IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CURTIS DIXON, on behalf of himself and all others similarly situated, Plaintiff, v. BENJAMIN E. GATZKE; BORROWWORKS DECISION SCIENCE, INC.; BWDS, LLC; NEWPORT FUNDING LLC; TAYLOR McCABE; WILLIAM BELL; ALAN BIGBY; KATHLEEN ADAMS; TICIA CLIFF; FAWN WILLIAMSON; FRANK DONEY; and JOHN DOES 1 - 40, Defendants.	Case No. 1:24-cv-11834 **CLASS ACTION COMPLAINT** **DEMAND FOR JURY TRIAL**

GENERAL ALLEGATIONS

1. Plaintiff Curtis Dixon ("Plaintiff"), on behalf of himself and all individuals similarly situated, by counsel, brings this class action to secure redress from predatory and unlawful loans made by: (i) Defendants Benjamin E. Gatzke ("Gatzke") and his companies, Defendants BorrowWorks Decision Science, Inc., and BWDS, LLC (together, "BorrowWorks" and, collectively with Gatzke, the "Gatzke Defendants"); (ii) Defendant Newport Funding LLC ("Newport Funding") and at least one other unnamed lender (together, with Newport Funding, the "Lenders"); (iii) Defendants Taylor McCabe, William Bell, Alan Bigby, Kathleen Adams, Ticia Cliff, Fawn Williamson, and Frank Doney (collectively, the "Tribal Defendants"); and (iv) John Does, 1-40 (when together with the Gatzke Defendants, the Lenders, and the Tribal Defendants, "Defendants").

2. This is a case about a scheme to make online, short-term loans that carry interest

rates exceeding 600%—loans that are illegal in many states—and to do so with impunity.

3. High interest loans target vulnerable borrowers and, left unregulated, economically devastate borrowers and their communities. Once saddled with such a predatory loan, consumers will often take out additional loans to make ends meet and to pay off other loans, creating a cycle of mounting debt.

4. In an attempt to evade litigation and government enforcement aimed at halting these illegal lending schemes, predatory lenders have sought to cloak themselves in the sovereign immunity granted to American Indian tribes in the United States. These predatory lenders pretend to be companies created and run by tribes when, in all reality, they are run by non-tribal third parties. And, the significant profits that these companies extract from consumers do not inure to the benefit of the tribes whose immunity has been exploited. Courts routinely reject such cynical efforts to use tribal immunity to shield plainly illegal commercial conduct.

5. At issue in this case is precisely one such predatory lending scheme.

6. The Fort Belknap Indian Community of the Fort Belknap Reservation of Montana (the "Tribe" or "FBIC") has been convinced to enter into agreements with non-tribal outsiders to lend the Tribe's name to predatory lending operations, including Bright Lending. In exchange, the Tribe receives a small portion of these businesses' revenues.

7. On its website, Bright Lending purports to be a tribal lending business that is owned and operated by Aaniiih Nakoda Finance, LLC DBA Bright Lending ("ANF"), which is an entity formed under the laws of, and wholly owned by, the Tribe.

8. But ANF is a shell, with no board and no employees. ANF is purportedly managed by another tribal entity, the Fort Belknap Planning and Development Corporation, d/b/a Island Mountain Development Group ("IMDG") which, in turn, is allegedly managed by the Board of

Directors (the "IMDG Board").

9. In reality, however, non-tribal outsiders—including the Gatzke Defendants, the Lenders, and other non-tribal outsiders that Gatzke has helped line up—control IMDG and the IMDG Board and, by extension, Bright Lending. To obscure their role and hide behind the Tribe's laundered sovereign immunity, they have orchestrated a convoluted corporate structure and guaranteed that a team of non-tribal professionals, which they have hand-picked, sit at the top.

10. The Gatzke Defendants and Lenders have hidden the details of their scheme not only from the public, but also from the very Tribe behind which they seek to hide. Indeed, the Tribe's governing body, the Fort Belknap Indian Community Council (the "Council"), recently launched an investigation into IMDG's financing arrangements with the Lenders, as well as IMDG's significant and unexplained debts—debts which were especially alarming given that IMDG has reported hundreds of millions of dollars in annual revenue.

11. At the direction of the Lenders, the IMDG Board refused to provide financial information about IMDG's business activities or IMDG's arrangements with the Lenders to the Council, which, supposedly, owns IMDG. When the Council continued its investigation and, ultimately, replaced the IMDG Board over its concerns, the Lenders revolted. They seized control of IMDG's bank accounts and requested assurances that the Council would no longer "interfere" with IMDG.

12. As the foregoing and other allegations made herein demonstrate, it is abundantly clear that the Lenders and Gatzke Defendants are in control of the Bright Lending enterprise. Their predatory and illegal lending scheme cannot be shielded by the laundered sovereign immunity of the Tribe, whose supposed ownership over the operation is purely illusory.

13. Plaintiff, on behalf of himself and the Classes set forth below, seeks to recover

damages and penalties under state and federal law for the usurious interest and fees obtained by the Gatzke Defendants and Lenders, and also seeks injunctive and declaratory relief against the Tribal Defendants to halt their illegal practices.

JURISDICTION AND VENUE

14. This Court has original jurisdiction over Plaintiff's Racketeer Influenced and Corrupt Organizations ("RICO") claims under 18 U.S.C. § 1962, and 28 U.S.C. § 1331, and supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367.

15. This Court also has jurisdiction under the Class Action Fairness Act because Plaintiff and at least one Defendant are citizens of different states and the matter in controversy exceeds $5,000,000, and there are at least 100 members of each Class.

16. This Court has personal jurisdiction over Defendants because each Defendant knowingly participated in the making of unlawful loans to Illinois residents.

17. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to Plaintiff's claims occurred in Chicago, Illinois, including in this District and Division. Additionally, venue is proper in this Court pursuant to 18 U.S.C. § 1965(a) because Defendants transacted their affairs in this District and Division.

THE PARTIES

18. Plaintiff Curtis Dixon is a natural person, citizen of the State of Illinois, and resident of Chicago, Illinois.

19. Defendant Benjamin E. Gatzke ("Gatzke") is a natural person and citizen of Texas who may be found at 4400 Ledgeview Rd., Fort Worth, TX 76109. Gatzke is directly involved in the operations of the Bright Lending enterprise. Gatzke is also the principal owner and operator of other corporate entities that have been involved in the operation of Bright Lending and other tribal-

affiliated lending operations. Gatzke is not a member of any tribe.

20. Defendant BWDS, LLC ("BWDS") is a limited liability company formed under the laws of the State of Delaware, with its principal place of business in Texas. BWDS is not owned by any tribal arm, entity, or member. For some or all of the relevant period, BWDS performed many of the tasks necessary to run Bright Lending's online lending enterprise. Gatzke is the Chief Executive Officer of BWDS.

21. Defendant BorrowWorks Decision Science, Inc. ("BorrowWorks Decision Science") is a corporation formed under the laws of the State of Delaware, with its principal place of business in Texas. BorrowWorks Decision Science is not owned by any tribal arm, entity, or member. For some or all of the relevant period, BorrowWorks Decision Science performed many of the tasks necessary to run Bright Lending's online lending enterprise. Gatzke is the Chief Executive Officer of BorrowWorks Decision Science.

22. Defendant Newport Funding LLC ("Newport Funding") is a limited liability company formed under the laws of the State of Delaware. Newport Funding is not owned by any tribal arm, entity, or member. For some or all of the relevant period, Newport Funding was the principal outside creditor of the IMDG, providing the capital necessary to run Bright Lending's online lending enterprise.

23. Defendant Taylor McCabe is a tribal member and Chief Executive Officer of IMDG.[1] He is being sued in his official capacity only.

24. Defendant William Bell is a tribal member and President of the IMDG Board.[2] He is being sued in his official capacity only.

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[1] Island Mountain Development Group, *IMDG Leadership*, https://www.islandmtn.com/about/#leadership (last visited Oct. 30, 2024).

[2] *Id.*

25. Defendant Alan Bigby is a tribal member and Vice President of the IMDG Board.[3] He is being sued in his official capacity only.

26. Defendant Kathleen Adams is a tribal member and Secretary/Treasurer of the IMDG Board.[4] She is being sued in her official capacity only.

27. Defendants Ticia Cliff, Fawn Williamson, and Frank Doney are each a tribal member and Member of the IMDG Board.[5] They are each being sued in their official capacity only.

28. Defendant John Doe Nos. 1-40 are unidentified parties who participated in the enterprise with the Defendants, including, but not limited to, individuals and entities who aided, abetted, and facilitated the conspiracy to collect the unlawful amounts from consumers.

FACTUAL ALLEGATIONS

A. The Emergence of the Tribal Lending Scheme

29. In a tribal lending scheme, a lender affiliates with a Native American tribe in an attempt to enhance the appearance of tribal ownership of the business and insulate the scheme from federal and state law. The lender does so by piggybacking on the tribe's sovereign legal status and the tribe's general immunity from suit under federal and state laws.

30. The purpose of the scheme is clear: non-tribal schemers "use tribal immunity as a shield for conduct of questionable legality." *Michigan v. Bay Mills Indian Cmty.*, 134 S. Ct. 2024, 2052 (2014) (Scalia, J., dissenting) (citing Nathalie Martin & Joshua Schwartz, *The Alliance Between Payday Lenders and Tribes: Are Both Tribal Sovereignty and Consumer Protection at Risk?* 69 Wash. & Lee L. Rev. 751, 758–759, 777 (2012)).

[3] *Id.*
[4] *Id.*
[5] *Id.*

31. Tribal lending schemes are not designed to promote tribal businesses or prosperity. Rather, tribal lending schemes are contrivances aimed at avoiding state usury laws, with the vast majority of the businesses' revenue being funneled to non-tribal entities, with the tribes typically receiving a small share.

32. In recent years, and as discussed further below, these schemes have come under increased scrutiny. In response, the predatory lenders behind these schemes have not slowed down their illegal lending operations. Instead, they have simply grown more clever and careful.

B. The Bright Lending Rent-a-Tribe Scheme

i. The Early Years: The FBIC Partners with Numerous "Service Providers" to Enter the Online Lending Business

33. The Fort Belknap Indian Reservation (the "Reservation") is located in a remote part of north central Montana. The unemployment rate on the Reservation is 30% and the median household income of $42,222 is far lower than the State's median household income $60,560.[6]

34. For years, the Tribe has helped prop up illegal tribal lending schemes in an effort to secure funds to meet Tribe members' needs.

35. Under the Tribe's constitution, the Tribe's governing body, the Council, has the power to, *inter alia*, "manage the economic affairs of the Community," and "charter subordinate organizations for economic purposes and to regulate the activities of all cooperative associations of members of the Community."[7]

36. In 2006, the FBIC, through the Council, passed a resolution to issue a tribal charter

[6] Fort Belknap Indian Community Testimony on Fiscal Year 2024 Appropriations, https://www.congress.gov/118/meeting/house/115411/witnesses/HHRG-118-AP06-Wstate-StiffarmJ-20230308.pdf (last visited Nov. 8, 2024).

[7] Constitution of the Fort Belknap Indian Community of the Fort Belknap Reservation Of Montana, https://img1.wsimg.com/blobby/go/d94bfdb9-dd85-49bd-94c2-4822ef04bf3b/downloads/1bvvpiitj_552731.pdf?ver=1730471993093 (last visited Nov. 8, 2024).

to IMDG, which was to serve "as a for-profit corporation" that would "focus and coordinate business planning and development activities" for the Reservation. (Exhibit 1 at 2.)

37. IMDG is purportedly managed by the IMDG Board, which is appointed by the Council. However, as alleged herein, in actuality, the Gatzke Defendants and Lenders are in control.

38. In the late 2000s, the IMDG Board set out to develop a lending operation that would offer, over the internet, small-dollar loans with ultra-high interest rates to non-tribal consumers in certain states.

39. This operation officially launched in 2011—but only with the help of non-tribal, online lending experts and "service providers," including Gatzke. Indeed, IMDG has acknowledged that it "relied on" such third parties to run its online lending operations. (*See* Exhibit 2, ¶ 10.)

40. Thus, from the outset, non-tribal schemers like Gatzke have controlled, funded, and/or directed the day-to-day lending operations of the Tribe's various lending entities. The tribal entities, in turn, were paid a fee based on the number of loan transactions that were completed.

ii. Regulators Crack Down on Tribal Lending Schemes

41. In the late 2010s, federal regulators began cracking down on such tribal lending schemes, with their efforts gaining significant momentum in 2017.

42. First, in April 2017, the Consumer Financial Protection Bureau ("CFPB") filed a complaint against four online lenders for running an illegal tribal lending scheme.[8]

[8] Consumer Financial Protection Bureau, *CFPB Sues Four Online Lenders for Collecting on Debts Consumers Did Not Legally Owe*, https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-four-online-lenders-collecting-debts-consumers-did-not-legally-owe/ (last visited Nov. 8, 2024).

43. Then, in October 2017, one prominent perpetrator of a tribal lending scheme was convicted of numerous federal racketeering and truth-in-lending offenses, and sentenced to 200 months, or more than 16 years, in prison.[9] His attorney was also convicted and sentenced to 84 months in prison for his role in perpetrating the illegal lending scheme.[10]

44. Additionally, in November 2017, the CFPB filed a lawsuit against Think Finance, LLC ("Think Finance") for operating an illegal tribal lending scheme.[11] Notably, prior to his role at BorrowWorks, Gatzke was the founding Chief Technology Officer at Think Finance.[12]

iii. Gatzke Orchestrates Restructuring of the Lending Operation to Better Insulate Non-Tribal Schemers, Create the Façade of Tribal Control

45. Around this same time, Gatzke orchestrated a reconfiguration of the Tribe's lending operation to eliminate many of the various service providers with which the Tribe had previously worked, to consolidate power in Gatzke and BorrowWorks, and to simultaneously attempt to insulate the Gatzke Defendants, the Lenders, and other non-tribal outsiders through an intentionally opaque corporate and management structure which was designed to obfuscate the reality of the Tribe's entirely superficial role in the lending business.

46. Specifically, in 2017, the Tribe established ANF, which, to this day, operates as Bright Lending. ANF purportedly owns and operates the Bright Lending website.[13]

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[9] *See* The United States Attorney's Office, Southern District of New York, *Scott Tucker Sentenced To More than 16 Years In Prison For Running $3.5 Billion Unlawful Internet Payday Lending Enterprise*, https://www.justice.gov/usao-sdny/pr/scott-tucker-sentenced-more-16-years-prison-running-35-billion-unlawful-internet-payday (last visited Nov. 8, 2024).

[10] *Id.*

[11] Consumer Financial Protection Bureau, *CFPB Sues Think Finance For Collecting On Debts That Consumers Did Not Legally Owe*, https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-think-finance-collecting-debts-consumers-did-not-legally-owe/ (last visited Nov. 8, 2024).

[12] BorrowWorks, *Meet our Leadership*, https://borrwworks.com/leadership/ (last visited Nov. 8, 2024).

[13] BorrowWorks, https://brightlending.com/ (last visited Nov. 8, 2024).

47. However, ANF is a shell: it has no board, and no employees. The IMDG Board serves as the board of ANF, and any ANF employees are leased from IMDG. ANF does not retain any of the profits from its lending.

48. ANF's sole member and owner is GVA Holdings, LLC ("GVA"), which is also a shell. GVA has no employees and no management. GVA's sole member and owner is IMDG. When the Tribe established GVA in 2011, it explicitly named in the GVA Articles of Operation that GVA's manager was a non-tribal outsider, Dater Portfolio Management LLC ("Dater"). (*See* Exhibit 3, ¶ 1.8.)

49. In 2017, the Tribe established yet another tribal entity, Aaniih Nakoda Services ("ANS"), which serves as ANF's "service provider." ANS, too, is a shell. It has no employees and no management. ANS's sole member and owner is IMDG.

50. This confusing web of supposed tribal subsidiaries—none of which have *ever* had any employees[14]— serves no practical purpose other than to obscure the continued involvement of the Gatzke Defendants, the Lenders, and other non-tribal outsiders in the Bright Lending enterprise.

51. But these non-tribal schemers remain in control, even if their identities and their roles in the Bright Lending operation are perhaps now better hidden.

52. Critically, ANF was established in a way to allow the entity to be managed by a non-tribal outsider, *and* to conceal the identity of its true manager.

53. Per its Articles of Operation, ANF's "daily Business and affairs" are managed by "the Manager," which is defined as IMDG "***and/or the agent, entity or individual authorized***" by

[14] *See Ransom v. GreatPlains Fin., LLC*, 2024 WL 228432, at *4 (D.N.J. Jan. 22, 2024) (explaining that IMDG corporate witness testified that "none of the lending subsidiaries have ever had any employees").

GVA and the Manager to act as ANF's Manager. (Exhibit 4, ¶ 1.8) (emphasis added.) In other words—and, as discovery will show, at the direction of the Gatzke Defendants, the Lenders, and/or other non-tribal outsiders—the Tribe set up ANF so that it could be managed by IMDG, a purported tribal entity, *or effectively anyone else*. This is a far cry from the 2011 GVA Articles of Operation, which explicitly named GVA's non-tribal manager, Dater. Clearly, by 2017, the Gatzke Defendants and Lenders had learned to better cover their tracks to obscure their role in the Tribe's lending operation.

54. As alleged further herein, ANF's daily business and affairs—i.e., the Bright Lending business—have indeed been run not by IMDG, but instead by non-tribal outsiders.

55. In pressuring and directing the Tribal Defendants (i.e., the CEO of IMDG and the current members of the IMDG Board) to authorize outsiders to manage ANF, the Gatzke Defendants and Lenders have used the Tribe to fabricate a veneer of sovereign immunity and legitimacy for what is truly their predatory lending business. And—further illustrating that the Tribe is not in control of what is supposedly a tribal lending operation—the Gatzke Defendants and Lenders have made tremendous efforts to hide the details of their business, including their financing arrangements, *even from the Tribe*.

iv. Despite Claims of Tribal Ownership, Recent Filings in Other Litigation Reveal that the Lenders, Gatzke Defendants, and a Non-Tribal Professional Management Team Control Bright Lending

56. Although the Tribe maintains that it owns and manages its online lending operation, the reality is that the Bright Lending enterprise is run by non-tribal schemers, including the Gatzke Defendants and Lenders.

57. In recent court filings in another lawsuit, and in trying to demonstrate the Tribe's control over Bright Lending, ANF maintained that "the Tribe provided the majority of ANF's

initial capitalization through IMDG," and that the only loan from a third-party to fund the remainder has been paid in full. (*See* Exhibit 5 at 9-10.) ANF further claims that "[a]t no point did that third-party or any other lender or vender [*sic*] acquire or hold any ownership interest in ANF." (*Id.* at 10.)

58. This may be true of *ANF*, which, again, is nothing more than a shell. However, *IMDG* is highly indebted to powerful third-party financial backers, including the Lenders.

59. That IMDG has significant debts to non-tribal lenders cannot be disputed. In 2023, former and then-current members of the Council filed a lawsuit alleging that IMDG's former legal counsel, Jennifer Weddle and her law firm Greenberg Traurig LLP, had attempted to prevent the Council from replacing the IMDG Board (the "*Weddle* Action"). Per that lawsuit, IMDG has multiple "third-party lenders." (*See* generally Exhibit 6.) These include Newport Funding and at least one other unnamed Lender.

60. As further alleged by plaintiffs in the *Weddle* Action, after the Council replaced the IMDG Board, Weddle double-crossed her client, IMDG, by asking the Lenders to issue a default against IMDG and attempting to transfer all of the assets of the Tribe's entities to another tribe in South Dakota. (*See generally id.*)

61. Ultimately, the *Weddle* Action was voluntarily dismissed. Still, the filings in that action, along with others, reveal several important and shocking details points about the Bright Lending enterprise, and who truly controls it.

