (164) days after the protest was filed, so it meets the timeliness requirement of “within one
11 hundred eighty days.”

12 Next, Taxpayer complained that he had first contacted the Department in February of
13 2021 (a fact corroborated in Taxpayer exhibits), and he was concerned that in the time that it has
14 taken to get to hearing the penalty and interest have continued accruing. The Department
15 countered that penalty was fixed at the time of the assessment, to a maximum of twenty percent
16 (20%) and interest was minimal, because it was based on the amount of the assessment. Penalty,
17 pursuant to NMSA 1978, Section 7-1-69 (A)(1) (2007), is fixed at a maximum of twenty percent
18 of the assessment of underlying tax, which accrues from the date the tax was due but not paid, in
19 increments of two percent per month (for up to ten months). Since the tax was due in April of
20 2017 for tax year 2016, the penalty had already peaked at 20% by the time of the issuance of the
21 assessment in 2020 and was no longer accruing additional penalty during the time the protest
22 was pending. As for interest, it is true that interest continues to accrue while an unpaid tax
23 remains unpaid. *See* NMSA 1978, Section 7-1-67 (2013). With limited exceptions not applicable

1 here, it is only through full payment of the underlying tax that interest stops accruing. Section 7-
2 1-67 (A). Interest accumulates to compensate the State of New Mexico for lost revenue earning
3 potential when a tax is unpaid. Under the statute, regardless of the reason for non-payment of the
4 tax, the Department has no discretion in the imposition of interest, as the statutory use of the
5 word “shall” makes the imposition of interest mandatory. *See Marbob Energy Corp. v. N.M. Oil*
6 *Conservation Comm'n*, 2009-NMSC-013, ¶22, 146 N.M. 24 (use of the word “shall” in a statute
7 indicates provision is mandatory absent clear indication to the contrary). There was no violation
8 of timeliness requirements in the Department’s processing of Taxpayer’s protest, nor in the
9 administrative hearing proceedings.

10 **Conclusion.**

11 Mr. Miller’s withdrawn retirement savings were not taxed by Nevada upon withdrawal, so
12 double taxation of retirement income is not evident. Mr. Miller’s withdrawal of retirement savings
13 was not reported to New Mexico on his original 2016 PIT-1. After receiving the assessment, Mr.
14 Miller attempted to amend his 2016 PIT-1 return, but neither signed nor dated the submission. The
15 allocation of retirement savings while living in Nevada was properly allocated to New Mexico
16 because Mr. Miller was a statutory resident of New Mexico and retirement income is
17 “compensation” under the Income Tax Act. Mr. Miller did not pay tax on the amount of the
18 retirement savings when it was due so the assessment of tax, penalty and interest was proper.

19 **CONCLUSIONS OF LAW**

20 A. Taxpayer filed a timely, written protest of the Department’s, the Department issued
21 a Notice of Assessment of Taxes and Demand for Payment under Letter ID No. L0913838512
22 and jurisdiction lies over the parties and the subject matter of this protest. *See* NMSA 1978, Section
23 7-1-24 (A) & (D) (2019); *see also* NMSA 1978, Section 7-1-26 (A) (2019).

1 B. The hearing was timely set and held within 90-days of the Department’s request for
2 hearing pursuant to NMSA 1978, Section 7-1B-8 (2019).

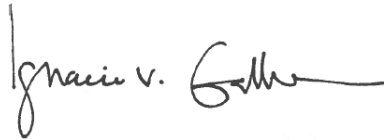
3 C. Any assessment of tax made by the Department is presumed to be correct.
4 Therefore, it is the taxpayer’s burden to come forward with evidence and legal argument to establish
5 that the Department’s assessment should be abated, in full or in part. *See* NMSA 1978, Section 7-1-
6 17 (C) (2007).

7 D. Federal law prohibiting states from imposing an income tax on the retirement
8 income of out-of-state residents does not apply to a statutory limit where Taxpayer is a New Mexico
9 resident temporarily living in another state. It is well-settled that the State of New Mexico can tax
10 the income of its residents. *See* 4 U.S.C. 114; *see also Shaffer v. Carter*, 252 U.S. 37 (1919); *see*
11 *also Lawrence v. State Tax Commission of Mississippi*, 286 U.S. 276 (1932); *see also Comptroller*
12 *of Treasury of Maryland v. Wynne*, 575 U.S. 543, 135 S.Ct. 1787 (2015).

13 E. The credit for allocated and apportioned income taxes paid to another state was
14 properly denied because Nevada does not impose an income tax. The retirement income of a
15 resident of New Mexico is properly allocated to New Mexico, regardless of where the resident
16 visited when the retirement savings distribution took place. *See* NMSA 1978, Section 7-2-13
17 (2013); *see also* NMSA 1978, Section 7-2-11 (A) (2016); *see also* Regulation 3.3.11.13 (A) NMAC
18 (12/14/2000); *see also* Regulation 3.3.11.11 (B) NMAC (12/14/2000).

1 For the foregoing reasons, the Taxpayer's protest is **DENIED. IT IS ORDERED** that the
2 Department's Assessment of tax, penalty and interest for Personal Income Tax year 2016 was
3 correct.

4 DATED: February 10, 2022.



5 Ignacio V. Gallegos
6 Hearing Officer
7 Administrative Hearings Office
8 P.O. Box 6400
9 Santa Fe, NM 87502
10

11 **NOTICE OF RIGHT TO APPEAL**

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

1 **CERTIFICATE OF SERVICE**

2 On February 10, 2022, a copy of the foregoing Decision and Order was submitted to the
3 parties listed below in the following manner:

4 *First Class Mail and E-Mail* *E-Mail*

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