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**JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.**

**FORENSIC INVESTIGATION REPORT**

August 18, 2022

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Dawson Forensic Group

Lubbock, Texas

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**JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.**

**Forensic Investigation Report - Initial Issuance**

**August 18, 2022**

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**JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.**

**FORENSIC INVESTIGATION REPORT – Initial Issuance  
Executive Summary**

**FORENSIC INVESTIGATION REPORT – Initial Issuance**

This report is issued initially based on information and documentation received through July 31, 2022. The report is issued to the Board of Trustees and Audit Committee of the Jemez Mountains Electric Cooperative, Inc., Española, New Mexico.

Based on the type of conclusions presented, this type of report is often used as a “predication” report that results in providing a basis for probable cause to obtain additional information through a subpoena process. Additional information provided could result in a modification of the presented victim losses for presentation to a trier of fact for the rendering of a verdict.

This engagement was based on the desire of the Board of Trustees and Audit Committee to perform a forensic investigation of certain areas of concern predicated upon past and current history and knowledge of Cooperative operations. Additionally, the Audit Committee sought and included input from the membership regarding concerns that may need to be investigated or reviewed.

Before a forensic investigation can begin, there must be predication (probable cause) to conduct the investigation. This predication is exhibited by the existence of information or documentation that at least indicates that a fraud may have been committed. In the absence of that type of information or documentation, we cannot legally perform a forensic investigation.

Often, a forensic investigation results in the identification of a presentable case of fraud to a trier of fact for the rendering of a verdict. *Internal Fraud* can be defined as fraud (misappropriation, theft, embezzlement, corruption, financial misstatement) that is perpetrated against an organization by its own people either individually or in collusion with others, including other outside parties such as suppliers/vendors. Accordingly, the focus is not related to any form of external attack such as cyber-security attacks or other types of theft solely perpetrated by actors external to the organization.

The overall objective of this investigation is to prepare the forensic investigation report to properly quantify the loss and to explain the performance of the related alleged fraudulent transactions sufficient to serve as a basis for criminal prosecution, civil litigation, bond insurance recovery, and/or for restitution-seeking purposes.

This investigation was performed in accordance with Statement on Standards for Forensic Services No. 1 issued by the American Institute of Certified Public Accountants, the Code of Ethics of the Association of Certified Fraud Examiners, and in accordance with lawful forensic investigation techniques which include, but are not limited to, examination of books and records; voluntary interviews of appropriate personnel; and other such evidence-gathering procedures as considered necessary under the circumstances.

In performing this engagement, we represent that we have no prior personal or business relationships with employees, members of the Board of Trustees, members of the Audit Committee, Mr. Michael Hastings, or members of the Cooperative.

# JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

## FORENSIC INVESTIGATION REPORT – Initial Issuance Executive Summary

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### OVERVIEW

#### Victim Information

The alleged victim organization referenced throughout this Report is Jemez Mountains Electric Cooperative, Inc., located in Española, New Mexico (the “Cooperative”). The Cooperative is a member-owned organization that provides electric and related utility services to members in its associated service area.

#### Historical Background

Based upon discussions with the Audit Committee and a review of initial documentation received, the following areas of suspicion were identified as subject to forensic investigation.

- Alleged improprieties regarding separation of service payments received by former executives from the Cooperative,
- Overall alleged improprieties in the existing solar projects.

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**STATEMENT OF PREDICATION**

Before a forensic investigation can begin, there must be predication (probable cause) to conduct the investigation. As such, the following Statement of Predication is presented:

As introduced in the Overview section of this report, there were several issues noted that indicated the possibility that fraud may have occurred. These issues involved the following:

- Improper, excessive separation from service payments received by a former executive,
- Allegations of improprieties associated with solar projects involving Cooperative insiders and the external owner/administrator of the solar projects.

Based on this information, we determined that significant predication existed to perform a forensic investigation.

# JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.

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### NATURE OF EVIDENCE OBTAINED

The accumulation of evidence obtained in a forensic investigation is normally obtained with the following “ends” in mind:

Commitment – The evidence is intended to provide information as to the allegation that a crime has been committed.