62. First, as discussed, despite ANF's attempts to purport in court filings that it has no debt to non-tribal outsiders, IMDG is clearly, and heavily, indebted to third-party lenders.

63. Second, given federal regulators' crack-down on tribal lending schemes, these Lenders now appreciate that they must carefully conceal their role in the Bright Lending operation.

64. For instance, in defendants' answer in the *Weddle* Action, the names of the Lenders—and, in one instance, even the name of the Lenders' legal counsel—have been redacted.

65. Third, the Lenders have gone to Herculean lengths to shield their identities and the details of their arrangements with IMDG even from the Tribe itself.

66. According to plaintiffs in the *Weddle* Action, the prior IMDG Board persistently refused to provide the Council with "financial information…regarding [IMDG's] business activities and its financing arrangements with the Lenders." (*Id.*, ¶ 57; *see also* Exhibit 7 at 3 ("The Tribal Council became increasingly concerned…after the IMDG Board persisted in refusing to provide financial information about the transactions with Lenders and IMDG's business activities.").) As the plaintiffs—all former and then-current members of the Council—pointed out, the IMDG Board's failure to provide the Council with IMDG's agreements with the Lenders was especially egregious given that *the Council owns IMDG*. (*See, e.g., id.* at 11 (alleging that defendants wrongfully "with[e]ld[] IMDG's agreements with the Lenders and other relevant information requested by the Tribal Council, the owners of IMDG").)

67. Fourth, in recent years, the Council has been concerned "significant unexplained debts and losses of revenue, and evidence of other potentially serious improprieties at IMDG." (Exhibit 6, ¶ 69.)

68. Notably, in 2022, when the Council first was investigating IMDG's finances, IMDG reported having revenue of nearly **$247 million**.[15] IMDG has claimed that 20% of its net income is distributed directly to the Tribe, with the other 80% being "reinvested" in tribal businesses or spent on projects "to benefit tribal members." (*See* Exhibit 2, ¶¶ 6-7.) As an example

[15] Island Mountain Development Group, *2022 Annual Report* at 4, https://www.islandmtn.com/wp-content/uploads/2024/06/IMDG-2022-Annual-Report.pdf (last visited Nov. 8, 2024).

of the latter, the former IMDG CEO touted a $2.575 million tribal member housing development. (*Id.*, ¶ 7.)

69. But such relatively small projects cannot possibly explain the depletion of hundreds of millions of dollars in revenues, nor the "significant unexplained debts and losses" that prompted the Council's investigation. IMDG's money must be going *somewhere* other than to the Tribe. Discovery will show that much of it went to the Lenders, under arrangements to which the Council itself was not privy.

70. Fifth, and perhaps most remarkably, the *Weddle* Action is riddled with proof that the Lenders and their hand-picked professional IMDG senior staff—not the Tribe—are in full control of the Bright Lending enterprise.

71. In their answer, defendants asserted that they had advised IMDG and its affiliates regarding its agreements with third parties (including the Lenders), and that:

> IMDG and the [Council] repeatedly confirmed to the Lenders that IMDG's Board was validly constituted and fully empowered to take all actions with respect to the consumer lending businesses. ***In five separate Council Resolutions that were expressly incorporated into the Lenders' contracts between 2018 and 2021, the Council promised not to interfere with the IMDG Board or any Tribal entity***.

(Exhibit 8 at 2 (emphasis added).)

72. This is a stunning admission: The Lenders' financing was conditioned on the governing body of the Tribe guaranteeing that it would not "interfere" with the consumer lending businesses of a purported tribal entity.

73. The enormous breadth of the Lenders' resulting power is perhaps best illustrated by the facts alleged in *Weddle* Action.

74. According to the plaintiffs' complaint, the IMDG Board refused to provide the Council—which, again, was concerned about "significant unexplained debts and losses of revenue,

and evidence of other potentially serious improprieties at IMDG," Exhibit 6, ¶ 69—with information about IMDG's financing arrangements with the Lenders. After months of requesting this information, to no avail, the Council eventually un-seated and replaced the IMDG Board.

75. As defendants described it, in doing so, the Council—composed of officials elected to govern the Tribe—"chose to wrongfully interfere with a tribal business." (Exhibit 9 at 2.)

76. That very night, Newport Funding, "IMDG's principal outside creditor," declared an event of default and eventually seized control of IMDG's bank accounts. (*Id.* at 3; *see also* Exhibit 10.)

77. Another unnamed Lender wrote that restoring "IMDG stability" after the Board shakeup "is essential in protecting the Collateral which in turn also protects important Tribal assets and jobs." (Exhibit 11 at 2.)

78. Simply put, when the Tribe—through the Council—tried to assert control over IMDG's lending operations due to the Council's legitimate concerns over unexplained debts and serious improprieties, the Lenders seized the lending enterprise's bank accounts, and threatened to bring the entire Bright Lending enterprise to a screeching halt.

79. This illustrates that the Lenders, not the Tribe, control Bright Lending.

80. Correspondence from the unnamed Lender includes another stunning detail: a "professional IMDG management team [] currently manages the Tribe's lending entities." (*Id.* at 5.) Not only that, but the Lenders have further conditioned their financing of the Bright Lending enterprise on the continued employment of such a team. Simply put, the Lenders have forced the Tribe to hire non-tribal outsiders to run the tribal lending operation.

81. Again, ANF's Articles of Operation allow for any "agent, entity or individual" to manage ANF's "daily Business and affairs." (Exhibit 4, ¶ 1.8.) At the insistence of the Lenders,

the Tribe has apparently delegated this role to a professional management team of non-tribal outsiders.

82. Until recently, for example, this team was led, at least in part, by non-tribal member Christoper Biewer, who was employed at IMDG from 2017-2023.[16] His exact role at IMDG has been described in a number of ways, including: "IMDG's General Manager of Lender Operations," Exhibit 9 at ¶ 27; the "Director [of] Online Lending," Exhibit 7 ¶ 24; and the "General Manager" of GVA.[17] While these titles may vary, they all indicate that Biewer was a senior member of the "professional IMDG management team" that "manages the Tribe's lending entities." In yet another indication of the Gatzke Defendants' intimate involvement in the Bright Lending scheme, Biewer, per his LinkedIn profile, is now employed as the Senior Vice President of Products and Strategy at BorrowWorks.

83. Even more troubling than the fact that the Tribe's lending operation is managed by a team of non-tribal outsiders is the fact that the Lenders have effectively bullied the Tribe into this structure.

84. In the unnamed Lender's correspondence, the Lender asked that IMDG leadership "sign a certification of the commitments made to restoring stability and protecting the Collateral." (Exhibit 11 at 2.) The *very first* certification is as follows:

> Key People Assurances. ***The IMDG Board understands that the professional IMDG management team that currently manages the Tribe's lending entities is essential in managing the assets which constitute the Collateral.*** The IMDG Board also acknowledges that (a) specialized legal counsel is essential for the operation and defense of the companies owning the pledged Collateral, (b) the legal opinions given by Greenberg Traurig as a condition to close each [REDACTED] loan remain foundational and the failure of such legal opinions to remain in good-

[16] LinkedIn, *Chris B.*, https://www.linkedin.com/in/chris-b-ab677465/ (last visited Nov. 8, 2024).
[17] Island Mountain Development Group, *2021 Annual Report* at 11, https://www.islandmtn.com/wp-content/uploads/2024/07/IMDG-2021-Annual-Report.pdf (last visited Nov. 8, 2024).

> standing constitute an Event of Default. ***The IMDG Board hereby provides [REDACTED] written assurances that no changes in IMDG management or legal counsel will be made without prior consultation with [REDACTED]***…

(*Id.* at 5 (emphasis added).)

85. In other words, the Lenders expect to have final say over "IMDG management," as well as IMDG's legal counsel. Again, that the Lenders exercise substantial control over Bright Lending is abundantly clear.

86. And, that the Lenders insist on IMDG being managed by hand-picked, "professional" non-tribal outsiders, like Biewer, is also clear. Indeed, the unnamed Lender concluded its correspondence with the following: "[REDACTED] looks forward to the normalization of our relationship with IMDG and the Tribes and ***the continued professional management of the Tribe's lending assets by IMDG***." (*Id.* at 2 (emphasis added).)

87. All told, while the Tribe may formally own IMDG, the Tribe has been forced to cede the actual control and management of IMDG, and, in turn, Bright Lending, to the Lenders, the Gatzke Defendants, and other non-tribal schemers. The Tribe and its lending operation are at the whim of these outsiders, who have the power to shut down the entire operation if the Council attempts to so much as "interfere" with the lending business—a power that the outsiders are not afraid to use.

v. The Gatzke Defendants' Ongoing Management Role in Bright Lending and Defendants' Attempts to Hide It

88. In addition to the foregoing, there are various indications that the Gatzke Defendants, in particular, continue to play a hands-on role in the day-to-day execution of the Bright Lending operation. The Gatzke Defendants claim that they simply provide limited, "non-management" services to Bright Lending. This is false. Far from being a mere service provider, and despite Defendants' efforts to obscure the Gatzke Defendants' role, the Gatzke Defendants

exert significant control over the lending operation.

a. Gatzke Helped Fund the Launch of ANF, Secured Additional Financing

89. Gatzke was intimately involved in the very creation of ANF. This corporate shell was launched using, in part, initial funding from Sage Capital, another Gatzke entity.

90. In addition, the Gatzke Defendants helped IMDG secure a loan to replace funding from the other service providers with which the Tribe had ceased working.

91. Moreover, the Gatzke Defendants have admitted in court filings that the Tribe will leverage their relationships with certain data vendors. Discovery will show that the Tribe has also leveraged the Gatzke Defendants' relationships to secure funding from the Lenders, as well.

b. BorrowWorks Receives Profit-Based Payments from ANF

92. ANF readily admits that BorrowWorks receives profit-based payments from ANF.

93. In fact, *all* of ANF's "cash profitability" that does not go to IMDG goes to BorrowWorks.

c. The Gatzke Defendants Built and Manage the Bright Lending Website

94. BorrowWorks admittedly provides the so-called "technology platform" behind Bright Lending. Although the Gatzke Defendants attempt to describe themselves as nothing more than a technology vendor, the reality is that the technology they provide and manage effectively *is* the entire Bright Lending operation.

95. The Bright Lending website, or "technology platform," is where applicants and borrowers receive marketing messaging, submit loan applications, receive loan proceeds, and make payments. It is also where loans are underwritten.

96. BorrowWorks does not just build the technology that allows the above to occur—it sets the strategies and parameters. Indeed, BorrowWorks concedes that it "develop[s] and

maintain[s] risk assessment strategies" that can be used for credit decision underwriting, and "develop[s] advanced scoring models" for its clients.[18]

97. The Gatzke Defendants also admit that they assist IMDG with marketing. They claim, however, that any marketing proposals must ultimately be approved by Bright Lending. But, as discussed above, because ANF is managed day-to-day by an outside professional management team, all this means is that *non-tribal outsiders*—who, again, are hand-picked by the Lenders—must approve the Gatzke Defendants' marketing proposals. In sum, the marketing for Bright Lending can be, and is, determined entirely by non-tribal outsiders.

98. Further confirming that the Gatzke Defendants are much more than a technology vendor, BorrowWorks has previously touted that it offers "***full service portfolio management***" for its clients, which includes "[d]ecision science, loan servicing and marketing."[19] This is the case here, with the Gatzke Defendants providing much more than just the "technology platform" for Bright Lending.

99. Lastly, there are indications that Defendants have taken numerous steps to hide the Gatzke Defendants' role in the Bright Lending website.

100. In at least 2017 and 2018, that website was registered to Gatzke, using a BorrowWorks email address. (*See* Exhibit 12 at 2; *id.* at 4.) Yet today, the Bright Lending website is now registered to "Domains by Proxy, LLC" (*see* Exhibit 13 at 2), a service used specifically to hide the true individual or entity behind a website.

101. But, perhaps even more suspicious is the fact that brightlending.com has been

[18] *See* BorrowWorks, https://borrowworks.com/solutions/ (last visited Oct. 28, 2024).

[19] BorrowWorks (digital archive from Wayback Machine, dated Sept. 12, 2017), https://web.archive.org/web/20170912005424/http://borrowworks.com/ (emphasis added) (last visited Nov. 8, 2024).

entirely excluded from the popular digital archive, the Wayback Machine. (*See* Exhibit 14.) This means that someone affirmatively requested that the Wayback Machine stop archiving the Bright Lending website. And it means that prior iterations of any pages of the website—which perhaps included more evidence of the Gatzke Defendants' and other non-tribal outsiders' involvement in the lending operation—cannot be recovered.

vi. All Told, the Lenders, Gatzke Defendants, and Other Non-Tribal Outsiders are at the Helm of Bright Lending

102. Since at least 2011, and with even more force since 2017, the Tribal Defendants have been coerced into allowing non-tribal outsiders to wield the Tribe's name in an attempt to shield from liability these non-tribal outsiders and the predatory lending businesses that they run.

103. But, despite providing cover for the illegal lending enterprise, the Tribe does not meaningfully participate in the day-to-day lending operations of its purported affiliates and subsidiaries. Rather, the Lenders, the Gatzke Defendants, and other non-tribal schemers exercise control of the illegal lending enterprise by, *inter alia*:

- Developing and directing the corporate design of the scheme, including the creation of numerous shell tribal entities;
- Providing funds to finance the loans and other activities of the lending scheme;
- Conditioning the provision of such funds on the Tribe's promise not to "interfere" with the lending operation;
- Further conditioning the provision of such funds on the lending operation being managed day-to-day by a team of non-tribal professionals, who cannot be replaced absent the schemers' approval;
- Registering the website domain for Bright Lending;
- Creating website content that claims an illegitimate tribal affiliation and engaging

in marketing activities, including communicating with consumers urging them to take out loans or additional loans;

- Developing underwriting criteria for lending;
- Creating and overseeing the "technology platform" that services and administers the loans; and
- Repaying investors in the lending schemes.

104. The Lenders, in particular, exert significant control over the Tribe's lending business by, for example, conditioning their financing on the Council promising not to "interfere" with the business, and on that business being managed by their hand-picked professional, and non-tribal, management team, including individuals like Biewer. Through this arrangement, the Lenders effectively control the day-to-day business operations of the scheme.

105. Moreover, Gatzke initially registered the website domain for the Bright Lending electronic storefront, and the Gatzke Defendants create the marketing content that claims an illegitimate tribal affiliation. It is through this website that the Gatzke Defendants, the Lenders, and their employees, subsidiaries, and affiliates advertise their consumer loans and promote their illegitimate tribal identity.

106. Further, through the Bright Lending website, and exactly as BorrowWorks advertises, the Gatzke Defendants, and their employees, subsidiaries, and affiliates, perform the underwriting of the loans issued by Bright Lending, and also develop and maintain the strategies to be used for such underwriting.

107. The Gatzke Defendants, and their employees, subsidiaries, and affiliates, also issue and administer the loans, through the Bright Lending website, which is where borrowers, *inter alia*, submit loan applications, receive loan proceeds, and make payments.

108. The Lenders and the Gatzke Defendants, and their employees, subsidiaries, and affiliates, also provide or facilitate the funds to finance the loans and other activities of the lending scheme, and then use the money that they extract from consumers to repay the scheme's investors.

109. The majority of the profits made by Bright Lending did not and do not flow to the Tribe. Instead, discovery will show that the majority of the profits flow to non-tribal outsiders, including the Lenders and Gatzke Defendants.

110. In addition to feigning sovereign immunity in an attempt to insulate themselves from liability, Bright Lending is not licensed to lend in the states in which it is lending, and is lending at interest rates that are illegal in many states. The only license that Bright Lending purports to have is one issued by the Tribe.[20]

111. Defendants offered and continue to offer short-term loans with exorbitant finance charges and triple-digit interest rates. Because of the high interest rates attached to these loans, the finance charges that consumers pay often quickly exceed the amount borrowed. Although consumers would ideally rarely, if ever, need to take out a small sum, short-term loan with a high interest rate, consumers often find themselves in a destructive feedback loop wherein they are forced to take out a series of these loans to make ends meet and/or to pay off prior loans, losing thousands of dollars to exorbitant finance charges in the process.

112. Under the terms of Bright Lending's loan agreements, Defendants lent borrowers small sums of money and charged annual interest rates in the high triple digits—rates invariably exceeding 600%. As a result of these exorbitant finance charges, Plaintiff and others have ended up owing, and paying, many times the amount of money that they initially borrowed.

[20] Bright Lending, *Why Bright Lending*, https://brightlending.com/ (last visited Nov. 1, 2024) ("Bright Lending is a licensed lender authorized by the Tribe's Tribal Regulatory Authority.").

113. The interest rates that Defendants charged under these loan agreements are many times the caps imposed by state law in a number of jurisdictions, including the state in which Plaintiff resides.

C. Plaintiff's Loans with Bright Lending

114. From his residence in Chicago, Illinois, Plaintiff applied for and took out a loan with Bright Lending over the internet in September 2022. At the time he took out the loan, Plaintiff believed that Bright Lending was operating lawfully and lending at rates that complied with the law.

115. Plaintiff's first loan from Bright Lending was for $1,250 and had an interest rate of 598.5461%. According to the loan agreement, the finances charges on the loan were $6,480.25. Excepting the final payment, the bi-weekly payment on the loan was $308.40. If Plaintiff had made all of the payments on his loan according to the payment schedule, he would have ended up paying Defendants $7,730.25 for his $1,250 loan—more than six times what he borrowed. Plaintiff made eight payments of $308.40, before opting to pay the remaining balance, in the amount of $1,385.72, in full. All told, Plaintiff made a total of $3,852.92 in payments to Defendants—more than three times what he borrowed.

116. From his residence in Chicago, Illinois, Plaintiff applied for and took out a second loan with Bright Lending over the internet in December 2023. At the time he took out the loan, Plaintiff believed that Bright Lending was operating lawfully and lending at rates that complied with the law.

117. Plaintiff's second loan from Bright Lending was for $1,250 and had an interest rate of 499.9993%. According to the loan agreement, the finances charges on the loan were $5,085.23. Excepting the final payment, the bi-weekly payment on the loan was $253.41. If Plaintiff had made

all of the payments on his loan according to the payment schedule, he would have ended up paying Defendants $6,335.23 for his $1,250 loan—more than five times what he borrowed. Plaintiff paid $1,008.23 for this loan before he ceased making payments once he learned that his loan with Bright Lending is usurious.

D. Illinois Prohibitions on Predatory, Unlicensed Lenders

118. The Illinois Predatory Loan Prevention Act makes it unlawful for a lender to "contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan." 815 ILCS 123/15-5-5.

119. "Any loan made in violation of this Act is null and void and no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan." 815 ILCS 123/15-5-10.

120. Moreover, "[a]ny violation of this Act…constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act." 815 ILCS 123/15-10-5(b).

CLASS ACTION ALLEGATIONS

121. Plaintiff asserts claims on behalf of the proposed National Class defined as follows:

> All United States residents who entered into loan agreements with Bright Lending or other lending affiliates of the Fort Belknap Indian Community within the applicable statute of limitations. This Class does not include loans that were taken out while a consumer was located in Utah, Nevada, or Alabama.

122. Plaintiff asserts claims on behalf of the proposed Illinois Class defined as follows:

> All Illinois residents who entered into loan agreements with Bright Lending or other lending affiliates or of the Fort Belknap Indian Community within the applicable statute of limitations.

A. Numerosity

123. There are hundreds or thousands of members of the Classes. Thus, the Classes are so numerous that joinder of all members is impracticable.

