ORDINANCE NO. 85-3

AN ORDINANCE ADOPTING A CODE OF ETHICS AND A CAMPAIGN REPORTING ACT, CREATING A BOARD OF ETHICS, SETTING STANDARDS AND PROCEDURES FOR EMPLOYEES AND CANDIDATES, PRESCRIBING REPORTING REQUIREMENTS AND PROVIDING FOR INSPECTION, PRESCRIBING STANDARDS OF CONDUCT FOR CAMPAIGNS, REPEALING AN ORDINANCE WHICH ADOPTED A CODE OF ETHICS AND A CAMPAIGN REPORTING ACT, CREATED A BOARD OF ETHICS, SET STANDARDS AND PROCEDURES FOR EMPLOYEES AND CANDIDATES, PRESCRIBED REPORTING REQUIREMENTS AND PROVIDED FOR INSPECTION AND PRESCRIBED STANDARDS OF CONDUCT FOR CAMPAIGNS.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BERNALILLO, COUNTY, NEW MEXICO, THAT:

Bernalillo County Ordinance No. 234 is adopted and will read:

Section 1-Declaration of Policy and Citation of Authority.
The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that government decision and policy be made in the best interests of the people, the community and the government; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals and pursuant to the authority contained in Sections 3-17-1, 4-37-1 and 4-38-24 NMSA 1978, the following code of ethics is adopted to apply to all public officials and employees of the County Government, whether elected or appointed, paid or unpaid, and to appointed officers and employees of other independent agencies where so provided by laws.

Section 2-Conflict of Interest.
No public official or employee of the County Government or any independent agency to which this code of ethics applies shall knowingly:

1. Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;

2. Engage in or accept private employment or render services for private interest when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;

3. Disclose confidential information concerning the property, government, or affairs of the governmental body by which he is employed without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;

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4. Accept any valuable gift, whether in the form of service, loan , thing, or promise, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he is employed; provided, however that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

5. Represent private interests in any action or proceeding before the governmental body by which he is employed or was employed within the year preceding the representation; or

6. Vote or otherwise participate in the negotiation or the making of any contract with any business or entity in which he has a financial interest.

Section 3-Disclosure.
Any employee of the Couty Government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the County Government shall disclose such private interest to the Commission. Any public official who has a private interest in any matter pending before the Commission shall disclose such private interst on the records of the Commission and shall disqualify himself from participating in any decision or vote relating thereto. Any officer or employee of an independent agency to which this code of ethics applies who shall have any private financial interest, directly or indirectly in any contract or matter pending before or within such independent agency shall disclose such private interest to the governing body of such independent agency.

Section 4-Use of Public Property.
No public official or employee of the County Government or any independent agency to which this code of ethics applies shall use property owned by such governmental body for personal benefit, convenience or profit.

Section 5-Penalties.
The violation of any of the precedint Sections 2 through 4 inclusive, shall be punishable as follows:
1. In the case of employees, by reprimand; suspension for a period not exceeding six (6) months; reduction in rank; removal from employment or service; forfeiture of not more than three (3) months' salary; all as and when ordered by the Board of Ethics.

2. In the case of any elected official and appointed officials, by operation of law.

Section 6-Board of Ethics.
The County Commissioners shall appoint a five (5) member board to act as a Board of Ethics for the purpose of enforcing the provisions of this Code of Ethics.

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Each member of the Board of Ethics shall serve for a two year period unless otherwise specified at the time of his or her appointment. The Board of Ethics shall, on the written request of any elected official, appointed official or employee, coming under the Code of Ethics render advisory opinions concerning provisions of this Code of Ethics. The Board may at its discretion, publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the individual or individuals involved.

The Board shall receive and investigate complaints concerning violations of this Code of Ethics by employees. In any instance in which the Board of Ethics finds that a violation of the Code of Ethics has been committed by an employee, the Board of Ethics may impose any of the penalties provided under sub-paragraph 1 of Section 5 in hearing and investigating complaints concerning violations of this Code of Ethics. The Board of Ethics shall have power to subpoena witnesses, administer oaths, take testimony and require other production of evidence.

Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Board of Ethics shall be guilty of a misdemeanor. The Board of Ethics shall, on the written request of any elected official, appointed official, or employee coming under this Code of Ethics, hold a hearing after notice to any affected employee or official to determine whether there are reasonable grounds for action against any elected or appointed official, and if, in the opinion of the majority of the members of the Board of Ethics there appear to be reasonable grounds for such action, institute proper action and contact proper public officials.

Section 7-Campaign practices; primary election; expenditure of party money.

1. No contribution of money, or the equivalent thereof, made directly or indirectly to any political party, to any political party committee or to any person representing or acting on behalf of a political party, and no money in the treasury of any political party or political party committee shall be expended directly or indirectly in the aid of the nomination at a primary election of any one or more persons as against any one or more other persons of the same political party running in such primary election.

Section 8-Campaign practices; printing or publishing campaign material without sponsor; penalty.

1. It is unlawful for any person, organization or political committee to publish or print any campaign advertising or communication which does not specify the name of the sponsor or the name of the responsible officer who authorized the printing or publication of such material, in any election, special election, school district election or an election authorizing a bond issue.

This prohibition extends only to handbills, petitions, circulars, letters or similar written material.

2. Any printing establishment shall identify itself as the printer of the campaign material.

3. Any person, organization or political committee violating the provisions of Subsections 1 and 2 of Section 8 is guilty of a fourth degree felony and shall be punished as provided in the Criminal Code of New Mexico Statutes Annotated, 1978.

Section 9-Campaign practices; circulation of campaign material without specifying sponsor; penalty.

1. It is unlawful for any person, organization or political committee to circulate or distribute any campaign advertsing or communication which does not specify the name of the sponsor of such material, in any election, special election, school district election or an election authorizing a bond issue. This prohibition extends to handbills, petitions, circulars or similar written material.

2. Any printing establishment shall identify itself as the printer of the campaign material.

3. Any person, organization or political committee violating the provisions of Subsection 1 and 2 of Section 8 is guilty of a fourth degree felony and shall be punished as provided in the Criminal Code of New Mexico Statutes Annotated, 1978.

Section 9-Campaign practices; circulation of campaign material without specifying sponsor; penalty.

1. It is unlawful for any person, organization or political committee to circulate or distribute any campaign advertising or communication which does not specify the name of the sponsor of such material, in any election, special election, school district election or an election authorizing a bond issue. This prohibition extends to handbills, petitions, circulars or similar written material.

2. Any person, organization or political committee violating the proviaions of Subsection 1 of Section 9 is guilty of a misdemeanor and shall be punished as provided in the Criminal Code of the New Mexico Statutes Annotated, 1978.

Section 10-Title. Sections 10 through 24 may be cited as the "Campaign Reporting Act."

Section 11-Definitions. As used in the Campaign Reporting Act (Sections 10 through 24):

1. "Candidate" means an individual seeking designation as a nominee at a preprimary designating convention, nomination at any primary election or election at a general or statewide special election;

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2. "Contribution" means a gift, subscription, loan, advance or deposit of any money or other thing of value which is made for the purpose of supporting or opposing a candidate at a pre-primary designating convention, or at any election of a candidate, or for the purpose of adopting or defeating any constitutional amendment or other question submitted to the voters, and includes any gift, subscription, loan, advance or deposit to a person who was a candidate as long as the candidate's campaign has not repaid all loans to the candidate, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee nor does it include the administration or solicitation expenses of a general purpose political committee which are paid by an organization which sponsors such a committee;

3. "Election" means any primary, general or statewide special election in New Mexico;

4. "Expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for the purposes of influencing the outcome of a designation at a preprimary designating convention or any election of a candidate, or for the purpose of influencing the result of an election on any constitutional amendment or other question submitted to the voters, but does not include the candidate's or his immediate family's personal expenses for traveling, sleeping or eating; nor does it include the administration or solicitation expenses of a general purpose political committee which are paid by an organization which sponsors such a committee;

