

**STATE OF NEW MEXICO
ADMINISTRATIVE HEARINGS OFFICE
TAX ADMINISTRATION ACT**

**IN THE MATTER OF THE PROTEST OF
LOUIE CASIAS
TO NOTICE OF CLAIM OF TAX LIEN ISSUED UNDER LETTER
ID NO. L1687629360**

No. 17-25

DECISION AND ORDER

A formal hearing in the above-referenced protest was held March 15, 2017, before Chris Romero, Hearing Officer, in Santa Fe, New Mexico. The Taxation and Revenue Department (Department) was represented by Mr. Richard Peneer, Staff Attorney. Ms. Veronica Galewaler, Auditor, appeared and testified on behalf of the Department. Taxpayer Louie Casias (Taxpayer) appeared in person and was represented by Mr. Wayne G. Chew (counsel). The Hearing Officer took notice of all documents in the administrative file. Taxpayer Exhibits 1 – 8 and Department Exhibits A – G, and I – FF were admitted. Although admitted, the Hearing Officer gave no weight to Department Exhibits P and Q finding that there was insufficient foundation upon which to find that the information contained therein was trustworthy and reliable. The Department and the Taxpayer filed written closing arguments and the record closed on April 17, 2017. Based on the evidence and arguments presented, IT IS DECIDED AND ORDERED AS FOLLOWS:

FINDINGS OF FACT

1. In or about 1986, Taxpayer began a trucking business which he called Casias Trucking. [Testimony of Mr. Casias].
2. Taxpayer registered Casias Trucking with the Department on or about February 8, 1995. Casias Trucking was assigned CRS No. 02-274438-00-0. The business was registered as

the sole proprietorship of Taxpayer and associated with Taxpayer's name and social security number. [Testimony of Ms. Galewaler; Dept. Exs. K; M].

3. In 2003, Taxpayer established Casias Trucking, LLC ("LLC"). The LLC was established with the advice and assistance of Taxpayer's certified public accountant. Taxpayer was the sole member of the LLC. [Testimony of Mr. Casias; Taxpayer Ex. 1].

4. At all relevant times, the Department had a process for assigning new CRS numbers for taxpayers converting from one form of business entity to another. The process required that the Taxpayer submit a Business Tax Registration Update form. The process then required that the business close its existing account and open a new account as the converted entity at which time the business received a new CRS number. Adherence to the required procedure was necessary for Taxpayer to update its registration to reflect a conversion from a sole proprietorship to a limited liability company. [Testimony of Ms. Galewaler; Dept. Ex. L].

5. CRS numbers do not change unless the Department recognizes a modification to the business entity utilizing its update process. The CRS number for Casias Trucking never changed to reflect any conversion in business entity from the time of its initial registration through the dates at issue in the protest. Therefore, at all relevant times, Taxpayer was registered as a sole proprietor. [Testimony of Ms. Galewaler].

6. Taxpayer relied wholly on his CPA to maintain books and records and prepare all necessary documents, including tax returns and reports for Taxpayer's business activities. Taxpayer's reliance extended to the submission of any necessary documents to effectuate a business tax registration update stemming from the conversion of his business from a sole proprietorship to an LLC. [Testimony of Mr. Casias].

7. Taxpayer had no recollection of whether or not he or his CPA ever submitted a Business Tax Registration Update to the Department. [Testimony of Mr. Casias].

8. Taxpayer could not recall whether, or to what extent, business assets may have been transferred from his sole proprietorship to his LLC. [Testimony of Mr. Casias].

9. At all relevant times, Taxpayer's business was engaged in the intrastate transportation of road construction materials including sand, gravel, and asphalt. [Testimony of Mr. Casias].

10. Beginning in 2003, Taxpayer began to make inconsistent representations regarding the legal entity of his business. Taxpayer provided a handful of examples of transactions where his business was acknowledged as an LLC, or represented itself as an LLC by use of the "LLC" designation. [Testimony of Mr. Casias; Taxpayer Exs. 2; 3; 4; 5; 6].