B. Commonality

124. There are numerous common questions of law and fact common to Plaintiff and the members of the Classes. These questions include, but are not limited to, the following:

a. Whether Defendants violated state usury and consumer protection laws;

b. Whether Defendants are protected by tribal sovereign immunity;

c. Whether Defendants constitute an "enterprise" under RICO;

d. Whether Defendants violated RICO by charging interest rates more than twice the legal limit under state law;

e. The scope of any prospective relief; and

f. The proper measure and amount of damages for the Classes.

C. Typicality

125. Plaintiff's claims are typical of the claims of the Classes he seeks to represent. Plaintiff, like members of the Classes, took out usurious loans from Defendants. Thus, Plaintiff's claims, like the claims of the Classes, arise out of the same common practices and conduct by Defendants and are based on the same legal and remedial theories.

D. Adequacy

126. Plaintiff will fairly and adequately protect the interests of the Classes. Plaintiff has competent and capable attorneys who are experienced trial lawyers with significant experience litigating complex class actions, including experience litigating tribal lending cases. Plaintiff and his counsel are committed to prosecuting this action vigorously on behalf of the Classes and have the financial resources to do so. Neither Plaintiff nor his counsel have interests that conflict with those of the Classes.

E. Injunctive Relief

127. The Classes meet the requirements for certification to obtain injunctive or equitable relief under Fed. R. Civ. P. 23(b)(2), as Defendants have acted or refused to act on grounds generally applicable to the Classes, thereby making appropriate final injunctive or equitable relief with respect to the Classes as a whole. Prosecution of separate actions by individual members of the Classes would create a risk of inconsistent or varying adjudications with respect to individual members of the Classes that would establish incompatible standards of conduct for Defendants.

F. Predominance and Superiority

128. The Classes meet the requirements for certification to seek monetary relief under Federal Rule of Civil Procedure 23(b)(3), as the questions of law or fact common to class members predominate over questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. Additionally, individual actions may be dispositive of the interests of members of the Classes even though certain members of the Classes are not parties to such actions. Further, a class action is superior to other available methods for the fair and efficient adjudication of the controversy for at least the following reasons:

a. Absent a class action, as a practical matter, members of the Classes will be unable to obtain redress, Defendants' violations will continue without remedy, and additional consumers will be harmed.

b. It would be a substantial hardship for most individual members of the Classes if they were forced to prosecute individual actions.

c. A class action will permit an orderly and expeditious administration of class claims and foster economies of time, effort, and expense.

d. The lawsuit presents no difficulties that would impede its management by

the Court as a class action.

e. Defendants have acted on grounds generally applicable to class members, making class-wide relief appropriate.

CAUSES OF ACTION
FIRST CAUSE OF ACTION
Violation of RICO, 18 U.S.C. § 1962(c)
(On Behalf of Plaintiff and the National Class)
(Class Claims against the Gatzke Defendants and Lenders)

129. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

130. Each Gatzke Defendant and Lender is a "person" as that term is defined in 18 U.S.C. § 1964(3).

131. The Enterprise, consisting of each of the named Gatzke Defendants, the Lenders, the Tribal Defendants, and the unnamed officers, executives, and other employees of Bright Lending and other lending affiliates or subsidiaries of the Tribe involved in the scheme, is in association as an "enterprise" as that term is defined in 18 U.S.C. § 1961(4). The Enterprise associated for the common purpose of profiting off of the collection on unlawful debt by offering and collecting on loans to consumers throughout the United States through online lenders affiliated with the Gatzke Defendants and Lenders.

132. The Enterprise has an ongoing organization with an ascertainable structure, and functions as a continuing unit with separate roles and responsibilities.

133. The Gatzke Defendants, for example: developed and directed the corporate design of the Enterprise, including the creation of numerous shell tribal entities; provided funds to launch the Enterprise and secured additional funders to finance the loans and other activities of the Enterprise; registered the website domain for Bright Lending; developed the Bright Lending

mobile app; developed and now manage the "technology platform" that advertises, services, and administers Bright Lending loans; develops the underwriting criteria for lending; creates website content and otherwise engages in marketing activities for the Enterprise, including communicating with consumers urging them to take out loans or additional loans.

134. Meanwhile, the Lenders, for example: provide funds to finance the loans and other activities of the lending scheme; exert control over the Enterprise's management team and legal counsel to insist on the Tribe's promise not to "interfere" with the lending operation; and repay investors in the lending schemes.

135. Finally, the Tribal Defendants provide the laundered sovereign immunity for the Enterprise, having acquiesced to pressure from the Gatzke Defendants and Lenders to set up the scheme that they had developed, and to cede the necessary control to non-tribal outsiders to execute it. In return, the Tribal Defendants accept a small portion of the Enterprise's profits.

136. The Gatzke Defendants and Lenders have violated § 1962(c) of RICO by participating, directly or indirectly, in the conduct of the Enterprise's affairs in the collection of unlawful debt.

137. RICO defines "unlawful debt" as a debt which was "unenforceable under State law in whole or in part as to principal or interest because of the laws relating to usury," and was incurred in connection with "the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate." 18 U.S.C. § 1961(6).

138. All of the loans made to the National Class members and collected by the Gatzke Defendants and Lenders included an interest rate far in excess of twice the enforceable rate in their respective states.

139. The Gatzke Defendants and Lenders charged Plaintiff an interest rate in excess of the maximum rate allowed in his state knowingly, deliberately, intentionally, and willfully, with the purpose of taking more than twice the legal rate of interest for the money loaned to Plaintiff.

140. The Gatzke Defendants' and Lenders' conduct was not the result of good-faith error, but instead was a knowing, deliberate, intentional, and willful scheme to circumvent laws in Plaintiff's state, and to collect interest at rates more than twice that allowed under that state's laws.

141. Plaintiff and the National Class members were injured as a result of the Gatzke Defendants' and Lenders' violations of 18 U.S.C. § 1962(c) by, among other things, the payment of unlawful and usurious rates of interest on loans made by the Enterprise.

142. This conduct continues to date, and will be repeated again and again in the future, to the detriment of consumers.

143. Accordingly, the Gatzke Defendants and Lenders are jointly and severally liable to Plaintiff and the National Class members for their actual damages, treble damages, costs, and attorneys' fees pursuant to 18 U.S.C. § 1964(c).

SECOND CAUSE OF ACTION
Violation of RICO, 18 U.S.C. § 1962(d)
(On Behalf of Plaintiff and the National Class)
(Class Claims against the Gatzke Defendants and Lenders)

144. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

145. Each Gatzke Defendant and Lender is a "person" as that term is defined in 18 U.S.C. § 1964(3).

146. The Enterprise, consisting of each of the named Gatzke Defendants, the Lenders, the Tribal Defendants, and the unnamed officers, executives, and other employees of Bright Lending and other lending affiliates or subsidiaries of the Tribe involved in the scheme, is in

association as an "enterprise" as that term is defined in 18 U.S.C. § 1961(4). The Enterprise associated for the common purpose of profiting off of the collection on unlawful debt by offering and collecting on loans to consumers throughout the United States through online lenders affiliated with the Gatzke Defendants and Lenders.

147. The Enterprise has an ongoing organization with an ascertainable structure, and functioned as a continuing unit with separate roles and responsibilities.

148. The Gatzke Defendants and Lenders have violated 18 U.S.C. § 1962(d) by conspiring to use the Enterprise to collect unlawful debt. Each Gatzke Defendant and Lender knowingly agreed to participate in the scheme alleged herein that allowed the Enterprise to make and collect unlawful debt at more than twice the lawful rate of interest under state usury laws.

149. This conduct continues to date, and will be repeated again and again in the future, to the detriment of consumers.

150. Accordingly, the Gatzke Defendants and Lenders are jointly and severally liable to Plaintiff and the National Class members for their actual damages, treble damages, costs, and attorneys' fees pursuant to 18 U.S.C. § 1964(c).

THIRD CAUSE OF ACTION
Violations of the Illinois Predatory Loan Prevention Action and Illinois Consumer Fraud and Deceptive Business Practices Act
(On Behalf of Plaintiff and the Illinois Class)
(Class Claims against the Gatzke Defendants and Lenders)

151. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

152. All of the loans made to Plaintiff and Illinois consumers in the name of Bright Lending and/or other lending affiliates or subsidiaries of the Tribe carried an annual interest rate well in excess of 36%, in violation of the Predatory Loan Prevention Act. 815 ILCS 123/15-5-5.

153. A violation of the Predatory Loan Prevention Act is a violation of the Illinois Consumer Fraud Act and Deceptive Business Practices Act. 815 ILCS 123/15-10-5(b).

154. Accordingly, Plaintiff and members of the Illinois Class are entitled to recover all actual damages, in the form of interest paid on the loans in excess of 36%, plus their reasonable attorneys' fees and costs, and injunctive relief. 815 ILCS 505/10a(a), (c).

FOURTH CAUSE OF ACTION
Unjust Enrichment
(On Behalf of Plaintiff and the National Class)
(Class Claims against the Gatzke Defendants and Lenders)

155. To the detriment of Plaintiff and members of the National Class, the Gatzke Defendants and Lenders have been, and continue to be, unjustly enriched as a result of charging and collecting illegal, usurious interest rates from Plaintiff and members of the National Class.

156. As between the parties, it would be unjust for the Gatzke Defendants and Lenders to retain the benefits attained by their actions. Accordingly, on behalf of himself and members of the National Class, Plaintiff seeks a full accounting and restitution of the Gatzke Defendants' and Lenders' enrichment, benefits, and ill-gotten gains acquired as a result of the unlawful conduct alleged herein.

FIFTH CAUSE OF ACTION
Civil Conspiracy
(On Behalf of Plaintiff and the National Class)
(Class Claims against the Gatzke Defendants and Lenders)

157. All of the loans that the Gatzke Defendants made to consumers in the name of Bright Lending and/or other lending affiliates or subsidiaries of the FBIC violated Plaintiff's and the National Class members' respective states' interest rates and lending laws.

158. The Gatzke Defendants and Lenders conspired amongst themselves and with other actors to violate state usury and lending laws and profit from those violations.

159. Accordingly, on behalf of himself and the members of the National Class, Plaintiff seeks to recover from the Gatzke Defendants and Lenders, jointly and severally, all amounts repaid on any loans with the Gatzke Defendants and Lenders.

SIXTH CAUSE OF ACTION
Declaratory Judgment, 28 U.S.C. § 2201
(On Behalf of Plaintiff and the Illinois Class)
(Class Claims against the Tribal Defendants in their official capacities)

160. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

161. Illinois—along with many other states—requires that those who engage in the business of making small loans be licensed.

162. Defendants were not licensed to make loans in Illinois or any other state.

163. Because Defendants' loans were made without the required license and/or charged excessive interest rates, those loans are void in Illinois.

164. In addition to violating state licensing laws, Defendants' loans also violated the general usury laws of many states, including Illinois.

165. Further, the lending agreements used for Plaintiff's and Illinois Class members' loans contained unconscionable choice-of-law and forum-selection provisions that are void and unenforceable.

166. Because of the triple-digit interest rates, Plaintiff and certain Illinois Class members with unpaid balances are subject to significant liability as the interest accrues on their unpaid debts.

167. Resolution of the validity and enforceability of the outstanding balance on Plaintiff's loan agreement by this Court will determine the rights and interests of the parties to their respective agreements.

168. Thus, the validity and enforceability of Plaintiff's loan agreement, including, but

not limited to, any outstanding balance, presents a substantial, non-speculative controversy between parties with adverse legal interests of sufficient immediacy and reality.

169. Accordingly, Plaintiff, on behalf of himself and the members of the Illinois Class, seeks a determination that his loans and those of the Illinois Class members are void and unenforceable, and that Plaintiff and the Illinois Class members are not obligated to pay any principal and/or interest outstanding on the illegal loans under their respective state laws.

SEVENTH CAUSE OF ACTION
Violations of State Law
(On Behalf of Plaintiff and the Illinois Class)
(Class Claims against the Tribal Defendants in their official capacities for prospective relief)

170. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

171. As alleged herein, Plaintiff and other consumers in Illinois applied for and took out loans with Bright Lending and other entities affiliated with the FBIC, which they maintain are void and unenforceable because they violate state laws.

172. Plaintiff and members of the Illinois Class have outstanding balances on their loans with Bright Lending and other entities affiliated with the FBIC.

173. Because of the usurious interest rates charged by Bright Lending and other entities affiliated with the FBIC, Plaintiff and other consumers in Illinois are subject to significant liability as the interest accrues on their unpaid debts.

174. Accordingly, Plaintiff, on behalf of himself and the Illinois Class, seeks injunctive relief from the Tribal Defendants, including, but not limited to, an order: (i) prohibiting the Tribal Defendants from continuing to collect on the illegal loans in Illinois; (ii) requiring the Tribal Defendants to send notices to Illinois consumers explaining that their loans are illegal and

usurious; and (iii) prohibiting the Tribal Defendants from selling the unlawful loans to consumers in Illinois to third-party debt collectors.

175. Plaintiff, on behalf of himself and all others similarly situated, further seeks a determination that he and the Illinois Class members are not obligated to pay any principal and/or interest outstanding on the illegal loans.

EIGHTH CAUSE OF ACTION
Violation of RICO, 18 U.S.C. § 1962(c)-(d)
(On Behalf of Plaintiff and the National Class)
(Class Claims against the Tribal Defendants in their official capacities)

176. Plaintiff realleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

177. The Tribal Defendants are each being sued in their official capacities as members of the IMDG Board and/or as officers of IMDG.

178. Each of the Tribal Defendants is a "person" as that term is defined in 18 U.S.C. § 1964(3).

179. The Enterprise, consisting of the Tribal Defendants, the Gatzke Defendants, the Lenders, and the unnamed officers, executives, and other employees of Bright Lending and other lending affiliates or subsidiaries of the Tribe involved in the scheme, is an "enterprise," as that term is defined in 18 U.S.C. § 1961(4), associated for the common purpose of profiting off of the collection on unlawful debt by offering and collecting on loans to consumers throughout the United States.

180. The Enterprise has an ongoing organization with an ascertainable structure, and it functions as a continuing unit with separate roles and responsibilities.

181. The Tribal Defendants violated and continue to violate 18 U.S.C. § 1962(c) of RICO by participating, directly or indirectly, in the conduct of the Enterprise's affairs by

authorizing the Gatzke Defendants and Lenders to enter agreements with consumers throughout the United States that are illegal under state law on behalf of tribal entities and purportedly under tribal law, and by collecting the resulting unlawful debt.

182. RICO defines "unlawful debt" as a debt which was "unenforceable under State law in whole or in part as to principal or interest because of the laws relating to usury," and was uncured in connection with "the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate." 18 U.S.C. § 1961(6).

183. All of the loans made to class members and collected by the Enterprise and others, included interest rates far in excess of twice the enforceable rate in the class members' states.

184. Plaintiff and class members were injured as a direct result of the Tribal Defendants' violations of 18 U.S.C. § 1962(c), by, among other things, the payment of unlawful and usurious rates of interest on loans made by the Enterprise.

185. This conduct began at the latest in 2017, continues to date, and will be repeated again and again in the future to the detriment of consumers nationwide.

186. The Tribal Defendants also violated 18 U.S.C. § 1962(d) by conspiring to use the Enterprise to collect unlawful debt. Each of the Tribal Defendants knowingly and willfully agreed to participate in the scheme alleged herein that allowed the Enterprise to make and collect unlawful debt at more than twice the lawful rate of interest under state usury laws.

187. Plaintiff and the class members were injured as a direct result of the Tribal Defendants' violations of 18 U.S.C. § 1962(d) by, among other thing, the payment of unlawful and usurious rates of interest on loans made by the Enterprise.

188. This conduct began at the latest in 2017, continues to date, and will be repeated again and again in the future to the detriment of consumers nationwide.

189. The Tribal Defendants participated and continue to participate in the collection of the unlawful debt by aiding, abetting, and procuring proceeds from the Enterprise, and willfully investing money in the Enterprise for the purpose of the unlawful scheme.

190. Plaintiff seeks prospective injunctive and declaratory relief for the Tribal Defendants' conduct, including an order: (1) barring the Tribal Defendants from continuing to make loans to consumers that exceed the legal interest rates for consumers residing in each state; (2) prohibiting the Tribal Defendants from continuing to collect on the unlawful loans; (3) requiring the Tribal Defendants to ensure that all accounts are deleted from consumers' credit reports; and (4) requiring the Tribal Defendants to send notice to consumers explaining that their loans are void and unenforceable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

A. An Order certifying the proposed Classes under Fed. R. Civ. P. 23(b)(2) and (b)(3), and appointing Plaintiff as Class Representative and his counsel as Class Counsel;

B. An Order declaring that Defendants are financially responsible for notifying members of the Classes of the pendency of this suit;

C. An Order declaring that Defendants have committed the violations of law alleged herein;

D. An Order providing for any and all injunctive relief the Court deems appropriate;

E. An Order awarding monetary damages, including, but not limited to, any compensatory, incidental, or consequential damages in an amount to be determined by the Court or jury;

F. An Order awarding treble damages in accordance with proof and in an amount

consistent with applicable precedent;

G. An Order awarding interest at the maximum allowable legal rate on the foregoing sums;

H. An Order awarding Plaintiff his reasonable costs and expenses of suit, including attorneys' fees; and

I. Such further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands a trial by jury pursuant to Fed. R. Civ. P. 38(b).

Dated: November 18, 2024

Respectfully submitted,

/s/ Richard Schwartz
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*to be admitted *pro hac vice*

Attorneys for Plaintiff

Exhibit 1

FILED
2023 Aug-03 PM 02:39
U.S. DISTRICT COURT
N.D. OF ALABAMA

EXHIBIT A

DECLARATION OF JEFFREY STIFFARM IN SUPPORT OF MOTION TO DISMISS

Resolution No. 95-2006

Fort Belknap Indian Community

WHEREAS, the Fort Belknap Indian Community Council is the governing body of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, by the authority of the Constitution and By-Laws of the Fort Belknap Tribes approved on the 13 day of December 1935, and

WHEREAS, under the Constitution and By-Laws of the Fort Belknap Indian Community, the Community Council is charged with the duty of protecting the health, security and general welfare of the Fort Belknap Indian Community, and

WHEREAS, the Fort Belknap Indian Community Council is responsible for the governmental affairs of the Fort Belknap Indian Reservation, and

WHEREAS, the Fort Belknap Indian Community Council has considered the creation of a Corporation to focus and coordinate business planning and development activities, grant and contract development and training resources on reservation; and

WHEREAS, the Council has concluded that establishment of the Fort Belknap Planning and Development Corporation, as a for-profit corporation is in the best interests of the Community, and implements elements of the overall strategic plan of the Council

NOW THEREFORE BE IT RESOLVED, that the Fort Belknap Indian Community Council does hereby approve the issuance of a charter to the Fort Belknap Planning and Development Corporation, as attached hereto; and

BE IT FURTHER RESOLVED, the Fort Belknap Indian Community Council does hereby designate the following individuals to serve as the Board of Directors for said corporation, at least through the organizational meeting for said entity:

1. **Minerva Allen**;
2. **Gilbert Horn, Sr.**;
3. **Rhinehart Tucker**
4. **Raymond Gone**
5. **Joseph Fox**
6. **Diane Perez**

Alternates: Arnold Allen, Wayne Azure, James Wiegand, Catherine Halver, Jessie James Hawley and Jerry Lankford; and

BE IT FINALLY RESOLVED, that the Council officers are hereby delegated the authority to take all action necessary to implement this Resolution.

Stiffarm Decl.
EXHIBIT A - Page 1 of 2

ATTEST:

JULIA DONEY, President
Fort Belknap Community Council

JULIE KING-KULBECK, Secretary-Treasurer
Fort Belknap Community Council

CERTIFICATION

I, the undersigned, as Secretary of the Fort Belknap Community Council of the Fort Belknap Indian Reservation, Montana, do hereby certify that the Fort Belknap Community Council is composed of 10 members, of whom 7 members, constituting a quorum were present at a meeting thereof, duly and regularly called, noticed, convened and held this 26th day of May, 2006; and that the foregoing Resolution of the Fort Belknap Community Council was duly adopted and approved by the affirmative vote of 6 for; 0 opposed; 0 not voting; 1 temporary absent; 3 absent and one seat vacant; and that the said Resolution has not been rescinded in any way.