5. "Political Committee" means every two or more persons who are selected, appointed, chosen or associated within New Mexico for the purpose of, wholly or in part, supporting or opposing a candidate at a preprimary designating convention, or any election, or for the purpose of adopting or defeating any constitutional amendment or other question submitted to the voters, and includes political action committees or similar organizations composed of employees or members of any corporation, labor organization, trade or professional association or any other similar group which raises, collects, expends or contributes money or any other thing of value for the purpose of supporting or opposing a candidate at a preprimary designating convention, or any election, or for the purpose of adopting or defeating any constitutional amendment or other question submitted to the voters;

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6. "Reporting Individual" means every candidate, every treasurer of a political committee and every nonresident political committee, special purpose political committee and general purpose political committee who contributes to a candidate for office in New Mexico, except as may otherwise be provided in the Campaign Reporting Act;

7. "Special Purpose Political Committee; means a political committee making contributions to support or oppose one candidate or one constitutional amendment or other question submitted to the voters, such contributions being limited to one primary and one general election; and

8. "General Purpose Political Committee" means a political committee other than a special purpose political committee.

Section 12-Reports required. Each candidate and each treasurer of each special purpose political committee shall file with the proper filing officer, as defined in the Election Code of the New Mexico Statutes Annotated, 1978, a report of expenditures and contributions on forms prescribed by the clerk and furnished by the proper filing officer. When the reporting individual is a candidate, the report shall include the expenditures and contributions of those political committees authorized by such candidate to expend and receive funds on the behalf of his candidacy, and in such case where the candidate files a report for the political committee, the treasurer thereof need not file a report of expenditures and contributions for the period covered in the candidate's report. The Board of Ethics shall examine each report filed to assure compliance with the Campaign Reporting Act.

Section 13-Reports Required; general purpose political committee.
Each treasurer of each general purpose political committee shall file with the county clerk a report of expenditures and contributions on forms prescribed by the county clerk.

Section 14-Time of filing reports; general purpose political committee. If a general purpose political committee is supporting or opposing a candidate or issue involved in an election or designating convention, such committee shall file reports of expenditures and contributions for the reporting period:
1. not later than ten days prior to the election;and
2. not later than thirty days after an election; provided, however, that if such a committee has already reported contributions or expenditures in connection with a candidate or issue and if no further contributions or expenditures are made in connection with that candidate or issue, then no further pre- or post-election or convention reports shall be required for that condidate or issue.

Section 15-Furnishing report forms.
The proper filing officer shall furnish upon request to political committees the form prescribed by the Secretary of State for the reporting of expenditures and contributions. At the time of filing a statement of candidacy for convention designation or a declaration of candidacy for nomination at a primary election, the proper officer shall give such candidate the prescribed reporting forms. Ten days before any report of expenditures and contributions is required to be filed by the Campaign Reporting Act (Sections 10 through 24) the proper officer shall notify each candidate by certified mail of the deadline for filing the report.

Section 16-Time of filing reports. Candidates and special purpose political committees shall file reports of expenditures and contributions for the reporting period:

1. Not later than ten days prior to an election;
2. Not later than thirty days after an election;
3. Six months after an election if any contributions in the possession of the candidate or special purpose political committee remain unexpended, if any debt remains unpaid or if any contributions were accepted in the reporting period; and
4. Every twelve months after an election so long as any debt remains unpaid by the candidate or special purpose political committee or if any contributions were accepted in the reporting period.

Section 17-Reporting Period. The reporting period for a report of expenditures and contributions required under the Campaign Reporting Act (Sections 10 through 24) shall be:
1. For the initial report, the period of time beginning with the acceptance of the first contribution or the making of the first expenditure and ending with the seventh day prior to the date required by the Campaign Reporting Act for the filing of the report of expenditures and contributions; and

2. For subsequent reports, the period of time beginning with the sixth day immediately prior to the filing of the last report of expenditures and contributions and ending the seventh day prior to the date required by the Campaign Reporting Act (Sections 10 through 24) for the filing of the report of expenditures and contributions.

Section 18.-Contents of Report.

1. Each reporting individual other tha a general purpose political committee who has contributed or expended more than one hundred dollars ($100) in the calendar year shll itemize each item of expenditure and contribution including:
(a) The name and address of all persons or entities to whom an expenditure was made or from whom a contribution was received;

(b) The amount of the expenditure or contribution, or value thereof;

(c) The purpose of the expenditure or contribution; and

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(d) The date of the expenditure or contribution.