Concealment – The evidence is provided to reflect that efforts were made to conceal the crime committed. Efforts to conceal serve to provide evidence as to the alleged perpetrator’s state of mind known as *mens rea*. *Mens rea* can be further classified into four categories as follows:

- Intent – acting with a deliberate, purposeful resolve to bring about a particular result (benefit personally)
- Knowledge – the deliberate indifference to one’s behavior that almost certainly creates a risk that results in a criminal outcome. Included is the concept that the offender is aware of their conduct and did not act through ignorance, mistake, or accident.
- Reckless Conduct – knowledge of a significant risk and acting with a conscious disregard that exposes others to that risk – a gross deviation from a standard of care that a reasonable person would take in a given situation.
- Reckless Negligence – acting without knowledge of a significant risk, yet in a position that the individual should have known the risk - a gross deviation from a standard of care that a reasonable person would take in a given situation.

Conversion – The evidence is provided to reflect that the perpetrator of an alleged crime benefited personally from the transaction, while causing a loss to the victim organization.

The evidence included in this Report has been accumulated for the purpose of presenting that all three elements of fraud exist in the matters under investigation.

### Types of Fraud

The evidence obtained in an investigation is used to classify the fraud according to the three types of fraud (either as one type, or a combination of two or even three of the types of fraud) as presented below:

*Misappropriation*: The taking of company assets

*Corruption*: Collusion involving more than one person to commit fraudulent acts, including but not limited to bribery, kickbacks, bid-rigging, and illegal gratuities

*Fraudulent Financial Reporting*: The intentional misrepresentation of the financial position and/or the results of operations of a company

Conclusions reached, based on the evidence included in this Report, have been classified as referenced in accordance with these types of fraud.

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**PRINCIPALS**

Suspect(s)

Not Named Due to Lack of Presentable Case

Not Named Due to Lack of Presentable Case

Victim Organization

Jemez Mountains Electric Cooperative, Inc.  
Española, New Mexico

Investigation performed by and under the direction of,

Steve Dawson CPA, CFE (President) and  
Jeff Smith, CFE – Senior Investigator

of

Dawson Forensic Analytics, P.L.L.C.  
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for

Jemez Mountains Electric Cooperative, Inc.

Relevant Federal, State, and Local Law Enforcement and Prosecuting Authorities

**JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.**

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**HYPOTHESES (ALLEGATIONS) OF FRAUD**

Based on the information presented in the Overview and Statement of Predication sections of this Report, the following allegations of fraud were developed:

Allegation of Fraud (Type – Misappropriation/Corruption)

A former executive employee, as part of his/her separation from employment from the Cooperative, received excessive payouts from the Cooperative in exchange for nondisclosure of Cooperative activities.

Allegation of Fraud (Type – Corruption/Collusion)

A former Cooperative official received kickbacks from the owner/administrator of the solar projects in exchange for favorable contracting for the solar projects. Additionally, the former official benefitted personally as an employee and/or independent contractor of the owner/administrator of the solar projects.



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**INVESTIGATION SCOPE / OBJECTIVES**

The primary objective of this investigation is to determine if evidence exists that could support a presentation of fraud to a trier of fact for the rendering of a verdict regarding the allegations as presented.

The determination of guilt or innocence (a verdict) is the responsibility of the trier of fact and cannot be relegated to the contents of this Report. This Report provides conclusions regarding what the evidence suggests. These conclusions can be used in the forensic presentation of the evidence to a trier of fact, who retains the responsibility for the rendering of the verdict.

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**SECTION A: Improper Separation from Service Payments**

Procedures Performed

We obtained all records of disbursements and payroll disbursements associated with the alleged actor in this scenario.

We reviewed and analyzed the supporting documentation including general ledger activity and bank statement activity.

Results of Procedures Performed

Payments were proper (not excessive), were properly supported, and were properly authorized.

Conclusion

No evidence of nefarious activity indicative of a presentable case of fraud was noted.

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**SECTION B: Improprieties Associated with Existing Solar Projects**

**Procedures Performed**

We obtained and analyzed documentation associated with all aspects of the construction and administration of the solar projects, within the context of the allegations.

Whether considered as a presentable case of fraud, it is noted that the ability to present a case of fraud in this matter is contingent upon the subpoena of law enforcement investigators to obtain the following:

- Business financial records of the solar owner/administrator,
- Personal financial records of the solar owner/administrator,
- Personal financial records of the former Cooperative official.

**Results of Procedures Performed**

Based on our various analyses of the records of the Cooperative, we noted no evidence of fraud sufficient to support a request for a subpoena by law enforcement authorities.

**Conclusion**

Our procedures resulted in a conclusion that there is no presentable case of fraud. As such, we consider this matter to be closed.