DATE: June 29, 2006

JULIE KING-KULBECK, Secretary-Treasurer
Fort Belknap Community Council

Stiffarm Decl.
EXHIBIT A - Page 2 of 2

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

NORMAJEAN WEIDLEY and ELLEN OKRZESIK, Plaintiff, v. AANIIIH NAKODA FINANCE, LLC d/b/a BRIGHT LENDING, et al. Defendants.	Case No. 5:22-cv-00905-LCB **DECLARATION OF EVAN AZURE**

I, EVAN AZURE, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I currently serve as the Chief Executive Officer (CEO) of the Fort Belknap Planning and Development Corporation, d/b/a Island Mountain Development Group (IMDG). IMDG is the Tribally-owned and chartered enterprise of the Fort Belknap Indian Community (FBIC or the Tribe) that is the sole manager of Aaniiih Nakoda Finance, LLC d/b/a Bright Lending (ANF), a Defendant in this lawsuit. I am an enrolled member of the Assiniboine Tribe, one of the Tribes comprising the FBIC. I am over 18 years of age, and I am familiar with the facts set forth in this declaration and could testify about them under oath.

2. I am a resident of Montana. I have never visited Alabama. I own no real property in Alabama. I have never entered into a contract with the Plaintiffs or any other Alabama resident directly or in my personal capacity. I have never

communicated with the Plaintiffs or any other Alabama resident directly or in my personal capacity.

3. The IMDG Board of Directors appointed me to serve as CEO of IMDG on April 6, 2023.

4. As CEO of IMDG, I am responsible for providing strategic leadership and establishing long-range goals, plans and policies for IMDG, and working in close partnership with the IMDG Board to ensure the long-term success of IMDG's business operations. I have management authority over IMDG and am empowered to hire and fire IMDG employees.

5. As part of its mission of creating economic opportunity for the Tribe and its members and generating revenues to fund tribal governmental services, IMDG manages a number of tribally-owned businesses. These include businesses involved in the acquisition and leasing of off-reservation commercial real estate, residential construction, public and private consulting and contracting services, on-reservation retail stores, and online consumer lending. IMDG has also established the Montana Native Growth Fund, a community development financial institution situation on the Fort Belknap Reservation that promotes sustainable tribal home ownership through financial education and credit access, and it has partnered with the Fort Belknap Tribal Housing Authority to build and remediate homes for tribal members on the Reservation. It also oversees and manages three additional non-

profit entities that provide services to tribal members, including a college scholarship program and a high school internship program.

6. Consistent with its purpose of funding the tribal government, IMDG directly distributes 20% of its net income directly to the Tribe.

7. The remaining 80% of IMDG's net income is either directly reinvested in tribally owned businesses to grow their capacity or spent on projects to benefit tribal members. In recent years, such projects have included the development and management of a wellness center for tribal members and a $2.575 million tribal member housing development. Also, earlier this year IMDG made its first direct distribution to tribal members, providing much-needed cash assistance of $400 to each adult enrolled member of the FBIC.

8. The Tribe's online consumer lending businesses generate more than 90% of IMDG's revenue. Without those businesses, the funds that IMDG generates for the Tribe would decline drastically.

9. IMDG is also a major tribal employer. Of IMDG's approximately 394 employees, approximately 243 are enrolled tribal members, including me, its CEO. Approximately 89 additional IMDG employees are enrolled members of other tribes, and several more IMDG employees are descendants or spouses of enrolled members of the FBIC. ANF and other tribal businesses lease their employees from IMDG, so these numbers would apply to them as well.

10. The Tribe, working through IMDG, began online consumer lending in 2011 to generate additional economic development opportunities, fund tribal governmental services, and benefit tribal members. Because the Tribe initially lacked experience in this line of business, it relied on third parties to help it build capacity and develop a better understanding of the business and governing regulatory framework. The goal was for the Tribe to learn the business by working with these more experienced third parties, to find what practices and approaches worked best for the Tribe, and then for the Tribe to take over full management responsibilities for its lending businesses.

11. By around 2017, the Tribe had learned the lending business well enough to do it on its own. So at the end of 2017, it terminated its third-party management agreements and established ANF as a new tribal lending entity to operate exclusively under tribal management and control. As with all of its tribal businesses, the goal for ANF was to generate additional revenues and economic opportunities for the tribal government and members. The Tribe believed that a new lending entity that was fully managed by the Tribe, which had spent years learning the online consumer lending business, would be more profitable and thus better able to accomplish its purpose of generate funding for the tribal government and creating additional economic opportunities for the Tribe and its members.

12. The Tribe established ANF as a limited liability company under the Fort Belknap Indian Community Limited Liability Company Code. Copies of ANF's Articles of Organization and Articles of Operation are attached as Exhibits A and B to this declaration.

13. The Tribe, through GVA Holdings, is the sole member/owner of ANF. ANF is a manager-managed LLC that has been managed exclusively by the Tribe through IMDG since it was created. IMDG fully oversees ANF's day-to-day management, the IMDG Board serves as the board of ANF, and all of ANF's employees (many of whom are tribal members) are leased directly from IMDG. IMDG makes all management decisions for ANF, including but not limited to deciding what language goes into loan documents, the interest rates charged (subject to limitations in tribal law), the parameters for loan approval, and what amounts ANF can lend to its customers.

14. ANF is licensed by the FBIC Tribal Regulatory Authority and operates pursuant to the FBIC Tribal Online Lending Code.

15. The majority of ANF's cash profitability goes to IMDG as payment for management and other services provided to ANF. The remainder goes to BorrowWorks, the company that provides customized, proprietary loan underwriting and management technology used in ANF's business. No other third party receives any profit share or transaction-based compensation from ANF.

16. The Tribe, through IMDG, provided the majority of ANF's initial capitalization. The remainder came from a third-party loan that was repaid in full in November 2018. At no point did that third-party lender or any other third party acquire any ownership of ANF, and no party other than BorrowWorks ever received compensation based on ANF's profits.

17. GVA Holdings is another limited liability company established by the Tribe pursuant to tribal law. Copies of GVA Holdings' Articles of Organization and Articles of Operation are attached as Exhibits C and D to this declaration. GVA Holdings is a manager-managed LLC wholly owned by the Tribe and managed by IMDG. IMDG makes all management and financial decisions for GVA Holdings, all GVA Holdings services are provided through employees that it leases from IMDG, and any GVA Holdings profit would be transferred to IMDG. In establishing GVA Holdings as a tribal instrumentality under tribal law, the Tribe expressly stated its intent for GVA Holdings to share in the Tribe's sovereign immunity.

18. ANS, another tribally-chartered, owned, and managed instrumentality of the FBIC, is ANF's service provider. Its Articles of Organization and Articles of Operation are attached as Exhibits E and F to this declaration. All ANS services are provided through leased IMDG employees, IMDG makes all decisions

regarding the disposition of ANS revenues, and all ANS profitability is passed through to IMDG.

19. Normajean Weidley, one of the Plaintiffs in this lawsuit, obtained a loan in the amount of $700.00 from ANF on or about November 5, 2020. She repaid a total of $344.48 towards that loan. ANF has written off the outstanding balance of Ms. Weidley's loan and will not make any further attempts to collect the outstanding balance or extend any further loans to Ms. Weidley in the future. A copy of the loan agreement that Ms. Weidley signed is attached as Exhibit G to this declaration.

20. The other plaintiff if this lawsuit, Ellen Okrzesik, has taken two loans from ANF. She opened her first ANF loan, borrowing $500, on or about October 15, 2021. She repaid that loan in full, making a total of $548.07 in principal and interest payments. She took out a second loan from ANF, borrowing $600, on or about October 22, 2001. She made two payments on that loan totaling $253.60. In total, Ms. Okrzesik borrowed $1,100 from ANF and repaid a total of $801.67. ANF has written off the outstanding balance on Ms. Okrzesik's account and will not make any further attempts to collect the outstanding balance or extend any further loans to Ms. Okrzesik in the future. Copies of the two loan agreements that Ms. Okrzesik signed are attached as Exhibits H and I to this declaration.

21. Each time that Ms. Weidley and Ms. Okrzesik took out a loan from ANF, they signed a standard loan agreement that clearly stated the amount being borrowed, the annual percentage rate that the borrower would pay on the loan, and the total amount of payments the borrower would make. The loan agreements also explained that ANF, the lender, is "a sovereign enterprise that is an economic development arm of, and wholly and controlled by the Fort Belknap Indian Community (the "Tribe"), a federally-recognized sovereign American Indian Tribe." Each loan agreement also explained that the borrower's contract with ANF was governed exclusively by FBIC Tribal law, that ANF and the Tribe are entitled to sovereign immunity, and that the borrower's only recourse against ANF would be through the borrower complaint resolution procedure outlined in the loan agreement. Neither Ms. Weidley nor Ms. Okrzesik submitted any complaints pursuant to the borrower complaint resolution procedure.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 1 day of August, 2023, at Hays, Montana.

Evan Azure, Chief Executive Officer
Island Mountain Development Group

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August 2023, I electronically filed the foregoing Declaration of Evan Azure with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Alfred F. Smith, Jr.
Alfred F. Smith, Jr.

Exhibit 3

EXHIBIT D

DECLARATION OF EVAN AZURE IN SUPPORT OF DEFENDANT AANIIIH NAKODA FINANCE, LLC'S BRIEF IN SUPPORT OF MOTION TO DISMISS SECOND AMENDED COMPLAINT

ARTICLES OF OPERATION

OF

GVA HOLDINGS LLC

A FORT BELKNAP INDIAN COMMUNITY LIMITED LIABILITY COMPANY

July 6, 2011

These Articles of Operation ("Agreement") are effective as of the 6th day of July, 2011, by and between the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana ("Tribe"), as Member, and DATER PORTFOLIO MANAGEMENT LLC, a Delaware limited liability company, as Manager.

ARTICLE 1

DEFINITIONS

The following terms used in this Agreement shall have the following meanings (unless otherwise expressly provided herein);

1.1 "Articles of Organization" shall mean the Articles of Organization of the Company as filed with the Council Secretary of the Fort Belknap Indian Community Council, as may be amended from time-to-time.

1.2 "Business" shall mean an internet-based consumer loan business and provision of financial services, including the ownership and operation of one or more subsidiary entities to provide small-denomination, short-term loans ("Loans") and other related goods and services to consumers, and such other business activities as may be hereafter agreed upon by the Member and Manager.

1.3 "Capital Contribution" shall mean any contribution to the capital of the Company in cash or property by the Member whenever made. "Initial Capital Contribution" shall mean the initial contribution of the Member to the capital of the Company pursuant to this Agreement. "Additional Capital Contribution" shall include all Capital Contributions to the Company not including any Person's Initial Capital Contribution.

1.4 "Code" means the *Fort Belknap Indian Community Council Limited Liability Company Code*, as amended from time to time, and any successor to such statute.

1.5 "Company" shall refer to GVA Holdings LLC.

1.6 "Distributable Cash" shall mean all cash, revenues, and funds received by the Company, less all operating expenses and other amounts required to be paid or set aside by the Company in accordance with the Management Agreement.

1.7 "Management Agreement" shall mean the Management Agreement entered into by and among the Member, the Company and the Manager dated July 6, 2011.

1.8 "Manager" shall mean DATER PORTFOLIO MANAGEMENT LLC, a Delaware limited liability company.

1.9 "Member" shall mean the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana.

1.10 "Membership Interest" shall mean the Member's entire interest in the Company including the Units the Member owns, the economic interest associated with such Units, the right to vote associated with such Units, and such other rights and privileges that the Member may enjoy by being a Member.

1.11 "Notice" shall mean written notice, actually or deemed given pursuant to Section 12.5 or Section 12.6.

1.12 "Party" shall mean the Member or the Manager as the context may require. "Parties" shall mean the Member and the Manager.

1.13 "Percentage Economic Interest" shall mean one hundred percent (100%).

1.14 "Percentage Membership Interest" shall mean one hundred percent (100%).

1.15 "Person" shall mean the Member, any individual or entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such "Person" where the context so permits.

1.16 "Units" shall be the measure by which each holder's Percentage Economic Interest and Percentage Membership Interest is determined.

1.16 "Vote" includes not only casting a vote at a meeting but also the receipt of sufficient written consents (by facsimile, electronic mail, courier, or otherwise) to adopt a measure were it presented at a meeting.

ARTICLE 2

FORMATION OF COMPANY

2.1 Formation. The Fort Belknap Indian Community of the Fort Belknap Reservation of Montana organized a Fort Belknap Indian Community Council limited liability company on July 6, 2011, by delivering Articles of Organization to the Council Secretary of the Fort Belknap Indian Community Council in accordance with the Code.

2.2 Name. The name of the Company is GVA Holdings LLC.

2.3 Principal Place of Business. The principal place of Business of the Company is 113 Chippewa Avenue, Ft. Belknap Agency, Harlem, MT 59526. The Company may locate its places of Business and registered office at any other place or places as the Manager may from time-to-time deem advisable.

2.4 Term. The term of the Company shall be perpetual, unless the Company is earlier dissolved in accordance with the provisions of this Agreement, the Articles of Organization or the Code.

ARTICLE 3

BUSINESS OF COMPANY

The Company is authorized:

(a) To accomplish any lawful business whatsoever or which shall at any time appear conducive to or expedient for the protection or benefit of the Company, its Business, and its assets;

(b) To exercise all other powers necessary to or reasonably connected with the Company's Business which may be legally exercised by limited liability companies under the Code; and

(c) To engage in all activities necessary, customary, convenient, or incident to any of the foregoing.

ARTICLE 4

NAME AND ADDRESS OF THE MEMBER

The name and address of the Member is as set forth in Exhibit A, as Exhibit A may be amended from time-to-time.

ARTICLE 5

RIGHTS AND DUTIES OF MANAGER

5.1 Management. The Business and affairs of the Company shall be managed by its Manager. Except as set forth in this Agreement and under the Management Agreement, the Manager shall have full and complete authority, power and discretion to manage and control the daily business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the daily management of the Company's business. The Manager is authorized to execute and deliver, for and on behalf of the Company, such agreements or instruments as the Manager may deem necessary or desirable, all on such terms and conditions as it may deem necessary or desirable, and the execution of such agreements, instruments or other documents by the Manager shall be sufficient to bind the Company.

5. 2 Number, Tenure and Qualifications.

(a) The Company shall have one Manager.

(b) Any action that may be taken by the Manager at a meeting may be taken without a

meeting if such action is approved in writing by the Manager.

5.3 Elimination of Fiduciary Duties. To the fullest extent permitted by the Code, no Member or Manager has fiduciary duties with respect to the Company other than to the extent as provided under the Code or the Management Agreement.

5.4 Indemnity of the Manager, Officers, Employees and Other Agents.

(a) The Company shall indemnify the Manager and make advances for expenses to the maximum extent permitted under Code and the Management Agreement. The Company shall indemnify its officers, employees and other agents who are not the Manager and make advances for expenses to the maximum extent permitted under Code and as approved by the Manager.

(b) (i) Notwithstanding any other provision of this Agreement, neither the Manager, nor any officer, employee, or agent shall be liable to any Member or to the Company with respect to any act performed or neglected to be performed in good faith and in a manner which such Person believed to be necessary or appropriate in connection with the ordinary and proper conduct of the Business or the preservation of its property, and consistent with the provisions of this Agreement.

(ii) The Company shall indemnify the Manager, and if approved by the Manager, the officers, employees, or agents of the Company, for and hold them harmless from any liability, whether civil or criminal, and any loss, damage, or expense, including reasonable attorneys' fees, incurred in connection with the ordinary and proper conduct of the Business and the preservation of the Business and the Company's property, or by reason of the fact that such Person is or was a Manager, officer, employee, or agent; provided, the Person to be indemnified acted in good faith and in a manner such Person believed to be consistent with the provisions of this Agreement and in the best interests of the Company, and that with respect to any criminal action or proceeding, the Person to be indemnified had no reasonable cause to believe the conduct was unlawful.

(iii) The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not of itself create a presumption that indemnification is not available hereunder. The Company's obligation to indemnify the Manager, officer, employee, or agent hereunder shall be satisfied out of the Company's assets only, and if the Company's assets are insufficient to satisfy its obligation to indemnify the Manager, such Person shall not be entitled to contribution from any Member.

No amendment of this provision for indemnification or advancement of expenses shall have the effect of limiting the rights of any person previously serving as a Manager, officer, employee or agent of the Company to indemnification or advancement of expenses pursuant to this section.

ARTICLE 6

RIGHTS AND OBLIGATIONS OF MEMBERS AND ASSIGNEES

6.1 Limitation of Liability. The Member's liability shall be limited to the maximum extent possible as set forth in this Agreement, the Management Agreement, the Code and other applicable law.

6.2 Company Debt Liability. Except as otherwise required by law or contract, the Member will not be personally liable for any debts or losses of the Company beyond its Capital Contributions and any obligation of the Member under Section 7.1 or 7.2 to make Capital Contributions.

ARTICLE 7

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

7.1 Capital Contributions.

(a) The Member has made its Initial Capital Contribution and has received Units, and those Units are reflected on Exhibit A, attached hereto.

(b) The Company shall at all times be wholly owned by the Member as contemplated under the Articles of Organization. Accordingly, no other Person shall be admitted as a new Member of the Company.

7.2 Additional Capital Contributions. The Company may not require the Member to make any Additional Capital Contribution.

ARTICLE 8

ALLOCATIONS, DISTRIBUTIONS AND REPORTS

8.1 Allocations of Profits and Losses. The profits and losses of the Company shall be allocated to the Member.

8.2 Distributions. All distributions of Distributable Cash shall be made to the Member.

8.3 Interest On and Return of Capital Contributions. The Member shall not be entitled to interest on his Capital Contribution or to return of its Capital Contribution.

8.4 Accounting Period. The Company's accounting period (also referred to herein as

the Company's fiscal year) shall be the calendar year.

ARTICLE 9

DISSOLUTION AND TERMINATION

9.1 Dissolution. The Company shall be dissolved:

(a) upon the prior written agreement of the Member and the Manager;

(b) by action of the Member; or

(c) as otherwise required by law.

9.2 Winding Up, Liquidation and Distribution of Assets. Upon dissolution, the Company shall prepare an accounting of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution.

ARTICLE 10

NO TRANSFERS

10.1. Transferability. The Member may not sell, assign, pledge, hypothecate, transfer or otherwise dispose of (collectively, "Transfer") all or any part of its Membership Interest, whether voluntarily or by foreclosure, assignment in lieu thereof or other enforcement of a pledge, hypothecation or collateral assignment.

10.2 Attempted Transfers in Contravention. Any attempted Transfer in contravention of Article 10 shall be void and of no effect and shall not bind or be recognized by the Company. In the case of an attempted Transfer not permitted hereby, the parties attempting to engage in such Transfer shall indemnify and hold harmless (and hereby agree to indemnify and hold harmless), the Company from all costs, liabilities and damages that the Company may incur (including, without limitation, incremental tax liability and attorneys' fees and expenses) as a result of such attempted Transfer and efforts to enforce the indemnity granted hereby.

ARTICLE 11

DISPUTE RESOLUTION

11.1 Governing Law. The interpretation, validity and performance of this Agreement shall be governed by the laws of the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana, without regard to the conflicts of law rules of the Member or such

jurisdiction, provided, however, that any matter that is the subject of the Management Agreement shall be governed by the governing law set forth in the Management Agreement.