11. Examples provided were: a receipt for payment made for goods or services dated December 14, 2006 [Taxpayer Ex. 2]; an invoice for services provided by Taxpayer's CPA on October 31, 2006 [Taxpayer Ex. 3]; copy of payment voucher to Taxpayer by Lafarge Southwest Inc. on November 1, 2012 [Taxpayer Ex. 4.1; 4.3]; copy of an invoice to Taxpayer from Caterpillar Financial Services Corporation dated November 20, 2008 [Taxpayer Ex. 4.2]; sales order forms from Utility Trailer Interstate dated May 25, 2008 and February 8, 2008 [Taxpayer Ex. 5.1; 5.2]; a Nontaxable Transaction Certificate issued June 12, 2003 [Taxpayer Ex. 6]; and a sample of New Mexico Weight Distance Tax and New Mexico Gross Receipts Tax return forms [Taxpayer Ex. 7].

12. To the extent a revenue processing agent would have received a return or payment displaying an LLC designation, the revenue processing agent would be unlikely to conduct any

follow up because that agent's primary responsibility is data entry consisting of keying in the CRS number, return information, and payment information. [Testimony of Ms. Galewaler].

13. In contrast, there were also several examples of how the Taxpayer did not represent his business as an LLC as seen in various submissions to the Department, including returns, reports, and payments to the Department. Examples in which the Taxpayer failed to utilize an LLC designation included New Mexico Weight Distance Tax returns, CRS-1 returns, and checks to the Department for payment of taxes due. [Testimony of Mr. Casias; Dept. Exs. O; R; S; T; U; V; W; X; Y; Z; AA; BB; CC; DD; and EE.].

14. Various Nontaxable Transaction Certificates executed to the Taxpayer also omitted the LLC designation. [Testimony of Mr. Casias; Dept. Ex. O].

15. Taxpayer's CPA prepared Taxpayer's federal income tax returns, including Taxpayer's Schedules C for tax years 2006 – 2010. Those Schedule Cs omitted any reference to Taxpayer's business as an LLC. [Testimony of Mr. Casias; Taxpayer Ex. 8].

16. In a previous administrative proceeding involving Taxpayer and the Department held March 6 and 7, 2012, a finding was made in the Decision and Order (No 12-24) that Mr. Louie Casias was the sole owner and proprietor of Casias Trucking. [Dept. Ex. I].

17. The Department audited Taxpayer's business in reference to the reporting and payment of gross receipts tax. The audit began on December 20, 2011 and concluded on January 17, 2013. [Testimony of Mr. Casias; Testimony of Ms. Galewaler; Dept. Ex. G].

18. The audit identified Taxpayer's business as a sole proprietorship. This was consistent with the manner in which the Taxpayer registered with the Department to conduct business. [Testimony of Ms. Galewaler; Dept. Ex. G].

19. The Department issued an assessment in the amount of \$526,533.25 on June 24, 2013 under Letter Id. No. L0500699600. [Testimony of Ms. Galewaler; Dept. Ex. C]. The assessment was addressed to Casias Trucking and did not contain an LLC designation. [Dept. Ex. C].

20. Taxpayer filed, by and through his attorney, a protest to the assessment under Letter Id. No. L0500699600. Taxpayer's CRS number as provided in the protest was 02-274438-00-0. The protest referred to the Taxpayer as Casias Trucking and omitted any reference to the LLC. [Testimony of Mr. Casias; Dept. Ex. E].

21. The protest to the assessment issued under Letter Id. No. L0500699600 was withdrawn on or about June 4, 2014, by and through, Taxpayer's attorney, with Taxpayer's authorization. Taxpayer's CRS number, as provided on the withdrawal was 02-274438-00-0. The withdrawal referred to the Taxpayer as Casias Trucking and omitted any reference to the LLC. [Testimony of Mr. Casias; Dept. Ex. F; N].

22. Prior to the withdrawal, or as a condition thereof, the original assessment was reduced from \$526,533.25 to \$271,596.15. [Dept. Exs. C; D]. The reduction represented the amount of an abatement of \$270,677.45. The remaining amount due after the abatement was \$255,855.80. [Testimony of Ms. Galewaler; Dept. Ex. N].

23. In withdrawing the protest, Taxpayer agreed that the withdrawal represented conclusive liability for the taxes for the periods ending March 2006 through September 2011 and Taxpayer agreed that he could not further protest taxes for the periods at issue. [Testimony of Galewaler; Dept. Ex. F].