2. Such report of expenditures or contributions shall also include the total of all unitemized contributions and expenditures. The report of expenditures and contributions shall be subscribed and sworn to by the candidate or treasurer of the political committee, as the case may be.

Section 19-Status of Report. The report of expenditures and contributions is a public record and shall at all reasonable times be open to public inspection. Unless an action or prosecution is pending requiring the preservation of such report, it may be destroyed two years after the date of filing.

Section 20-Political committee contributions cross-check required for certain candidates.

1. The Chairperson of the Board of Ethics shall, within thirty days after any required expenditures and contribution report filing date, release a report on any discrepancies found after cross-checking political committee contributions against contributions reported by candidates and contributions reported by candidates against contributions reported by special purpose political committees.

2. The county clerk shall transmit to the chairperson of the Board of Ethics within twenty-four hours of receipt any required campaign contribution and expenditure report subject to the provisions of this section.

Section 21-Exclusion of certain candidates from reporting.

1. Any candidate who anticipates receiving or expending less than five hundred dollars ($500) to influence the outcome of his election shall file a statement to that effect at the time of filing a statement of candidacy for convention designation or declaration of candidacy, or ten days prior to the election in which such person is a candidate, whichever is later. Upon the filing of such statement, the candidate shall not be required, except as provided in Subsection 2 of this section, to file a report of expenditures and contributions as required by the Campaign Reporting Act (Sections 10 through 24).

2. If at any time either the expenditures or contributions of a candidate who has filed a statement as provided in Subsection 1 of this section exceeds five hundred dollars ($500), the candidate shall file the next report and each succeeding report by the Campaign Reporting Act.

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Section 22-Political Committeess; Treasurer.

1. It is unlawful for the members of any political committee or candidate to make any expenditure or solicit or accept any contribution for the purposes of supporting or opposing a candidate at a preprimary designating convention or any election, or for the purpose of adopting or defeating any constitutional amendment or other question submitted to the voters, unless:

(a) A treasurer has been appointed and is constantly maintained; however, when a duly appointed treasurer is unable for any reason to continue as treasurer, the candidate shall appoint a successor;

(b) All disbursements of money and receipts of contributions are made by and through such treasurer; and

(c) Such treasurer upon disbursing or receiving money or other things of value shall immediately enter and thereafter keep in a proper book to be preserved by him, a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursalor receipt, to whom disbursed or from whom received and the object and purpose for which it was disbursed or received.

2. No anonymous contributions shall be accepted.

3. Any person violating any of the provisions of this section is guilty of a misdemeanor and upon conviction therefor, such person shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars (1,000), or by imprisonment not to exceed three months in the county jail, or both such fine and imprisonment.

Section 23-Reports; late filing penalty; failure to file.

1. If any candidate or treasurer of a political committee making a contribution files a report of expenditures and contirbutions after any deadline imposed by the Campaign Reporting Act (Sections 10 through 24), or if the candidate or treasurer files an incomplete report, the person, in addition to any other penalties or remedies prescribed by these sections of the section of the Election Code of New Mexico Statutes Annotated, 1978, shall be liable and shall pay to the proper filing officer at the time of filing the sum of ten dollars ($10) per day for each regular working day after the time required by the Campaign Reporting Act for the filing of reports os expenditures and contributions, until the complete report is filed. All sums collected for such penalty shall be deposited in the general fund of the county. If sent by certified or registered mail, the report shall be deemed filed on the date three days following the date of the postmark.

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2. Any candidate who fails or refuses to file a report of expenditures and contributions in the manner and within the time required by the Campaign Reporting Act, in addition to any other penalties provided by law:

(a) If before the final date for the withdrawal of candidates shall not have his name printed upon the ballot; or

(b) If after the final date for withdrawal of candidates or if after the election, as the case may be, until such candidate files the report of expenditures and contributions as required by the Campaign Reporting Act.

Section 24-Penalties.

1. It is unlawful for a candidate or treasurer of a political committee to knowingly and willfully file a false report of expenditures and contributions.