11.2 Limited Waiver of Sovereign Immunity. Member hereby grants to the Company a limited waiver of sovereign immunity with respect to the following purposes and for no others:

(a) For the purpose of allowing Company to take any and all actions necessary to enforce the provisions of this Agreement pursuant to the alternative dispute resolution procedures set forth below, including those which seek injunctive or declaratory relief, damages (limited solely to recover from the personal property assets and future revenues of Member attributed to the Business of the Company), specific performance or other legal and equitable remedies in the court or courts authorized by this Agreement and to effect enforcement of any remedy granted therein;

(b) Subject to this Section 11.2 pursuant to its limited waiver, Member expressly waives its immunity from suit and consents to be sued in any of the following: the Ft. Belknap Indian Community Tribal Court, the courts of the State of Montana, the United States District Court for the District of Montana and appellate courts therefrom for any claims by Company arising out of this Agreement;

(c) Member agrees that it shall not plead or raise as a defense the requirement of exhaustion of tribal court remedies as to any claims brought in any of the forums identified in Paragraph 11.2(b) above by Company; and

(d) The limited waiver of sovereign immunity granted here does not include any waiver, either express or implied, to any third party. The limited waiver of sovereign immunity granted here is of Member only and does not include a waiver, either express or otherwise, by any other enterprise of the Member or otherwise.

11.3 Dispute Resolution. All disputes, controversies or claims between the Parties arising out of or relating to this Agreement, including without limitation any dispute, controversy or claim between the Parties regarding the rights, duties, adequacy of performance, breach, or liabilities of a Party under any provision of this Agreement or the validity or enforceability of this Agreement ("Dispute"), shall be resolved by binding arbitration conducted in accordance with the provisions of this Section ("Arbitration Proceedings") and per the limited waiver of tribal sovereign immunity contained in Section 11.2 above. If a Party ("Complaining Party") concludes that the other Party ("Responding Party") has failed to comply with, or is proposing to take action which is inconsistent or will breach any term or condition of this Agreement, and the Parties informal efforts to resolve the Dispute as set forth in Paragraph 11.3(a) below have been unsuccessful, the Complaining Party may give written notice to the Responding Party ("Notice of Dispute"), which specifies: (a) the nature of the Dispute; (b) the corrective action which must be taken to remove, or, where appropriate, to commence removal of, the Dispute, if the Dispute is susceptible to cure ("Corrective Action"); (c) a reasonable time limit within which the Corrective Action must be taken ("Time Limit"); and (d) the amount of damages or losses asserted to have arisen from the Dispute. Except in the case of emergencies, no Arbitration Proceedings on a Dispute may be commenced by a Party unless prior Notice of Dispute and opportunity to take Corrective Action have been given as provided in this Subsection. If, within

the Time Limit, the Responding Party fails in the reasonable judgment of the Complaining Party to take the Corrective Action then, with respect to the Dispute, either Party may initiate Arbitration Proceedings under Paragraph 11.3(b) with respect to the asserted Dispute. Each of the Parties hereby agrees that this arbitration provision is valid and enforceable and therefore waives any defense or assertion to the contrary.

(a) Negotiations/Mediation. Before Arbitration Proceedings are commenced, the Parties shall use their best efforts to settle the Dispute by negotiating with each other in good faith and, recognizing their mutual interests, attempting to reach a just and equitable solution satisfactory to both Parties. Should the Parties' good faith efforts to resolve a Dispute be unsuccessful, the Parties agree that prior to resorting to judicial or arbitral avenues of relief, they may engage a mutually-acceptable mediator to assist them in resolving the Dispute. If the Parties do not reach a solution within a period of 30 days from the date on which the Dispute was first asserted in writing, then the provisions in Paragraph 11.3(b) below shall apply.

(b) Binding Arbitration. Subject to the requirements and limitations of Paragraph 11.3(a), either Party shall have the right to have the Dispute decided by Arbitration Proceedings in the manner provided in this Paragraph 11.3(b).

(1) Notice of Intent. A Party intending to demand arbitration shall first serve written notice of that intent ("Notice of Intent to Arbitrate") on the other Party and shall promptly thereafter file the Notice of Intent to Arbitrate with any arbitration organization of its choosing in accordance with the that arbitration organization's rules and pay the required fees. A Notice of Intent to Arbitrate shall specify: (a) the matters to be submitted to arbitration; (b) the nature of the relief to be sought in the arbitration; and (c) the name of the "Selector Arbitrator" to be appointed by the Party.

(2) Response. Within ten (10) days after the service of a Notice of Intent to Arbitrate, the other Party shall serve a written response ("Response") specifying (a) the name of the Selector Arbitrator it will appoint, (b) any additional matters it intends to submit to arbitration relating to the Dispute, and (c) the nature of any relief it intends to seek in the arbitration. The responding Party shall promptly thereafter file the Response with the arbitration organization that received the Notice of Intent and pay any required fees.

(3) Arbitrators. The two Selector Arbitrators identified by the Parties shall select a single "Decider Arbitrator" within ten (10) days of the identification of the second Selector Arbitrator in the Response described in Paragraph 11.3(b)(2). Any Arbitration Proceedings shall take place exclusively before the single Decider Arbitrator; the Selector Arbitrators' sole role is to identify a single neutral arbitration, the Decider Arbitrator, to provide over any Arbitration Proceedings. Any Decider Arbitrator shall be competent and professionally experienced in the matter being arbitrated. The Parties further agree that no arbitrator shall be an officer, agent, employee, stockholder or contractor of any Party or its affiliates, and nor shall any arbitrator be a member or descendent or spouse of a member or descendent of the Tribe. If a Party fails to appoint an arbitrator, or fails to appoint a successor arbitrator within 10 days after the incapacity or resignation of its previously appointed arbitrator, or if the first and second Selector Arbitrators fail to

appoint a Decider Arbitrator within 10 days after the service of the Response, or fail to appoint a successor third arbitrator within 10 days after the incapacity or resignation of the previously appointed Decider Arbitrator, then the Decider Arbitrator to be appointed shall be selected by the arbitration organization that received the Notice of Intent. All arbitrators, no matter how designated or appointed, shall act as neutral arbitrators. All decisions, awards, orders and other rulings of the arbitrators, relief awarded, or other substantive or procedural matters ("Decisions") shall be made by only the duly-appointed Decider Arbitrator, shall be in writing signed by the Decider Arbitrator, and shall include the findings of fact and conclusions of law on which the Decision is based.

(4) Conduct of Arbitration. After the Notice of Intent to Arbitrate has been delivered, arbitration shall be considered commenced as to all matters properly submitted under the foregoing provisions, and shall thereafter be prosecuted with diligence in accordance with the following provisions, unless the Parties agree otherwise. The Decider Arbitrator shall apply the governing law specified in Section 11.1, and shall follow such rules of discovery and evidence as the United States District Court for the State of Delaware would apply. Within sixty (60) days of commencement of the arbitration actions, and after receiving evidence and hearing witnesses, if any, the Decider Arbitrator shall render his or her award, accompanied by findings of fact and a statement of reasons for the decision.

(5) Standard of Review. All Decisions rendered by the Decider Arbitrator shall be determined in light of the nature of the Dispute, the circumstances surrounding the Dispute, applicable Laws, and the rights and interests of the Parties, so as to do substantial justice to the Parties. No order in Arbitration Proceedings may terminate this Agreement except upon (a) a determination that the Dispute on which the order is based constitutes a major and material default under this Agreement, or (b) upon a determination of repeated defaults sufficient to indicate callous indifference to a Party's obligations under this Agreement; provided that in no event shall this Agreement be subject to termination for breach of a term or conditions the breach of which the Parties have agreed shall not be the basis for termination of this Agreement.

(6) Place of Arbitration. All hearings and other proceedings in the arbitration shall be held at Billings, Montana, unless otherwise designated by the Parties.

(7) Relief Available. With respect to the matters submitted to Arbitration Proceedings, the Decider Arbitrator shall have authority to:

i. issue appropriate Interlocutory Orders to mitigate damage or prevent irreparable injury to a Party; and

ii. render a final decision which:

A. determines or declares the rights, duties, adequacy of performance, breach or liabilities of a Party under the Agreement;

B. orders a Party to specifically perform its obligations under the Agreement;

C. awards appropriate injunctive, declaratory or compensatory monetary relief for the benefit of a Party; and/or

D. contains such further relief and provisions as the arbitrators have jurisdiction and authority to grant.

The Decider Arbitrator shall not have jurisdiction or authority to assess special, consequential or punitive damages against either Party.

(8) Decision Binding; Enforcement. The Decision of the Decider Arbitrator shall become a "Final Decision" at the time rendered. All Final Decisions shall be conclusive and binding on the Parties with respect to the matters decided, and shall be complied with by the Parties. A Party may enter a Final Decision and institute Judicial Proceedings to enforce a Final Decision in any tribunal specified in Section 11.2 above. In such Judicial Proceedings, neither Party, without consent of the other Party, shall be entitled to contend that the Final Decision should be vacated, modified or corrected and the Parties hereby expressly waive all other rights and remedies that might otherwise be available in the Judicial Proceeding.

(9) Costs of Arbitration. All costs of arbitration, including the fees and expenses of the Decider Arbitrator, shall initially be borne equally by the Parties, but ultimate responsibility for such costs shall be determined by the Decider Arbitrator in the course of his or her decision and/or award according to the extent to which each Party prevailed on the issues subject to the arbitration. Each Party shall bear the costs and expenses for the presentation of its case, including the fees of its attorneys and experts.

(10) Survival of Remedy. Subsequent to any termination of this Agreement, this Section shall remain available to the Parties with respect to Disputes arising out of or relating to this Agreement prior or subsequent to the termination date.

ARTICLE 12

GENERAL PROVISIONS

12.1 Amendment. This Agreement may only be amended upon the prior written agreement of the Member and the Manager.

12.2 Merger. The Company may be not be a party to a merger, consolidation or any other reorganization transaction of any nature whatsoever without the prior written agreement of the Member and the Manager.

12.3 Waiver of Partition Right. The Member waives and renounces any right that it

may have prior to dissolution and liquidation to institute or maintain any action for partition with respect to any real property owned by the Company.

12.4 Waivers Generally. No course of dealing will be deemed to amend or discharge any provision of this Agreement. No delay in the exercise of any right will operate as a waiver of such right. No single or partial exercise of any right will preclude its further exercise. A waiver of any right on any one occasion will not be construed as a bar to, or waiver of, any such right on any other occasion.

12.5 Notices. All notices and other communications hereunder shall be in writing, and shall be deemed to have been duly given (a) upon hand delivery thereof, (b) upon facsimile and written confirmation of transmission, (c) upon receipt of any overnight deliveries, or (d) on the third (3rd) business day after mailing United States registered or certified mail, return receipt requested, postage prepaid, addressed to the Member as set forth on Exhibit A hereto and to the Manager as set forth on the signature page hereto.

12.6 Partial Invalidity. Wherever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. However, if for any reason any one or more of the provisions of this Agreement are held to be invalid, illegal or unenforceable in any respect, such action will not affect any other provision of this Agreement. In such event, this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained in it.

12.7 Entire Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to its subject matter, and it supersedes all prior written and oral agreements. No amendment of this Agreement will be effective for any purpose unless it is made in accordance with Section 12.1.

12.8 Benefits. The benefits of this Agreement inure solely to the benefit of the Member and the Company, without conferring on any other Person any rights of enforcement or other rights. Without limiting the generality of the foregoing, none of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

12.9 Further Assurances. The Member agrees, without further consideration, to sign and deliver such other documents of further assurance as may reasonably be necessary to effectuate the provisions of this Agreement.

12.10 Headings. Article and Section titles have been inserted for convenience of reference only. They are not intended to affect the meaning or interpretation of this Agreement.

12.11 Terms. Terms used with initial capital letters will have the meanings specified, applicable to both singular and plural forms, for all purposes of this Agreement. All pronouns (and any variation) will be deemed to refer to the masculine, feminine or neuter, as the identity of the Person may require. The singular or plural include the other, as the context requires or permits. The word include (and any variation) is used in an illustrative sense rather than a limiting sense.

12.12 Counterparts. This Agreement may be executed in several counterparts by the parties and each executed counterpart shall be considered an original of this Agreement.

[SIGNATURES OF PARTIES ON NEXT PAGE]

The undersigned hereby agree, acknowledge and certify that the foregoing Agreement constitutes the Agreement of the Company adopted by the Manager and by the Member of the Company.

MEMBER:

FORT BELKNAP INDIAN COMMUNITY OF THE FORT BELKNAP RESERVATION OF MONTANA

Tracy King, President,
Fort Belknap Indian Community Council
Pursuant to a Resolution of the Fort Belknap
Indian Community Council

MANAGER:

DATER PORTFOLIO MANAGEMENT LLC,
a Delaware limited liability company

By: _____
Manager

Address: 1802 N. University Dr. #342
Plantation Florida
33322

Exhibit A

This Exhibit shall be amended from time-to-time to reflect the issuance, transfer, or repurchase of Units.

Member's Name & Address		Membership Interest (# Units)	Percentage Interest
Fort Belknap Indian Community		100	100%

Exhibit 4

FILED
2023 Aug-03 PM 02:39
U.S. DISTRICT COURT
N.D. OF ALABAMA

EXHIBIT B

DECLARATION OF EVAN AZURE IN SUPPORT OF
DEFENDANT AANIIIH NAKODA FINANCE, LLC'S BRIEF IN SUPPORT OF
MOTION TO DISMISS SECOND AMENDED COMPLAINT

ARTICLES OF OPERATION

OF

AANIIIH NAKODA FINANCE LLC

A FORT BELKNAP INDIAN COMMUNITY

LIMITED LIABILITY COMPANY

May 11, 2017

These Articles of Operation ("Agreement") are effective upon approval by the Parties. The Parties to this Agreement are GVA HOLDINGS, LLC, the sole Member of AANIIIH NAKODA FINANCE, LLC ("ANF"), a Fort Belknap Indian Community Limited Liability Company ("Company") and ISLAND MOUNTAIN DEVELOPMENT GROUP, INC. ("IMDG") a Tribal owned Business Development Corporation, as Manager.

ARTICLE 1

The following terms used in this Agreement shall have the following meanings (unless otherwise expressly provided herein);

1.1 "Articles of Organization" shall mean the Articles of Organization of the Company as filed with the Council Secretary of the Fort Belknap Indian Community Council, as may be amended from time-to-time.

1.2 "Business" shall mean an internet-based consumer loan business and provision of financial services including the ownership and operation of (potentially) one or more subsidiary entities to provide small-denomination, short-term loans (Loans) and other related goods and services to consumers, and such other business activities as may be hereafter agreed upon by the Member and Manager.

1.3 "Capital Contribution" shall mean any contribution to the capital of the Company in cash or property by the Member whenever made. "Initial Capital Contribution" shall mean the initial contribution of the Member to the Capital of the Company pursuant to this Agreement. "Additional Capital Contribution" shall include all Capital Contributions to the Company not including any other Person or Entity's Initial Capital Contribution.

1.4 "Code" means the Fort Belknap Indian Community Council Limited Liability Company Code, as amended from time to time, and any successor code adopted by the Fort Belknap Indian Community.

1.5 "Company" shall mean AANIIIH NAKODA FINANCE, LLC or ANF.

1.6 "Distributable Cash" shall mean all cash, revenues, and funds received by the Company, less all operating expenses and other amounts required to be paid or set aside by the Company in accordance with the Management Agreement.

1.7 "Management Agreement" shall mean the Management Agreement entered into by and among the Member, the Company, and the Manager dated May 11, 2017, as amended from time to time.

1.8 "Manager" shall mean Island Mountain Development Group, Inc., IMDG, and/or the agent, entity or individual authorized by the Parties to act as Manager for the Company.

1.9 "Member" shall mean GVA HOLDINGS, LLC.

1.10 "Membership Interest" shall mean the Member's entire interest in the Company including the Units the Member owns, the economic interest associated with such Units, the right to vote associated with such Units, and such other rights and privileges the Member enjoys by being a Member.

1.11 "Notice" shall mean written notice, actually or deemed given pursuant to Section 12.5 or Section 12.6.

1.12 "Party" shall mean the Member or the Manager as the context may require. "Parties" shall mean the Member and the Manager.

1.13 "Percentage Economic Interest" shall mean one hundred percent (100%).

1.14 Percentage Membership Interest" shall mean one hundred percent (100%).

1.15 "Person" shall mean the Member, any individual or entity, and the heirs, executors, administrators, legal representatives, successors, and assigns of such "Person" where the context so permits.

1.16 "Units" shall be the measure by which each holder's Percentage Economic Interest and Percentage Membership Interest is determined.

1.17 "Vote" includes not only casting a vote at a meeting but also the receipt of sufficient written consents (by facsimile, electronic mail, courier, or otherwise) to adopt a measure if presented at a meeting.

ARTICLE 2

FORMATION OF COMPANY

2.1 Formation. The Fort Belknap Indian Community of the Fort Belknap Reservation of Montana organized the Company by delivering Articles of Organization to the Tribal Council Secretary pursuant to the requirements of the Code.

2.2 Name. The name of the Company is AANIIIH NAKODA FINANCE, LLC.

2.3 Principal Place of Business. The principal place of Business of the Company is 113 Chippewa Avenue, Fort Belknap Agency, Harlem Montana 59526. The Company may locate its headquarters, location of business, and registered office at any other place or places as deemed advisable by the Parties.

2.4 Term. The term of the Company shall be perpetual, unless the Company is earlier dissolved in accordance with the provisions of the Articles of Organization, this Agreement, or the Code.

ARTICLE 3

BUSINESS OF THE COMPANY

The Company is authorized:

(a) To accomplish any lawful business whatsoever or which shall at any time appear conducive to or expedient for the protection or benefit of the Company, including but not limited to, the Company's Business and assets;

(b) To exercise all other powers necessary to or reasonably connected with the Company's Business which may be legally exercised by limited liability companies pursuant to the Code; and

(c) To engage in all activities necessary, customary, convenient, or incident to any of the foregoing.

ARTICLE 4

NAME AND ADDRESS OF THE MEMBER

The name and address of the Member is GVA HOLDINGS, LLC. The Member's address is 113 Chippewa Avenue, Fort Belknap Agency, Harlem, Montana 59526. Member(s) may be modified in the future.

ARTICLE 5

RIGHTS AND DUTIES OF MANAGER

5.1 Management. The daily Business and affairs of the Company shall be managed by the Manager. Except as set forth in this Agreement, and under the Management Agreement, the Manager shall have full and complete authority, power and discretion to manage and control the daily business, affairs and properties of the Company, to make all decisions regarding those matters and to perform any and all other acts or activities customary or incident to the daily management of the Company's business. The Manager is authorized to execute and deliver, for and on behalf of the Company, such agreements or instruments as the Manager may deem necessary or desirable, all on such terms and conditions as it may deem necessary or desirable, and the execution of such agreements, instruments, contracts or other documents by the Manager shall be sufficient to bind the Company.

5.2 Number, Tenure and Qualifications.

(a) The Company shall have one Manager.

(b) Any action that may be taken by the Manger at a meeting may be taken without a meeting if such action is approved in writing by the Manager.

5.3 Elimination of Fiduciary Duties. To the fullest extent permitted by the Code, no Member or Manager has fiduciary duties with respect to the Company other than to the extent as provided under the Code or the Management Agreement.

5.4 Indemnity of the Manager, Officers, Employees and Other Agents.

(a) The Company shall indemnify the Manager and make advances for expenses to the maximum extent permitted under Code and Management Agreement. The Company shall indemnify its officers, employees and other agents who are not the Manager and make advances for expenses to the maximum extent permitted under Code and as approved by the Manager.

(b) (i) Notwithstanding any other provision of this Agreement, neither the Manager, nor any officer, employee, or agent shall be liable to any Member or to the Company with respect to

any act performed or neglected to be performed in good faith and in a manner which such Person believed to be necessary or appropriate in connection with the ordinary and proper conduct of the Business or the preservation of its property, and consistent with the provisions of this Agreement.