24. Taxpayer ceased business operations in or about 2014. [Testimony of Mr. Casias].

25. On August 22, 2016, the Department issued a Notice of Claim of Tax Lien under Letter ID No. L1687629360. The notice asserted a total amount due of \$271,596.15 that consisted of \$156,384.39 in tax, \$82,328.81 in penalty, and \$32,882.95 interest stemming from the assessment under Letter ID. No. L0500699600, adjusted for abatements, credits, and accrual of interest and penalty. [Dept. Ex. D].

26. The lien was issued in the name of Louie Casias rather than Casias Trucking. When a lien is issued for taxes due from a sole proprietorship, it is issued in the name of the individual rather than the name under which the individual did business. [Testimony of Ms. Galewaler].

27. Taxpayer, by and through his attorney, filed a protest of the Notice of Tax Lien under Letter ID No. L1687629360. The protest bears the date of September 30, 2016. [Dept. Ex. A].

28. Taxpayer's protest was acknowledged by the Department on October 7, 2016 under Letter ID. No. L1821474352.

29. The Department submitted a Hearing Request to the Administrative Hearings Office on November 22, 2016.

30. On November 23, 2016, the Administrative Hearings Office entered a Notice of Telephonic Scheduling Conference setting a scheduling conference to occur on December 9, 2016.

31. On December 9, 2016, the Administrative Hearings Office entered a Scheduling Order and Notice of Administrative Hearing which established various deadlines and set a hearing on the merits for March 15, 2017.

32. The parties did not object that the Scheduling Hearing of December 9, 2016 satisfied the 90-day hearing requirement.
33. On December 21, 2016, the Department filed a Certificate of Service.
34. On February 7, 2017, the Department filed its Preliminary Witness and Exhibit List.
35. On February 9, 2017, the Department filed its Motion to Extend Time for Completion of Discovery and Filing Motions and Motion to Compel Responses to Discovery.
36. On February 21, 2017, the Administrative Hearings Office entered an Order Granting Motion to Compel and Extending Discovery and Motions Deadlines.
37. On February 28, 2017, Taxpayer filed a Certificate of Service.
38. On March 8, 2017, Taxpayer filed his Preliminary Witness and Exhibit List.
39. On March 8, 2017, the Department filed its portion of a Prehearing Statement.
40. On March 13, 2017, the parties filed a Joint Prehearing Statement.
41. A hearing on the merits occurred on March 15, 2017 at 1 p.m.
42. On March 31, 2017, the Department filed its timely Motion to Dismiss Protest and Closing Argument.
43. On April 17, 2017, the Taxpayer filed an untimely Response to Motion to Dismiss Protest and Closing Argument. The Hearing Officer nevertheless considered the Taxpayer's position and arguments despite its untimely filing.
44. As of March 15, 2017, Taxpayer's liability was \$156,333.39 in tax, \$83,494.81 in penalty, and \$44,623.32 in interest for a total of \$284,451.52. [Testimony of Ms. Galewaler; Dept. Ex. FF].

DISCUSSION

The issues in this protest are whether Taxpayer is personally responsible for the tax liability of his business, and to what extent the Taxpayer may protest the assessment that was subject of a previous protest and withdrawal.

Personal Liability for Taxes Due

Taxpayer asserted that he should not be personally liable for the tax liability of his business, Casias Trucking, or Casias Trucking, LLC, because responsibility for the liability rests solely with the limited liability company he formed in 2003. [Taxpayer Ex. 1]. Although there may be various benefits to operating a business through a limited liability company, the primary benefit Taxpayer seeks in the present matter derives from NMSA 1978, Sec. 53-19-13 which provides:

Except as otherwise provided in the Limited Liability Company Act, the debts, obligations and liabilities of a limited liability company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the limited liability company. No member or manager of a limited liability company and no other person with authority pursuant to the Limited Liability Company Act to wind up the business or affairs of the limited liability company following its dissolution, shall be obligated personally for any debt, obligation or liability of the limited liability company solely by reason of being a member or manager of the limited liability company or having authority pursuant to the Limited Liability Company Act to wind up the company's business and affairs following its dissolution. A person may be liable for any act or omission performed in his capacity as a manager of a limited liability company if there is a basis for liability. Nothing in this section shall be construed to immunize any person from liability for the consequences of his own acts or omissions for which he otherwise may be liable. (Emphasis added)