2. Violation of the provisions of this section is a misdemeanor. AND BE IT FURTHER ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BERNALILLO COUNTY, NEW MEXICO, THAT BERNALILLO COUNTY ORDINANCE NO. 234 AS AMENDED BY ORDINANCE NO. 80-15, WHICH WAS PASSED, APPROVED AND ADOPTED ON MAY 16, 1980, IS HEREBY REPEALED.

The text of Ordinance NO. 234 which is being repealed contained the following:
Section 1-Declaration of Policy. THe proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that government decision and policy be made in the best interests of the people, the community and the government that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, the following code of ethics shall apply to all public officials and employees of the County Government, whether elected or appointed, paid or unpaid, and to appointed officers and employees of other independent agencies where so provided by laws.

Section 2-Conflict of Interest. No public official or employee of the County Government or any independent agency to which this code of ethics applies shall knowingly:

1. Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;

2. Engage in or accept private employment or render services for private interest when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties;

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3. Disclosure confidential information concerning the property, government, or affairs of the governmental body by which he is employed without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;

4. Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he is employed; provided, however that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

5. Represent private interests in any action or proceeding before the governmental body by which he is employed; or

6. Vote or otherwise participate in the negotiation or the making of any contract with any business or entity in which he has a financial interest.

Section 3-Disclosure. Any employee of the County Government who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the County Government shall disclose such private interest to the Commission. Any public official who has a private interest in any matter pending before the Commission shall disclose such private interest on the records of the Commission and shall disqualify himself from participation in any decision or vote relating thereto. Any officer or employee of an independent agency to which this code of ethics applies who shall have any private financial interest, directly or indirectly in any contract or matter pending before or within such independent agency shall disclose such private interest to the governing body of such independent agency.

Section 4-Use of Public Property.
No public official or employee of the County Government or any independent agency to which this code of ethics applies shall use property owned by such governmental body for personal benefit, convenience or profit.

Section 5-Penalties.
The violation of any of the precedint Sections 2 through 4 inclusive, shall be punishable as follows:

1. In the case of employees, by reprimand; suspension for a period not exceeding six (6) months; reduction in rank; removal from employment or service; forfeiture of not more than three (3) months' salary; all as and when ordered by the Board of Ethics.

2. In the case of any elected official and appointed officials, by operation of law.

Section 6 - Board of Ethics.
The County Commissioners shall appoint a five (5) member board to act as a Board of Ethics for the purpose of enforcing the provisions of this Code of Ethics. Each member of the Board of Ethics shall serve for a two year period unless otherwise specified at the time of his or her appointment. The Board of Ethics shall, on the written request of any elected official, appointed official or employee, coming under the Code of Ethics render advisory opinions concerning provisions of this Code of Ethics. The Board may at its discretion, publish its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of the individual or individuals involved.

The Board shall receive and investigate complaints concerning violations of this Code of Ethics by employees. In any instance in which the Board of Ethics finds that a violation of the Code of Ethics has been committed by an employee, the Board of Ethics may impose any of the penalties provided under sub-paragraph 1 of Section 5 in hearing and investigating complaints concerning violations of this Code of Ethics. The Board of Ethics shall have the power to subpoena witnesses, administer oaths, take testimony and require other production of evidence.

Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Board of Ethics shall be guilty of a misdemeanor. The Board of Ethics shall, on the written request of any elected official, or employee coming under this Code of Ethics, contact the proper public officials and institute the proper action against any elected or appointed official. If, in the opinion of the majority of the members of the Board of Ethics that appears to be reasonable grounds for such action.

Section 7-Campaign practices; primary election; expenditure of party money.

1. No contribution of money, or the equivalent thereof, made directly or indirectly to any political party, to any political party committee, to members of any political party committee or to any person representing or acting on behalf of a political party, and no money in the treasury of any political party committee shall be expended directly or

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I, MAGGIE TOULOUSE OLIVER, County Clerk of Bernalillo County, New Mexico, hereby certify that the foregoing is true, correct and full copy of the instrument herewith set out as appears of record in my office.

Dated this 18th day of May 2012

MAGGIE TOULOUSE OLIVER,
Bernalillo County Clerk

By Celina Vasc
Deputy Clerk