(ii) The Company shall indemnify the Manager, and if approved by the Manager, the officers, employees, or agents of the Company, for and hold them harmless from any liability, whether civil or criminal, and any loss, damage, or expense, including reasonable attorneys' fees, incurred in connection with the ordinary and proper conduct of the Business and the preservation of the Business and the Company's property, or by reason of the fact that such Person is or was a Manager, officer, employee, or agent; provided, the Person to be indemnified acted in good faith and in a manner such Person believed to be consistent with the provisions of this Agreement and in the best interests of the Company, and that with respect to any criminal action or proceeding, the Person to be indemnified had no reasonable cause to believe the conduct was unlawful.

(iii) The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of no contest or its equivalent shall not create a presumption that indemnification is not available hereunder. The Company's obligation to indemnify the Manager, officer, employee, or agent hereunder shall be satisfied out of the Company's assets only, and if the Company's assets are insufficient to satisfy its obligation to indemnify the Manager, such Person shall not be entitled to contribution from any Member.

No amendment of this provision for indemnification or advancement of expenses shall have the effect of limiting the rights of any person previously serving as a Manager, officer or employee or agent of the Company to indemnification or advancement of expenses pursuant to this section.

ARTICLE 6

RIGHTS AND OBLIGATIONS OF MEMBERS AND ASSIGNEES

6.1 Limitation of Liability. The Member's liability shall be limited to the maximum extent possible as set forth in this Agreement, the Management Agreement, the Code and other applicable law.

6.2 Company Debt Liability. Except as otherwise required by law or contract, the Member will not be personally liable for any debts or losses of the Company beyond its Capital Contributions and any obligation of the Member under Section 7.1 or 7.2 to make Capital Contributions.

ARTICLE 7

CONTRIBUTIONS TO THE COMPANY AND CAPITAL ACCOUNTS

7.1 Capital Contributions.

(a) The Member has made its Initial Capital Contribution and has received Units, and those Units are reflected on Exhibit A, attached hereto.

(b) The Company shall at all times be wholly owned by the Member as contemplated under the Articles of Organization. Accordingly, no other Person shall be admitted as a new Member of the Company.

7.2 Additional Capital Contributions. The Company may not require the Member to make any Additional Capital Contribution.

ARTICLE 8

ALLOCATIONS, DISTRIBUTIONS AND REPORTS

8.1 Allocations of Profits and Losses. The profits and losses of the Company shall be allocated to the Member.

8.2 Distributions. All distributions of Distributable Cash shall be made to the Member.

8.3 Interest On and Return of Capital Contributions. The Member shall not be entitled to interest on his Capital Contribution or to return of its Capital Contribution.

8.4 Accounting Period. The Company's accounting period (also referred to herein as the Company's fiscal year) shall be the calendar year.

ARTICLE 9

DISSOLUTION AND TERMINATION

9.1 Dissolution. The Company shall be dissolved:

(a) upon the prior written agreement of the Member and the Manager;

(b) by action of the Member; or

(c) as otherwise required by the Code.

9.1 Winding Up, Liquidation and Distribution of Assets. Upon dissolution, the Company shall prepare an accounting of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution pursuant to the Code.

ARTICLE 10

NO TRANSFERS

10.1 Transferability. The Member may not sell, assign, pledge, hypothecate, transfer or otherwise dispose of (collectively, "Transfer") all or any part of its Membership Interest, whether voluntarily or by foreclosure, assignment in lieu thereof or other enforcement of a pledge, hypothecation or collateral assignment.

10.2 Attempted Transfers in Contravention. Any attempted Transfer in contravention of Article 10 shall be void and of no effect and shall not bind or be recognized by the Company.

In the case of an attempted Transfer not permitted hereby, the parties attempting to engage in such Transfer shall indemnify and hold harmless (and hereby agree to indemnify and hold harmless), the Company from all costs, liabilities and damages that the Company may incur (including, without limitation, incremental tax liability and attorneys' fees and expenses) as a result of such attempted Transfer and efforts to enforce the indemnity granted hereby.

ARTICLE 11

DISPUTE RESOLUTION

11.1 Governing Law. The interpretation, validity and performance of this Agreement shall be governed by the laws of the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana, without regard to the conflicts of law rules of the Member or such jurisdiction however the Management Agreement shall be governed by the law specified in the Management Agreement.

11.2 Limited Waiver of Sovereign Immunity. Member hereby grants to the Company a limited waiver of sovereign immunity with respect to the following purposes and for no others:

(a) For the purpose of allowing Company to take any and all actions necessary to enforce the provisions of this Agreement pursuant to the alternative dispute resolution procedures set forth below, including those which seek injunctive or declaratory relief, damages (limited solely to recover from the personal property assets and future revenues of Member attributed to the Business of the Company), specific performance or other legal and equitable remedies in the court or courts authorized by this Agreement and to effect enforcement of any remedy granted therein;

(b) Subject to this Section 11.2 pursuant to its limited waiver, Member expressly waives its immunity from suit and consents to be sued in the Fort Belknap Indian Community Court for any claims by Company arising out of this Agreement;

(c) The limited waiver of sovereign immunity provided herein is not effectual or for the benefit of any third party. The limited waiver of sovereign immunity is limited to Member's sovereign immunity, and does not include a waiver, either express or implied, by any other business enterprise the Member may own.

11.3 Dispute Resolution. All disputes, controversies or claims between the Parties arising out of or relating to this Agreement, including without limitation any dispute, controversy or claim between the Parties regarding the rights, duties, adequacy of performance, breach, or liabilities of a Party under any provision of this Agreement or the validity or enforceability of this Agreement ("Dispute") shall be resolved by appropriate action filed in the Fort Belknap Community Court.

(a) Negotiations/Mediation. The Parties agree that prior to filing an action in the Fort Belknap Community Court, the Parties shall use their best efforts to settle the Dispute by negotiating with each other in good faith and, recognizing their mutual interests, attempting to reach a just and equitable solution satisfactory to both Parties. Should the Parties' good faith efforts to resolve a Dispute be unsuccessful, the Parties agree to engage a mutually-acceptable mediator to assist them, in resolving the Dispute. If the Parties are not able to reach a solution

within a period of 45 days from the date on which the Dispute was first asserted in writing, then the appropriate action may be filed in the Fort Belknap Community Court.

(b) Attorney Fees and Costs. The successful Party may recover reasonable attorney fees and costs he/she incurred filing the action in court. The Court shall decide if a Party prevailed on the issues litigated.

(c) Survival of Remedy. Subsequent to any termination of this Agreement, this Article shall remain available to the Parties with respect to Disputes arising out of or relating to this Agreement prior or subsequent to the termination date.

ARTICLE 12

GENERAL PROVISIONS

12.1 Amendment. This Agreement may only be amended upon the prior written agreement between the Member and the Manager.

12.2 Merger or Sale. The Company may not be a party to a merger or sale, consolidation or any other reorganization transaction of any nature whatsoever without the prior written agreement of the Member and the Manager.

12.3 Waiver of Partition Right. The Member waivers and renounces any right that it may have prior to dissolution and liquidation to institute or maintain any action for partition with respect to any real property owned by the Company.

12.4 Waivers Generally. No course of dealing will be deemed to amend or discharge any provision of this Agreement. No delay in the exercise of any right will operate as a waiver of such right. No single or partial exercise of any right will preclude its further exercise. A waiver of any right on any one occasion will not be construed as a bar to, or waiver of, any such right on any other occasion.

12.5 Notices. All notices and other communications hereunder shall be in writing, and shall be deemed to have been duly given (a) upon hand delivery thereof, (b) upon facsimile and written confirmation of transmission, (c) upon receipt of any overnight deliveries, or (d) on third (3rd) business day after mailing United States registered or certified mail, return receipt requested, postage prepaid, addressed to the Member as set forth herein and to the Manager as set forth on the signature page hereto.

12.6 Partial Invalidity. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. However, if for any reason any one or more of the provisions of this Agreement are held to be invalid, illegal or unenforceable in any respect, such action will not affect any other provision of this Agreement.

12.7 Entire Agreement. This Agreement contains the entire agreement and understanding of the Parties with respect to its subject matter, and it supersedes all prior written and oral agreements. No amendment of this Agreement will be effective for any purpose unless it is made in accordance with Section 12.1.

12.8 Benefits. The benefits of this Agreement are intended solely to the benefit of the Member and the Company, without conferring on any other Person any rights of enforcement or other rights. Without limiting the generality of the foregoing, none of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

12.9 Further Assurances. The Member agrees, without further consideration, to sign and deliver such other documents of further assurance as may be reasonably necessary to effectuate the provisions of this Agreement.

12.10 Headings. Article and Section titles have been inserted for convenience of reference only. They are not intended to affect the meaning or interpretation of this Agreement.

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12.12 Counterparts. This Agreement may be executed in several counterparts by the parties and each executed counterpart shall be considered an original of this Agreement. Facsimile and pdf copies be relied upon as originals.

The undersigned hereby agree, acknowledge and certify that the foregoing Agreement constitutes the Agreement of the Company adopted by the Manager and by the Member of the Company.

MEMBER:

GVA HOLDINGS, LLC.

By: _____
Mark L. Azure, President
Fort Belknap Community Council
Pursuant to Resolution of the Fort Belknap
Community Council for Member GVA Holdings, LLC.

MANAGER:

ISLAND MOUNTAIN DEVELOPMENT GROUP, INC.

By: _____
Michelle Fox, CEO

By: _____
Board Chair

EXHIBIT A

This Exhibit shall be amended from time-to-time to reflect the issuance, transfer, or repurchase of Units.

Member's Name and Address	Membership Interest (# Units)	Percentage Interest
GVA Holdings, LLC	100	100%
113 Chippewa Avenue, Fort Belknap Agency, Harlem, Montana 59526		

Exhibit 5

FILED
2023 Aug-03 PM 02:39
U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

NORMAJEAN WEIDLEY and ELLEN OKRZESIK,

Plaintiff,

v.

AANIIIH NAKODA FINANCE, LLC d/b/a BRIGHT LENDING, et al.

Defendants.

Case No. 5:22-cv-00905-LCB

DEFENDANT AANIIIH NAKODA FINANCE, LLC'S BRIEF IN SUPPORT OF MOTION TO DISMISS SECOND AMENDED COMPLAINT

TABLE OF CONTENTS

Page

FACTUAL BACKGROUND 2
I. The Arms of the Tribe 2
A. IMDG 2
B. ANF 5
II. The Loans at Issue 8
STANDARD FOR MOTION TO DISMISS 10
ARGUMENT 11
I. Claims against ANF should be dismissed due to sovereign immunity 11
A. Indian Tribes have sovereign immunity from suit 11
B. Tribal sovereign immunity extends to arms of the tribe 13
C. ANF and IMDG are arms of the FBIC 14
1. Method of Creation 15
2. Purpose 15
3. Structure, Ownership, and Management 18
4. Tribal Intent 21
5. Financial Relationship to the Tribe 22
6. The Purposes of Tribal Sovereign Immunity 24
D. The official capacity defendants are immune from all claims seeking retrospective or monetary relief 25
II. Plaintiffs lack standing 26
III. Rule 19 requires dismissal of all claims 27
CONCLUSION 30

Defendant Aaniiih Nakoda Finance, LLC (ANF) is an economic development enterprise and arm of the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana (FBIC or the Tribe), a federally recognized Indian tribal community comprising the Assiniboine (Nakoda) and Gros Ventre (Aaniiih) Tribes. *See* 87 Fed. Reg. 4636-02 (Jan. 28, 2022) (listing federally recognized tribes). It is well settled that federally recognized Indian tribes such as FBIC and their arms and instrumentalities such as ANF enjoy sovereign immunity from unconsented lawsuits. *See, e.g.*, *Michigan v. Bay Mills Indian Cmty.*, 572 U.S. 782, 788 (2014); *Kiowa Tribe of Okla. v. Mfg. Techs., Inc.*, 523 U.S. 751, 760 (1998); *Alabama v. PCI Gaming Auth.*, 801 F.3d 1278, 1287-88 (11th Cir. 2015). This broad immunity covers the claim(s) asserted against ANF in the Second Amended Complaint (SAC, Dkt. 83) and deprives the court of subject matter jurisdiction over them. The court therefore should dismiss Plaintiffs' claim(s) against ANF with prejudice.

Plaintiffs' claims also should be dismissed due to lack of standing. The SAC shows that both Ms. Weidley and Ms. Okrzesik have borrowed more from ANF than they have repaid. Accordingly, neither Plaintiff has suffered a cognizable injury sufficient to confer standing.

Finally, Plaintiffs' claims should be dismissed pursuant to Rule 19 because the Tribe is a required party that cannot be joined due to sovereign immunity.

FACTUAL BACKGROUND

I. The Arms of the Tribe

The Fort Belknap Reservation is located in a remote part of northern Montana. Declaration of Jeffrey Stiffarm (Stiffarm Decl.), filed herewith, ¶ 3. Due to its remote location, the Reservation presents limited opportunities for local economic development and governmental revenue for the FBIC. *Id.* Poverty rates on the Fort Belknap Reservation hover near 50%, while national poverty rates are less than 15%.[1] In an effort to improve the economic situation of its members, the FBIC has established several tribal business instrumentalities pursuant to tribal law. *Id.* ¶ 4. These include the Fort Belknap Planning and Development Corporation, d/b/a Island Mountain Development Group (IMDG), and Defendant ANF, as well as additional tribally owned and operated entities like Aaniiih Nakoda Servicing, LLC (ANS) and GVA Holdings, LLC (GVA Holdings) that support IMDG and ANF. *Id.*

A. IMDG

The FBIC, through the Fort Belknap Indian Community Council (the Council) that constitutes the Tribe's governing body, created IMDG years ago to coordinate the Tribe's business planning and development activities, provide training resources and economic opportunities for tribal members on the Fort Belknap Reservation,

[1] This data, which is published on the website for the Federal Reserve Bank of Minneapolis (*see* https://www.minneapolisfed.org/indiancountry/resources/reservation-profiles/fort-belknap-reservation, last visited Aug. 1, 2023), is subject to judicial notice as it may be readily determined from a source the accuracy of which cannot reasonably be questioned. *See* Fed. R. Evid. 201(b)(2).

generate revenue for the tribal government, and benefit tribal members. *Id.* ¶ 5 & Ex. A. IMDG was established and chartered under tribal law by Council resolution. *Id.* ¶ 5 & Exs. A-B.

Pursuant to its charter, ownership in IMDG is "limited, as the intent of the Fort Belknap Community Council in establishing this organization is to create a corporation, wholly owned by the Fort Belknap Community Council, or its members, employees or contractors, for the people of the Fort Belknap Indian Reservation." *Id.* ¶ 6. IMDG remains and has always been wholly under tribal ownership and control since its inception. *Id.* The Council must approve any new or amended IMDG bylaws. *Id.* The Council retains the rights to fill any vacancies on the IMDG Board, to remove any member of the IMDG Board, and to override any action of the Board to remove one of its own members. *Id.* In fact, the current IMDG Board consists exclusively of members of the Council. *Id.* ¶ 7; ANF 30(b)(6) Deposition Transcript (ANF 30(b)(6)), filed herewith as Ex. A to Declaration of Mark Reeves, at 71:21-25, 72:12-15. IMDG's charter also requires it to file quarterly and annual reports with the Council regarding its financial situation and all business activities that it has undertaken or plans to undertake. Stiffarm Decl. ¶ 6. The Tribe has authorized IMDG to "sue and be sued, on any contract claim … *to the extent and only to the extent* specifically set forth in any such contract." *Id.*, Ex. B, ¶ 11.A (emphasis added).

IMDG was "specifically organized for the purpose of making a profit on its operations to benefit the people of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community." *Id.*, Ex. C at 1 & Ex. B ¶ 3. In furtherance of this goal, IMDG has undertaken a variety of business ventures including the acquisition and leasing of off-reservation commercial real estate, residential construction, public and private consulting and contracting services, and online consumer lending. Declaration of Evan Azure (Azure Decl.) ¶ 5. IMDG also has established the Montana Native Growth Fund, a community development financial institution situated on the Fort Belknap Reservation that promotes sustainable tribal home ownership through financial education and credit access, and it has partnered with the Fort Belknap Tribal Housing Authority to build and remediate homes for tribal members on the Reservation. *Id.* It also funds and oversees multiple non-profit entities, including a high school internship program and a college scholarship program, for tribal members. *Id.*

IMDG distributes 20% of its net income from these business ventures directly to the Tribe to support the Tribe's provision of governmental services and uses the remainder to invest in tribal economic development programs, including reinvestment in the business managed by IMDG, or to fund direct distributions to tribal members. *Id.* ¶ 6; ANF 30(b)(6) at 66:20-23. IMDG distributions typically account for approximately 75% of the Tribe's total non-federal budget. Stiffarm

Decl. ¶ 9. The Tribe's lending entities generate over 90% of IMDG's revenue. Azure Decl. ¶ 8. Any reduction in IMDG revenues would adversely affect the Tribe's ability to fund governmental services for its members. *Id.* These services include general funding for the tribal land department and communications, the Tribal Employment Rights Office, and tribal electric, waste, and sewer programs. *Id.* ¶ 8.

IMDG also directly funds tribal capital projects to benefit tribal members—for example, IMDG is developing and managing a tribal wellness center and recently dedicated more than $2.5 million to developing housing for FBIC members above and beyond its standard income distribution to the Tribe. *Id.* ¶ 10; Azure Decl. ¶ 7; ANF 30(b)(6) at 67:11-19. No entity outside the Tribe has any interest or share in the profitability of IMDG. Stiffarm Decl. ¶ 11; ANF 30(b)(6) at 71:14-17.

In addition to its direct financial support of the Tribe, IMDG is a major employer of tribal members. Azure Dec. ¶ 9. It currently employes approximately 243 enrolled tribal members, notably including its CEO, Defendant Evan Azure, as well as several tribal member spouses and descendants. *Id.*

B. ANF

In furtherance of its efforts to generate economic development opportunities, the Tribe began engaging in online consumer lending in 2011. *Id.* ¶ 10; ANF 30(b)(6) at 15:4-13. Initially, the Tribe relied on third parties to help the Tribe build capacity and develop an understanding of the online consumer lending business and

regulatory framework so that it could ultimately assume full management responsibility for its lending operations. Azure Decl. ¶ 10; ANF 30(b)(6) at 16:9—18:20, 22:7-19. At the end of 2017, the Tribe felt that it had learned the business well enough to manage it on its own, so it terminated its third-party management agreement and established a new tribal lending entity in the form of ANF. Azure Decl. ¶ 11; ANF 30(b)(6) at 22:20—23:3.

The Tribe established ANF as a limited liability company under tribal law. *See* Azure Decl. ¶ 12, Ex. A at 1, & Ex. B ¶ 2.1. The FBIC, through GVA Holdings, is the sole the member/owner of ANF.[2] *Id.* ¶ 13, Ex. A at 1, & Ex. B ¶ 1.9; ANF 30(b)(6) at 22:7-23:11, 37:20—38:3. ANF is a manager-managed LLC managed exclusively by the Tribe through IMDG since its formation. Azure Decl. ¶ 13, Ex. A at 1, & Ex. B ¶ 1.8; ANF 30(b)(6) at 37:20—38:8, 71:21-25. IMDG's

[2] GVA Holdings is a limited liability company established by the Tribe pursuant to tribal law. *See* Azure Decl. ¶ 17, Ex. C, & Ex. D ¶ 1.9. It is a manager-managed LLC that is wholly owned by the Tribe and managed by IMDG. *See id.*; ANF 30(b)(6) at 23:8-11, 35:8—37:13, 57:1-9, 72:7-11. IMDG makes all management and financial decisions involving GVA. Azure Decl. ¶ 17; ANF 30(b)(6) at 57:1—58:4. All GVA services are provided through leased IMDG employees, and any profit that it generates is transferred to IMDG. Azure Decl. ¶ 17; ANF 30(b)(6) at 55:8-15, 56:6-10. The Tribe expressly intended for GVA to share the Tribe's sovereign immunity. Azure Decl. ¶ 17 & Ex C at 1.