In this case, the Taxpayer organized Casias Trucking, LLC in 2003. The evidence suggested the intent for Casias Trucking, LLC to assume the ownership and operation of Casias

Trucking, the sole proprietorship. However, there was little evidence that Casias Trucking, LLC fully assumed the assets, rights, obligations, or liabilities of Casias Trucking, the sole proprietorship. For example, Taxpayer could not specify which, if any assets had ever transferred from Casias Trucking, the sole proprietorship, to Casias Trucking, LLC. There was also no evidence to establish any act by the LLC to assume any obligations or liabilities of Casias Trucking, the sole proprietorship, including the responsibility of reporting and paying taxes to the State.

In that regard, the Taxpayer registered his business with the Department as Casias Trucking, a sole proprietorship, and was assigned a CRS number. Taxpayer then proceeded to report and pay taxes under the assigned CRS number. At some point after establishing Casias Trucking, LLC, the Taxpayer, without formally updating his registration, began sporadically inserting in his tax returns the “LLC” designation behind the name of his business which he claimed he then submitted to the Department. This was insufficient to transfer liability from Casias Trucking, the sole proprietorship, to Casias Trucking, LLC.

The Department has established Regulation 3.1.1.15 (A) (1) NMAC that requires that the secretary of the Department develop and maintain systems “for the registration and identification of taxpayers who are subject to taxes and tax acts listed in Section 7-1-2 NMSA 1978 and taxpayers *shall* comply therewith.” (Emphasis added). The use of the word “shall” as provided in this regulation indicates that the provision is mandatory. *See Marbob Energy Corp. v. N.M. Oil Conservation Comm'n*, 2009-NMSC-013, ¶22, 146 N.M. 24, 32 (use of the word “shall” in a statute indicates provision is mandatory absent clear indication to the contrary).

At all relevant times, the Department had a process for assigning new CRS numbers when taxpayers converted a business from one form of business entity to another, such as sole

proprietorships to LLCs. The system required that the business close its existing account and open a new account as the converted entity at which time the business would receive a new CRS number. This would effectively obligate the new entity for reporting and payment of taxes.

In this protest, there was no evidence to establish that the Taxpayer attempted to comply with the method required for updating its registration to reflect a conversion from Casias Trucking, the sole proprietorship, to Casias Trucking, LLC. Rather, the Taxpayer merely inserted the “LLC” designation behind the existing name of the sole proprietorship. Taxpayer never closed the existing account or opened a new account designating Casias Trucking, LLC as the taxpayer. Although, Taxpayer asserted that he provided *notice* of the LLC to the Department by simply adding the “LLC” designation to a sample of his tax return filings, as illustrated in Taxpayer Ex. 7, the Hearing Officer was not convinced that notice alone, in the manner provided, was sufficient to shift a tax liability from Casias Trucking to Casias Trucking, LLC.

Moreover, although the records contained in Taxpayer Exhibit 7 utilize the LLC designation throughout, the Hearing Officer noted that none of the exhibits are signed. The absence of a signature is notable because taxpayers are required to declare that the return is signed under penalty of perjury and that the person signing the return has examined it and affirms that it is correct and complete to the best of the signor’s knowledge.

In contrast, the Department has also provided returns with copies of checks. Those records illustrate that from September of 2003 through January of 2007, the Taxpayer continued to submit returns and payments to the Department as Casias Trucking, minus the LLC designation, under the same CRS number as Casias Trucking, the sole proprietorship. The Taxpayer also submitted payments to the Department on checks indicating that the check was drawn on the account in Taxpayer’s individual name, with the added notation “DBA Casias

Trucking”. Although not all such documents overlap with the periods subject of the audit, the documents do illustrate how Taxpayer represented itself to the Department in the years following the establishment of Casias Trucking, LLC.