ANS, the service provider for ANF, is also fully owned and managed by the Tribe through IMDG. *See* Azure Decl. ¶ 18 & Ex. E ¶¶ 1.8 & 1.9; ANF 30(b)(6) at 54:25—56:25. ANS was also formed under tribal law with the express intent that it would share in the Tribe's sovereign immunity. Azure Decl. Ex. F ¶¶ 1, 4, 6-7. All ANS services are provided through leased IMDG employees, IMDG makes all decisions regarding the disposition of ANS revenues, and all ANS profitability is passed through to IMDG. *Id.* ¶ 18 & Ex F ¶ 8.1; ANF 30(b)(6) 55:8—56:20. ANS is "obviously a tribal entity," ANF 30(b)(6) at 56:21-22, and "there's not a lot of distinction between GVA Holdings, ANS, and [IMDG]." *Id.* at 55:8-10.

responsibilities include full oversight of the day-to-day management of ANF's affairs, IMDG's Board serves as the Board of ANF, and all ANF employees are leased from IMDG, including many tribal members. Azure Decl. ¶ 13; ANF 30(b)(6) at 47:25—48:11; 50:14—51:5, 52:11—53:10, 57:1-12. All management decisions for ANF—specifically including the language in loan documents, the interest rates charged, the parameters for loan approval, and the amounts that can be borrowed—are made by IMDG subject to limitations set forth in tribal law. Azure Decl. ¶ 13; ANF 30(b)(6) at 60:25—61:17, 65:23—66:19, 74:22—75:7, 79:7-17.

ANF is licensed by the FBIC Tribal Regulatory Authority and operates pursuant to the FBIC Tribal Online Lending Code. Azure Decl. ¶ 14; ANF 30(b)(6) at 79:18-20. Its organizational documents explicitly provide that the FBIC intended for ANF "to enjoy the Tribe's sovereign immunity since it is wholly owned by the Tribe." Azure Decl. Ex A ¶ 7.

The majority of ANF's cash profitability goes to IMDG as payment for the management and other services that it provides to ANF. *Id.* ¶ 15; ANF 30(b)(6) at 46:3-6; 55:16—56:10. The remaining, minority share of ANF's cash profitability is paid to BorrowWorks for use of its customized, proprietary loan and underwriting system management technology. Azure Decl. ¶ 15; ANF 30(b)(6) at 44:4-25, 53:2—54:14. No other third party receives payment from ANF based on any sort of profit sharing or transactional basis. Azure Decl. ¶ 15; ANF 30(b)(6) at 58:5-18. The Tribe

provided the majority of ANF's initial capitalization through IMDG. Azure Decl. ¶ 16; ANF 30(b)(6) at 38:13—39:11. The remainder of ANF's initial capitalization was provided through a third-party loan that was repaid in full in November 2018. Azure Decl. ¶ 16; ANF 30(b)(6) at 38:13—39:23. At no point did that third-party or any other lender or vender acquire or hold any ownership interest in ANF, nor did any vender other than BorrowWorks receive profit-based payments. Azure Decl. ¶ 16; ANF 30(b)(6) at 41:2-22, 58:5-18.

II. The Loans at Issue

Plaintiff Weidley opened a $700 loan with ANF on or about November 5, 2020. SAC ¶ 40. She has made a total of $344.48 in payments on her $700 loan. Azure Decl. ¶ 19. The balance of Plaintiff Weidley's loan has been written off, and no further efforts are being or will be made to collect it. *Id.*

Plaintiff Okrzesik opened two loans with ANF. SAC ¶¶ 50-51. The first, for $500, was opened on or about October 15, 2021, and has been repaid in full. *Id.* Plaintiff Okrzesik made a total of $548.07 in principal and interest payments on her $500 loan. Azure Decl. ¶ 20. Plaintiff Okrzesik opened a second loan with ANF, this one for $600, on or about October 22, 2021. SAC ¶ 51. Plaintiff Okrzesik made two payments on that loan totaling $253.60. Azure Decl. ¶ 20. ANF has written off the balance of Plaintiff Okrzesik's second loan, and no efforts are being or will be made

to collect it. *Id.* Plaintiff Okrzesik has received a total of $1100 from ANF and made total repayment of $801.67. *Id.*

Each time that Plaintiffs opened a loan with ANF, they received and signed a standard ANF loan agreement. Azure Decl. ¶ 21. Each loan agreement clearly stated the amount being borrowed, the annual percentage rate that the borrower would pay, and the total amount of payments that the borrower would make. *Id.* Each loan agreement further provided that the lender is "a sovereign enterprise that is an economic development arm of, and wholly and controlled by the Fort Belknap Indian Community (the "Tribe"), a federally-recognized sovereign American Indian Tribe." *Id.* ¶ 21 & Exs. G-I. Each loan agreement also stated that it was governed exclusively by Tribal law and contained a paragraph with the bold-faced heading **Sovereign Immunity** that provided as follows:

> This Loan Agreement and all related documents are being submitted by you to us as an economic arm, instrumentality, and limited liability company of the Tribe. The Tribe is a federal-recognized American Indian Tribe and enjoys governmental sovereign immunity. Because we and the Tribe are entitled to sovereign immunity, you will be limited in the claims, if any, you may be able to assert against the Tribe and us. To encourage resolution of consumer complaints, any complaint may be submitted by you or on your behalf to the Tribe for review as described below.

Id. Exs. G-I. Each loan agreement further stated, in bold, all-caps font, "**NEITHER THE TRIBE NOR WE ARE SUBJECT TO SUIT OR SERVICE OF PROCESS IN ANY COURT OR ADMINISTRATIVE PROCEEDING. THE**

EXCLUSIVE MEANS OF DISPUTE RESOLUTION AVAILABLE TO YOU IS THIS BORROWER COMPLAINT RESOLUTION PROCEDURE." *Id.* Despite agreeing to these provisions, neither Plaintiff submitted any complaint to the Tribe under the Loan Agreement. Azure Decl. ¶ 21.

STANDARD FOR MOTION TO DISMISS

When deciding a motion to dismiss, the court generally assumes the facts set forth in the operative complaint to be true for purposes of the motion and construes them in favor of the plaintiffs. *Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc.*, 406 F. Supp. 3d 1258, 1268 (M.D. Ala. 2019) (citations omitted). In addition to such facts, the court may consider matters of public record and documents attached to or referenced in the complaint, as well as documents attached to the motion provided that those documents are central to the complaint and their authenticity is undisputed. *Horsely v. Feldt*, 304 F.3d 1125, 1134 (11th Cir. 2002); *Harris v. Ivax Corp.*, 182 F.3d 799, 802 n.2 (11th Cir. 1999). Additionally, where, as here, a defendant makes a factual challenge to allegations of subject matter jurisdiction, "'no presumptive truthfulness attaches to [the] plaintiff's allegations,'" and the court is free to consider evidence beyond the pleadings in order to determine its jurisdiction. *Willett v. United States*, 24 F. Supp. 3d 1167, 1173 (M.D. Ala. 2014) (quoting *Lawrence v. Dunbar*, 919 F.2d 1525, 1529 (11th Cir. 1990)).

To withstand a motion to dismiss, a complaint's allegations must set forth a claim of relief that is "plausible on its face." *Willet*, 24 F. Supp. 3d at 1180 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). The allegations "must be enough to raise a right to relief above the speculative level;" the use of mere "labels and conclusions … will not do." *Twombly*, 550 U.S. at 555. "Crucially, the court need not accept as true 'conclusory allegations, unwarranted deductions of facts or legal conclusions masquerading as facts." *Coral Ridge*, 406 F. Supp. 3d at 1268 (quoting *Oxford Asset Mgmt., Ltd. v. Jaharis*, 297 F.3d 1182, 1188 (11th Cir. 2002)).

ARGUMENT

Plaintiffs' claims should be dismissed for several, independent reasons. Defendant ANF and its manager, IMDG, are arms and instrumentalities of the FBIC and thus are entitled to sovereign immunity from Plaintiffs' claims. Plaintiffs also have not suffered a cognizable injury, and thus lack standing. Additionally, because the FBIC is a necessary party that cannot be joined due to sovereign immunity, all of Plaintiffs' claims should be dismissed on Rule 19 grounds.

I. Claims against ANF should be dismissed due to sovereign immunity

A. Indian Tribes have sovereign immunity from suit

"'Indian tribes are domestic dependent nations that exercise inherent sovereign authority over their members and territories.'" *PCI Gaming*, 801 F.3d at 1287 (quoting *Okla. Tax Comm'n v. Citizen Band Potawatomi Indian Tribe of Okla.*, 498 U.S. 505, 509 (1991)). Accordingly, they possess "'the common-law immunity

from suit traditionally enjoyed by sovereign powers.'" *PCI Gaming*, 801 F.3d at 1287 (quoting *Florida v. Seminole Tribe of Fla.*, 181 F.3d 1237, 1241 (11th Cir. 1999)). Tribal sovereign immunity applies with full force regardless of the nature or location of the activity underlying the putative claim against a tribe—*i.e.*, it applies just as much to off-reservation commercial activity as on-reservation governmental conduct. *See, e.g.*, *Bay Mills*, 572 U.S. at 790 (holding that tribal sovereign immunity apples to "suits arising from a tribe's commercial activities, even when they take place off Indian lands"); *Kiowa Tribe*, 523 U.S. at 760; *Jamul Action Comm. v. Simermeyer*, 974 F.3d 984, 991 (9th Cir. 2020), *cert. denied*, 142 S. Ct. 83, *reh'g denied*, 142 S. Ct. 636 (2021). The Eleventh Circuit has repeatedly dismissed claims against federally recognized tribes based on sovereign immunity. *See, e.g.*, *PCI Gaming*, 801 F.3d at 1287; *Furry v. Miccosukee Tribe of Indians of Fla.*, 685 F.3d 1224, 1236-37 (11th Cir. 2012). Simply put, "a suit against an Indian tribe is barred unless the tribe has clearly waived its immunity or Congress has expressly and unequivocally abrogated that immunity." *Furry*, 685 F.3d at 1226.

Here, there is no allegation of federal abrogation of the FBIC's tribal sovereign immunity. And while the SAC alleges, in passing, that the Defendants have waived their tribal sovereign immunity by offering allegedly unlawful loans in Alabama, *see* Dkt. 83 ¶¶ 49, 60, and 68, it offers no support for this bald statement. This alone is fatal to Plaintiffs' waiver argument, as such "conclusory allegations"

are not entitled to any presumption of validity and find no support in the SAC. *See Coral Ridge*, 406 F. Supp. 3d at 1268. But even if that were not the case, the SAC makes no allegation of an express waiver of tribal sovereign immunity and instead asks this court to infer such a waiver from the Defendants' alleged conduct. This the court cannot do, as "'[t]he Supreme Court has made it plain that waivers of tribal sovereign immunity cannot be implied on the basis of a tribe's actions, but must be unequivocally expressed.'" *Furry*, 685 F.3d at 1234 (quoting *Sanderlin v. Seminole Tribe of Fla.*, 243 F.3d 1282, 1286 (11th Cir. 2001)). There being no viable grounds for finding a waiver or abrogation of tribal sovereign immunity, it follows that the FBIC would be immune from any claims alleged in the SAC.

B. Tribal sovereign immunity extends to arms of the tribe

Just as the existence and extent of tribal sovereign immunity is settled beyond dispute, so too is the fact that tribal sovereign immunity extends to tribal enterprises that function as arms of a tribe. "[A]n entity that functions as an arm of a tribe shares in the tribe's immunity." *PCI Gaming*, 801 F.3d at 1287-88. Numerous other federal and state appellate courts have held likewise. *See, e.g.*, *Williams v. Big Picture Loans, LLC*, 929 F.3d 170 (4th Cir. 2019); *Breakthrough Mgmt. Grp., Inc. v. Chukchansi Gold Casino & Resort*, 629 F.3d 1173 (10th Cir. 2010); *Great Plains Lending, LLC v. Dept. of Banking*, 259 A.3d 1128 (Conn. 2021); *Cash Advance & Preferred Cash Loans v. Colorado*, 242 P.3d 1099, 1108 (Colo. 2010) (en banc)

("[T]ribal sovereign immunity protects subordinate secular or commercial entities acting as arms of a tribe."). Accordingly, IMDG and ANF are entitled to tribal sovereign immunity from Plaintiffs' claims so long as they are arms of the FBIC.

C. ANF and IMDG are arms of the FBIC[3]

While the Eleventh Circuit has not yet adopted a test for ascertaining whether an entity is an arm of a tribe entitled to share in the tribe's immunity, courts typically apply one of two multi-factor tests. The Supreme Court of Colorado, sitting *en banc*, has adopted a three-factor test that considers whether (1) the tribe created the entity pursuant to tribal law, (2) the tribe owns and operates the entity, and (3) applying immunity to the entity would protect the tribe's sovereignty. *Cash Advance*, 242 P.3d at 1110. Other courts have adopted slightly differing variations of the non-exclusive, six-factor test first enumerated by the Tenth Circuit in *Breakthrough*, which considers (1) the method of the entity's creation, (2) the entity's purpose, (3) the entity's "structure, ownership, and management, including the amount of control the tribe has over the entities," (4) whether the tribe intended for the entity to have sovereign immunity, (5) the financial relationship between the tribe and the entity, and (6) whether extending immunity to the entity would serve the purposes of tribal

[3] In apparent tacit acknowledgement of its sovereign immunity, Plaintiffs allege no claims directly against IMDG, instead naming its CEO and Board members (the IMDG defendants). *See generally* SAC, Dkt. 83. But because Plaintiffs have not explicitly conceded IMDG's immunity and that immunity is potentially relevant to their claims against both ANF and the IMDG defendants, ANF addresses it here.

sovereign immunity." *Breakthrough*, 629 F.3d at 1181; *see also Big Picture*, 929 F.3d at 177 (adopting the first five *Breakthrough* factors but concluding that the sixth "overlaps significantly with the first five" and should "inform the entire analysis" rather than being considered independently); *Great Plains*, 259 A.3d at 1143 (following the Fourth Circuit's approach from *Big Picture*). Because the applicable test remains an open question in this Circuit and the *Breakthrough* factors effectively encompass all of the factors considered by other courts, ANF will address the applicability of each of those factors here.

1. Method of Creation

The method of creation factor focuses "on the law under which the entities were formed." *Big Picture*, 929 F.3d at 177; *see also Breakthrough*, 629 F.3d at 1191; *Great Plains*, 259 A.3d at 1143. Where an entity is created under tribal law, this factor weighs in favor of immunity. *Id.* Here, both ANF and IMDG were established by the Council under tribal law. *See* Stiffarm Decl. ¶ 5 & Ex. A-B; Azure Decl. ¶ 12 & Ex. A. This factor thus supports their status as arms of the Tribe.

2. Purpose

The purpose factor "incorporates both the stated purpose for which the Entities were created as well as evidence related to that purpose." *Big Picture*, 929 F.3d at 178; *see also Breakthrough*, 629 F.3d at 1192; *Great Plains*, 259 A.3d at 1143-44. "The stated purpose need not be purely governmental to weigh in favor of

immunity as long as it relates to broader goals of tribal self-governance." *Big Picture* 929 F.3d at 178. Accordingly, courts have held that purposes such as "to financially benefit the tribe and enable it to engage in various governmental functions" suffice even if the entity in question is engaged in exclusively commercial activities. *Id.*; *see Breakthrough*, 629 F.3d at 1192. Using commercial activity to fund tribal governance makes perfect sense—and indeed is frequently necessary—given that tribal governments frequently lack the tax base that other sovereigns rely on to fund governmental services. *See Great Plains*, 259 A.3d at 1144. When, as here, a tribe owns or manages one of its enterprises through another tribal enterprise, the purposes of both enterprises should be read together. *Applied Scis. & Info. Sys., Inc. v. DDC Constr. Servs., LLC*, 2020 WL 2738243, at *3 (E.D. Va. Mar. 30, 2020).

IMDG was created to serve as the FBIC's economic development arm, and it was "specifically organized for the purpose of making a profit on its operations to benefit the people of the Gros Ventre and Assiniboine Tribes of the For Belknap Indian Community." Stiffarm Decl. ⁋ 5 & Ex. C ⁋ 3. In keeping with this purpose, IMDG uses its profits to (1) distribute money directly to the Tribe and its members, (2) fund projects such as housing and wellness centers that benefit tribal members, and (3) reinvest in tribal business enterprises and create additional economic development opportunities for the Tribe and its members. *Id.* ⁋⁋ 8-10; Azure Decl. ⁋⁋5-7; ANF 30(b)(6) at 66:20—67:24, 70:19—71:17.

ANF's organizing documents do not contain an explicit statement of purpose, but evidence establishes that it was organized after the Tribe spent years learning the online consumer lending business in partnership with third parties for the purpose of establishing a new tribal lending entity that was fully managed and controlled by—and thus more profitable to—the Tribe through IMDG. ANF 30(b)(6) at 22:7—23:3; Stiffarm Decl. ⁋⁋ 4-6.

IMDG and ANF exist to generate revenues to fund FBIC tribal governmental services and create economic opportunities for the Tribe and its members. Stiffarm Decl. ⁋⁋ 4-5; Azure Decl. ⁋⁋ 5-7, 9-15. They unquestionably serve this purpose in practice. The majority of ANF's cash profitability goes to IMDG, which uses all the revenues that it receives from ANF and other tribal enterprises to: (1) directly distribute to the Tribe to fund governmental services; (2) directly funding programs, including housing and a wellness center, that benefit tribal members; (3) reinvest in tribal businesses and economic development initiatives; or (4) directly distribute badly needed funds to tribal members. ANF 30(b)(6) 58:15—59:7, 66:20—68:3; Stiffarm Decl. ⁋⁋ 4-10; Azure Decl. ⁋⁋ 5-8. IMDG and ANF further fulfill their purpose of promoting economic opportunities for the Tribe and its members by employing approximately 243 tribal members and by offering job training and scholarship programs to tribal member students.[4] Azure Decl. ⁋⁋ 5-9; Stiffarm Decl.

[4] ANF leases its employees from IMDG. Azure Decl. ⁋ 13.

PP 9-10; *see, e.g., Applied Scis.*, 2020 WL 2738243 at *3 (finding that a tribal subsidiary satisfied its purpose of creating economic opportunity for tribal members in part by employing 4 members). This factor thus weighs in favor of finding that ANF and IMDG are arms of the Tribe. *See, e.g.*, *Big Picture*, 929 F.3d at 178; *see also Breakthrough*, 629 F.3d at 1192; *Applied Scis.*, 2020 WL 2738243, at *3; *Everette v. Mitchem*, 146 F. Supp. 3d 720, 724 (D. Md. 2015) (holding that another FBIC lending entity created "to financially benefit the tribes and fund governmental services" was an arm of the tribe); *Great Plains*, 259 A.3d at 1143-44.

3. Structure, Ownership, and Management

The structure, ownership, and management factor, sometimes referred to as the "control" factor, considers "the entities' formal governance structure, the extent to which the entities are owned by the tribe, and the day-to-day management of the entities." *Big Picture*, 929 F.3d at 182; *see also Applied Scis.*, 2020 WL 2738243, at *3; *Everette*, 146 F. Supp. 3d at 724. Facts found to support immunity under this factor include (1) tribal ownership of the entity, (2) having tribal members on the entity's board or serving as its CEO, (3) entity employment of tribal members, (4) tribal council authority to appoint or remove board members, and (5) the entity being managed by the tribe or another tribal entity. *Big Picture*, 929 F.3d at 182; *Applied Scis.*, 2020 WL 2738243, at *3; *Everette*, 146 F. Supp. 3d at 724; *Great Plains*, 259 A.3d at 1137-38. Here, a plethora of evidence regarding the IMDG and ANF's

structure, ownership, and management firmly establishes the Tribe's control over those entities.