Taxpayer correctly pointed out the language in NMSA 1978, Sec. 53-19-13 which provides that “the debts, obligations and liabilities of the limited liability company...shall be solely the debts, obligations and liabilities of the limited liability company” and that “[n]o member of the limited liability company...shall be obligated personally for any debt, obligation or liability of the limited liability company[.]”

However, the evidence fails to establish that the tax obligation at issue in this protest was that of Casias Trucking, LLC. Rather, the evidence established that Casias Trucking, the sole proprietorship, incurred the obligation to report and pay taxes in New Mexico when it registered to do business on February 8, 1995, and there was never any update to the Taxpayer’s registration that would have effectively substituted the LLC for the sole proprietorship. In other words, the liability for which the Mr. Casias now seeks personal immunity was not *incurred by* the LLC. Rather, the liability was incurred by Mr. Casias as the sole proprietor of Casias Trucking. There was a lack of evidence upon which to find that the LLC incurred Mr. Casias’ personal tax obligation.

Although neither Taxpayer nor the Department refer to the legal concept of novation, it is instructive in this case. The Court in *Beebe v. Fouse*, 27 N.M. 194, 196 (1921) stated “[a] novation, then, as understood in modern law, is a mutual agreement, between all parties concerned, for the discharge of a valid existing obligation by the substitution of a new valid obligation on the part of the debtor or another, or a like agreement for the discharge of a debtor to his creditor by the substitution of a new creditor.”

In this case, Taxpayer established a relationship with the Department in which it was mutually agreed that in exchange for the privilege of doing business in New Mexico, Taxpayer would report and pay applicable taxes. The taxpayer was Mr. Casias as sole proprietor of Casias Trucking. The Department assented by virtue of assigning the Taxpayer with a unique CRS number under which returns and payments would be made. Casias Trucking, LLC was not a party to this arrangement because it did not exist.

Taxpayer essentially asserts that a novation occurred because Casias Trucking, LLC substituted for Casias Trucking, the sole proprietorship. However, novation requires more than what the Taxpayer provided in this scenario. Novation requires the *mutual agreement*, between all parties concerned, for the discharge of a valid existing obligation by the substitution of a new valid obligation on the part of the debtor or another. The evidence failed to demonstrate any agreement by the Department for Casias Trucking, LLC to substitute for Casias Trucking, the sole proprietorship, for any tax reporting or payment obligations arising from Taxpayer's business activities.

Accordingly, the Hearing Officer was not persuaded that Casias Trucking, LLC incurred the liabilities or obligations of Casias Trucking, the sole proprietorship. Therefore, the Hearing Officer must refer to the final sentence of the statute upon which the Taxpayer relies. The last sentence of NMSA 1978, Sec. 53-19-13 provides that “[n]othing in this section shall be construed to immunize any person from liability for the consequences of his own acts or omissions for which he otherwise may be liable.” In this case, Taxpayer personally incurred the tax liability of Casias Trucking, the sole proprietorship, and NMSA 1978, Sec. 53-19-13 does not immunize him from personal liability.

Taxpayer claims that he relied heavily on the advice of his certified public accountant who was not called upon to testify in this matter. However, that reliance cannot excuse Taxpayer's inaction in taking appropriate steps to assure that it was Casias Trucking, LLC that incurred state tax liability for the privilege of doing business in New Mexico, rather than Casias Trucking, the sole proprietorship. It is the Taxpayer's duty under *Tiffany Const. Co., Inc. v. Bureau of Revenue*, 1976-NMCA-127, 90 N.M. 16, to ascertain the tax consequences of his actions. A taxpayer cannot "abdicate this responsibility [to learn of tax obligations] merely by appointing an accountant as its agent in tax matters." *El Centro Villa Nursing Center v. Taxation and Revenue Department*, 1989-NMCA-070, ¶14, 108 N.M. 795.

Protest of underlying assessment is precluded under the terms of withdrawal

The second issue Taxpayer asserted was that he is entitled to protest the underlying audit and assessment, including penalty, because the withdrawal on the previous protest was effective only as to Casias Trucking, *LLC*.

The evidence established that Casias Trucking, the sole proprietorship, was audited for the period between January 1, 2006 and September 30, 2011. The audit resulted in an assessment of \$526,533.25 for the periods from March 31, 2006 to September 30, 2011. The assessment was addressed to Casias Trucking, the sole proprietorship, and the Taxpayer protested the assessment. The protest was ultimately resolved without the need for a hearing. Taxpayer withdrew the protest with the Department agreeing to abate more than 50 percent of the assessment in the amount of \$270,677.45.

The Taxpayer withdrew the protest and agreed that the withdrawal was conclusive as to the liability for taxes and acknowledged that another protest could not be filed for the years at issue. Taxpayer made no claims at the time that Casias Trucking, *LLC* should be responsible for

the tax liability in lieu of Taxpayer in his personal capacity as sole proprietor of Casias Trucking. The audit clearly referred to Casias Trucking as a sole proprietorship. It made no reference to Casias Trucking, *LLC*.

Both the Taxpayer's protest and withdrawal reference Casias Trucking, not Casias Trucking, *LLC*. Although Taxpayer might view the omission of the LLC designation as insignificant, it is also the Taxpayer who urges the Hearing Officer to give significant weight to its use in various tax returns filed with the Department. It is illogical that the Hearing Officer should give weight to Taxpayer's use of the LLC designation for one purpose, but then disregard the absence of the LLC designation for other purposes.

The Hearing Officer was persuaded that the underlying audit, assessment, protest, and withdrawal, were in reference to Casias Trucking, the sole proprietorship, not the LLC. Accordingly, it was appropriate for the Notice of Claim of Tax Lien to be issued to Mr. Casias. If Taxpayer intended to assert that the LLC was the actual party in interest, then it was incumbent on the Taxpayer to address that issue at the time it arose. Rather, Taxpayer remained silent for years until the Department commenced efforts to collect the outstanding tax liability. Only then, did the Taxpayer claim, as if it had always been evident, that the real party in interest was the *LLC*.

Mr. Casias' effort to re-protest the assessment, including penalty, is precluded by the terms and conditions of the withdrawal. Even if the withdrawal were silent on the Taxpayer's right to protest, the protest would still be untimely more than three years following the Notice of Assessment of Taxes and Demand for Payment. *See* NMSA 1978, Section 7-1-24. Whether referring to Casias Trucking, the sole proprietorship, or Casias Trucking, LLC, Mr. Casias, in his

capacity as sole proprietor or member of the LLC, had actual notice of the assessment against Casias Trucking at the time it was issued.

The Hearing Officer was persuaded that Mr. Casias, as sole proprietor of Casias Trucking, was the appropriate individual identified in the Notice of Claim of Tax Lien. As sole proprietor, Mr. Casias, is solely liable for the debts of the business because there is no legal distinction between the sole proprietorship and its owner. “The universal rule is that the sole proprietor is personally responsible for the activities of the business.” *Georgantas v. Country Mut. Ins. Co.*, 570 N.E.2d 870, 873 (Ill.App. 1991).

The Taxpayer’s protest should be denied. Taxpayer’s outstanding liability as of March 15, 2017 was \$156,333.39 in tax, \$83,494.81 in penalty, and \$44,623.32 in interest for a total of \$284,451.52.

CONCLUSIONS OF LAW

1. The Taxpayer filed a timely written protest to Notice of Claim of Tax Liens issued under Letter ID Nos. L1687629360, and jurisdiction lies over the parties and the subject matter of this protest.
2. A hearing was timely held in accordance with NMSA 1978, Sec. 7-1B-8 (A).
3. The Taxpayer is precluded from protesting the audit or assessment underlying the Notice of Claim of Tax Lien under Letter ID Nos. L1687629360 by virtue of withdrawing his previous protest in which he admitted conclusive tax liability.
4. The Taxpayer did not satisfy the terms of his protest withdrawal and the Department was authorized to enforce collection. *See* NMSA 1978, Sec. 7-1-21; NMSA 1978 Sec. 7-1-38.
5. The Notice of Claim of Tax Lien satisfied the statutory requirements of NMSA 1978, Sec. 7-1-38.

For the foregoing reasons, the Taxpayer's protest is **DENIED**.

DATED: May 30, 2017



Chris Romero
Hearing Officer
Administrative Hearings Office
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NOTICE OF RIGHT TO APPEAL

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