IMDG's charter states that ownership in IMDG is "limited, as the intent of the Fort Belknap Community Council in establishing this organization is to create a corporation, wholly owned by the Fort Belknap Community Council, or its members, employees or contractors, for the people of the Fort Belknap Indian Reservation." Stiffarm Decl. Ex. B ¶ 4. IMDG has been wholly owned and controlled by the Tribe since its inception. Stiffarm Decl. ¶ 6. Its Board consists entirely of members of the Council, and the Council retains the rights to fill any vacancies on the Board, to remove any member of the Board, and to override any action of the Board to remove one of its own members. *See id.* ¶¶ 6-7; ANF 30(b)(6) 71:21-25, 72:12-15. IMDG is required to file quarterly and annual reports with the Council regarding its financial situation and all business activities that it has undertaken or plans to undertake. Stiffarm Decl. ¶ 6. Any proposed amendments to IMDG's bylaws require Council approval. *Id.* The Board has the authority to hire IMDG's CEO, who is also a tribal member. *Id.* ¶ 7; ANF 30(b)(6) at 73:8-11. The CEO has the authority to hire and fire other IMDG employees and oversees the day-to-day management of the entity. Stiffarm Decl. ¶ 7.

ANF is wholly owned by the FBIC through GVA Holdings.[5] Azure Decl. ¶ 13, Ex. A at 1, & Ex. B ¶ 1.9; ANF 30(b)(6) at 22:7-23:11, 37:20—38:3. ANF has been managed exclusively by the Tribe through IMDG since it was formed. Azure Decl. ¶ 13, Ex. A at 1, & Ex. B ¶ 1.8; ANF 30(b)(6) at 37:20—38:8, 71:21-25. IMDG oversees the day-to-day management of ANF's affairs, its Board serves as the Board of ANF, and all ANF employees are leased from IMDG, including many tribal members. Azure Decl. ¶¶ 9, 13; ANF 30(b)(6) at 47:25—48:11; 50:14—51:5, 52:11—53:10, 57:1-12. All management decisions for ANF—specifically including the language in loan documents, the interest rates charged, the parameters for loan approval, and the amounts that can be borrowed—are made by IMDG subject to limitations set forth in tribal law. Azure Decl. ¶ 13; ANF 30(b)(6) at 60:25—61:17, 65:23—66:19, 74:22—75:7, 79:7-17. ANF is licensed by the FBIC Tribal Regulatory Authority and operates pursuant to the FBIC Tribal Online Lending Code. Azure Decl. ¶ 14; ANF 30(b)(6) at 79:18-20. And Plaintiffs admit that ANF is "supervised and directed" by IMDG "on behalf of the Fort Belknap Indian Community," SAC ¶ 11, that "IMDG is the *de facto* manager of ANF," and that IMDG "decides which states ANF will lend money into, the amounts of those loans and rates of interest for those loans." SAC ¶ 93.[6]

[5] *See* n. 2, *supra*, regarding GVA Holdings.

[6] Allegations in a complaint are binding judicial admissions. *See, e.g., Best Canvas Prods. & Supplies, Inc. v. Ploof Truck Lines, Inc.*, 713 F. 2d 618, 621 (11th Cir. 1983).

In sum, the Tribe owns, exercises full control over, and is actively involved in the day-to-day management of both ANF and IMDG, and no non-tribal entity owns or controls either entity. This factor thus weighs strongly in favor of immunity.

4. Tribal Intent

The tribal intent factor "assesses the tribe's intent to extend its immunity to the entities." *Big Picture*, 929 F.3d at 184; *see Great Plains*, 259 A.3d at 1146. While such intent is sometimes directly stated in an entity's organizational documents, such a direct statement is not necessary; rather, intent "can also be inferred from 'the tribe's actions or other sources.'" *Great Plains*, 259 A.3d at 1146 (citation omitted). The rationale underlying the tribe's intent is irrelevant; the factor considers "'solely' the tribe's intent." *Id.* (quoting *Big Picture*, 929 F.3d at 184).

Here, the Tribe explicitly intended for ANF to share the Tribe's immunity. ANF's Articles of Organization provide that ANF "is to enjoy the Tribe's sovereign immunity since it is wholly owned by the Tribe." Azure Decl. Ex A ¶ 7; *see Everette*, 146 F. Supp. 3d at 725 (holding that substantially similar language from another FBIC lending entity's articles of organization established intent to share immunity).

A similar intent for IMDG to share the Tribe's immunity is easily inferred from IMDG's corporate charter, which provides that IMDG enjoys the power to sue and be sued on any contract "to the extent and only to the extent specifically set forth in any such contract." Stiffarm Decl. Ex. B ¶ 10.B. The Charter then goes on to state

specify that this "*limited waiver* contained in any such contract creates no other liability" on the part of the Tribe or IMDG. *Id.* (emphasis added). By providing a "limited waiver" of IMDG's immunity from suit only to the extent that IMDG explicitly agreed to such waiver in the terms of a given contract, the FBIC clearly indicated an intent for IMDG to otherwise share in the Tribe's immunity. This conclusion is further supported by evidence of IMDG's purpose—*i.e.*, to provide financial support and economic opportunity for the FBIC government and tribal members. Stiffarm Decl. ¶¶ 4-5, 9. The Tribe would not and did not create an entity for the express purpose of providing critical governmental funding and choose not share its immunity with that funding source. Instead, the Tribe intended for its immunity to protect the critical revenues that it derives from IMDG's economic development activities. *Id.* ¶ 9.

5. Financial Relationship to the Tribe

The fifth factor of the arm of the tribe analysis "considers the financial relationship between the tribe and the entities." *Big Picture*, 929 F.3d at 184. While the question of whether a judgment would directly reach tribal assets is relevant, "direct tribal liability is neither a threshold requirement for immunity nor a predominant factor in the overall analysis." *Id.* (citation omitted). Courts instead look to whether and to what extent to which the tribe relies on the entity for revenue to fund tribal governmental functions, support tribal members, or pursue other

economic development opportunities. *Id.*; *Breakthrough*, 629 F.3d at 1194. A tribe need not be wholly reliant on the entity for this factor to favor immunity; for example, the Tenth Circuit found that this factor supported immunity when a tribal lending entity funded 10% of a tribe's general fund. *Big Picture*, 929 F.3d at 184-85; *see also Everette*, 146 F. Supp. 3d at 725 (finding that this factor supported immunity for another FBIC tribal lending entity because "the tribes use revenue from [the entity] to fund the provision of governmental services to tribal members"); *Great Plains*, 259 A.3d at 1148 (finding that this factor supported immunity despite the absence of "a detailed accounting of each entity's financial records or the degree to which each entity generates profits that support specific tribal activities").

The Tribe depends on ANF and IMDG to fund its governmental services and economic development activities. Online consumer lending is by far the most profitable of the Tribe's various economic development activities, accounting for over 90% of IMDG's revenues. Azure Decl. ¶ 8. IMDG's distributions to the Tribe typically account for approximately 75% of the Tribe's total non-federal budget—without considering the millions of additional dollars that IMDG spends to directly fund tribal member housing and wellness initiatives. Stiffarm Decl. ¶ 9; Azure Decl. ¶ 7. The Tribe uses revenue from IMDG to fund core governmental services such as general funding for its land department, Tribal Employment Rights Office, tribal communications, and tribal electricity, sewer, and waste programs. Stiffarm

Decl. ¶ 9. Any reduction in ANF or IMDG revenue would directly affect the Tribe's ability to continue funding those services. *Id.* ¶¶ 8-9; Azure Decl. ¶ 8. This factor thus weighs in favor of immunity.

6. The Purposes of Tribal Sovereign Immunity

As noted above, many courts do not consider the purposes of tribal sovereign immunity as a discrete factor due to its overlap with the preceding five factors, instead viewing it as informing and providing context for the entire arm of the tribe analysis. *See, e.g., Big Picture*, 929 F.3d at 177 (citing *White v. Univ. of Cal.*, 765 F.3d 1010, 1026 (9th Cir. 2014)); *Great Plains*, 259 A.3d at 1143. To the extent that the court views the purposes of tribal sovereign immunity as an additional factor, however, recognizing the immunity of ANF and IMDG serves those purposes.

Discussion of this factor in case law underscores the *Big Picture* court's conclusion regarding its significant overlap with the first five factors. In *Breakthrough*, the Tenth Circuit found this factor supported immunity because the tribal entities were "so closely related to the Tribe that their 'activities are properly deemed to be those of the tribe'" and they "plainly promote[d] and fund[ed] the Tribe's self-determination through revenue generation and the funding of diversified economic development." 629 F.3d at 1195 (citation omitted). The *Everette* court similarly concluded that this factor supported immunity when "[e]xtending sovereign immunity to the lending companies would protect a significant source of

the tribes' revenue from suit, thereby 'directly protect[ing] the sovereign Tribe's treasury.'" 146 F. Supp. 3d at 725 (citation omitted). In light of the evidence presented above, there can be no doubt that IMDG and ANF are closely related to the FBIC, that they promote and fund the Tribe's economic development and provision of governmental services, and that a judgment against them would adversely affect the Tribe's treasury. Accordingly, the purposes underlying the doctrine of tribal sovereign immunity weigh in favor of recognizing that IMDG and ANF are arms of the FBIC, and the court should so hold[7].

D. The official capacity defendants are immune from all claims seeking retrospective or monetary relief

As the preceding discussion demonstrates, IMDG is an arm of the FBIC entitled to share in the Tribe's sovereign immunity. Accordingly, its officers—including its Board and its CEO—are generally immune from suit in their official capacities for actions taken in that capacity. *See, e.g., PCI Gaming*, 801 F.3d at 1288; *Miller v. Wright*, 705 F.3d 919, 927-28 (9th Cir. 2013). The *Ex parte Young* doctrine provides a limited exception to this immunity, allowing official capacity suits against tribal officials only where (1) they are accused of an ongoing violation of law and (2) the requested relief is limited to prospective, non-monetary relief. *PCI Gaming*,

[7] If relevant to the Court's analysis, both GVA Holdings and ANS also satisfy the *Breakthrough* factors as arms of the Tribe. *See* n.2, *supra*. Both were created under tribal law to support tribal businesses that generate revenue for tribal government and member benefit, both are owned, controlled, and managed by the Tribe, generate revenues that are used exclusively for tribal benefit, both use IMDG employees, and the Tribe intended for them to have immunity. *See id.*

801 F.3d at 1288; *Summit Med. Assocs., P.C. v. Pryor*, 180 F.3d 1326, 1336-37 (11th Cir. 1999). The doctrine specifically does not allow suits "seeking retrospective or compensatory relief" or any other relief that "is the functional equivalent of money damages." *Summit Med.*, 180 F.3d at 1337. Here, Plaintiffs seek relief including the return, or disgorgement, of "all sums collected, received, or retained" in connection with loans made by ANF as well as actual and treble damages. *See* SAC, Prayer for Relief. Such relief is not available under *Ex parte Young*. *Summit Med.*, 180 F.3d at 1337; *see also Miller*, 705 F.3d at 928 ("[T]o the extent the complaint seeks monetary relief, such claims are barred under *Ex parte Young*."). To the extent that Plaintiffs seek any retrospective or monetary relief from any tribal or IMDG officials in their official capacities, those claims are barred by tribal sovereign immunity.

II. Plaintiffs lack standing

Based on the allegations of the SAC, both Plaintiffs have borrowed more from ANF than they have repaid. Accordingly, neither Plaintiff has suffered any cognizable injury, both Plaintiffs lack standing to pursue their claims, and this court lacks subject matter jurisdiction. This argument is set forth in more detail in the motion to dismiss and supporting brief filed contemporaneously herewith on behalf of the IMDG official defendants, which is incorporated herein by reference.

III. Rule 19 requires dismissal of all claims

The SAC should be dismissed as to all defendants because the FBIC is a required party under Fed. R. Civ. P. 19(a) and adjudication of the case in its absence could not provide an adequate remedy without prejudicing the Tribe's interests. Rule 19(b) therefore requires dismissal of the entire case.

Rule 19(a) provides that a party is necessary if it "claims an interest relating to the subject of the action and is so situated that disposing of the action in [its] absence may: (i) as a practical matter impair or impede that [party's] ability to protect the interest; or (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations because of the interest." Fed. R. Civ. P. 19(a)(1). "'[P]ragmatic concerns, especially the effect on the parties and the litigation, control' this analysis." *Fla. Wildlife Fed'n Inc. v. U.S. Army Corps of Eng'rs*, 859 F.3d 1306, 1316 (11th Cir. 2017)). If a necessary party cannot be joined, Rule 19(b) directs the court to consider whether the case can proceed in its absence, taking into account: (1) whether a judgment rendered in the missing party's absence might prejudice it or existing parties; (2) the extent to which the court could structure a judgment to limit that prejudice; (3) whether a judgment in the missing party's absence would be adequate; and (4) whether the plaintiff would have an adequate remedy of the case was dismissed for nonjoinder. Fed. R. Civ. P. 19(b). Where the missing party cannot be joined due to sovereign immunity,

courts are required to give special solicitude to its interests under this test "out of recognition that any consideration of the merits in the sovereign's absence is 'itself an infringement on … sovereign immunity.'" *Fla. Wildlife*, 859 F.3d at 1318 (citation omitted).

The FBIC is indisputably a necessary party under Rule 19(a). The overarching objective of the SAC is to force the Tribe to shutter the online consumer lending business that significantly contributes to funding tribal governmental services and to recover monetary damages against the Tribe and its leaders. The Tribe obviously has a significant interest in the continued operation of the economic engines that fund its government and in the preservation of its own treasury. But Plaintiffs have not named the Tribe as a party, and their claims against ANF and their official capacity claims against the tribal officials are all due to be dismissed on the grounds set forth above, leaving the Tribe and its interests wholly unrepresented. Proceeding in the Tribe's absence would impair its ability to protect its interests and impermissibly infringe on its sovereign immunity. *See Fla. Wildlife*, 859 F.3d at 1318.

Under these circumstances, Rule 19(a)'s pragmatic concerns are easily satisfied. A decision on the merits could potentially result in an injunction preventing the Tribe from operating its consumer lending business or entry of a monetary judgment against the Tribe's officials that would have the same effect. *See*, *e.g.*, *id.* at 1316-17 (holding that a suit over a Florida water control project could not proceed

against a federal agency in the absence of a state entity that operated and maintained much of the project, as in injunction of the former would impede the latter's discretion and impair cooperation between the entities); *N. Arapaho Tribe v. Harnsberger*, 697 F.3d 1272, 1281-82 (10th Cir. 2012) (affirming dismissal of a case brought by one Indian tribe that, if adjudicated, would have prejudiced the interests of another that could not be joined); *Hardy v. IGT, Inc.*, 2011 WL 3583745, at *5 (M.D. Ala. Apr 15, 2011). Or an injunction against non-tribal parties could bar them from taking actions that they are required to take under existing contracts with the Tribe, leaving them subject to multiple, conflicting obligations. The Tribe is thus a necessary party under Rule 19(a).

"The balancing of equitable factors under Rule 19(b) almost always favors dismissal when a tribe cannot be joined due to sovereign immunity." *Jamul Action Comm.*, 974 F.3d at 998; *see Republic of the Phil. v. Pimentel*, 553 U.S. 851, 866 (2008). This case is no exception. In addition to being a fundamental "affront to [FBIC's] sovereignty," *Fla. Wildlife*, 859 F.3d at 1318, adjudicating this case in the Tribe's absence would risk inevitably and catastrophically affecting its interests, and there is no way that the Court could tailor or limit any adverse order to avoid that result. *Id.* at 1318-19; *Pit River Home & Agric. Co-op Ass'n v. United States*, 30 F.3d 1088, 1101 (9th Cir. 1994) (recognizing propriety of dismissal when tribal defendant could not be joined); *Rosales v. United States*, 2007 WL 4233060, at *5

(S.D. Cal. Nov. 28, 2007) (holding that a tribe was indispensable to a suit against federal officials seeking to enjoin the tribe's activities); *see also Hardy,* 2011 WL 3583745, at *6 (noting that the Rule 19(b) prejudice test is "essentially the same as the practical impediment of an interest test under Rule 19(a)"). Nor would a judgment in the Tribe's absence be adequate, as it would not be binding on the Tribe and thus could not achieve Plaintiffs' aims. *Fla. Wildlife*, 859 F.3d at 1319; *Hardy*, 2011 WL 3583745, at *7. And while dismissing the entire case may mean that Plaintiffs lack a remedy for their alleged injuries, that potential prejudice cannot, as a matter of law, outweigh the prejudice the Tribe would suffer if this case proceeded in its absence. *Fla. Wildlife*, 859 F.3d at 1320 (citing *Pimentel*, 553 U.S. at 872); *Pit River*, 30 F.3d at 1102-03; *Hardy*, 2011 WL 3583745, at *7.

Simply stated, there is no way that this case fairly could or should move forward without the Tribe's participation, which cannot be required. Thus, the court should dismiss the entire case pursuant to Rule 19.

CONCLUSION

For all the foregoing reasons, the court should dismiss all claims against ANF pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction and all remaining claims for failure to join the Tribe as a required party under Rule 19.

Respectfully submitted this 3rd day of August, 2023.

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Counsel for Defendant Aaniiih Nakoda Finance, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August 2023, I electronically filed the foregoing Defendant Aaniiih Nakoda Finance, LLC's Brief in Support of Motion to Dismiss Second Amended Complaint with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Alfred F. Smith, Jr.
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Exhibit 6

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UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
GREAT FALLS DIVISION

FORT BELKNAP INDIAN COMMUNITY PLANNING AND DEVELOPMENT CORPORATION D/B/A ISLAND MOUNTAIN DEVELOPMENT GROUP ("IMDG"); JEFFREY STIFFARM, GENO LEVALDO, DEREK AZURE, BRIAN WING, AND CURTIS HORN,

Plaintiffs,

v.

JENNIFER WEDDLE, AND GREENBERG TRAURIG LLP,

Case No. _____

COMPLAINT

Defendants.

TABLE OF CONTENTS

I. INTRODUCTION 4
II. JURISDICTION AND VENUE 7
III. PARTIES 8
PLAINTIFF IMDG 8
PLAINTIFF JEFFREY STIFFARM 9
PLAINTIFF GENO LEVALDO 10
PLAINTIFF DEREK AZURE 10
PLAINTIFF BRIAN WING 11
PLAINTIFF CURTIS HORN 12
DEFENDANTS 12
DEFENDANT JENNIFER WEDDLE 12
DEFENDANT GREENBERG TRAURIG LLP 13
IV. FACTS COMMON TO ALL COUNTS 14
DEFENDANTS' DELIBERATE EFFORTS TO UNDERMINE TRIBAL COUNCIL'S AUTHORITY TO APPOINT IMDG BOARD 14
EVENTS LEADING UP TO THE SPECIAL MEETING 16
DEFENDANTS' CONTINUED INTERFERENCE WITH IMDG OPERATIONS 19
DEFENDANT WEDDLE TRIGGERS EVENT OF DEFAULT 19
DEFENDANT WEDDLE REFUSES TO COMPLY WITH HER CLIENTS' INSTRUCTIONS 21
DEFENDANT WEDDLE ATTEMPTS TO TRANSFER IMDG'S LENDING BUSINESSES TO ANOTHER TRIBE 24
DEFENDANT WEDDLE'S BILLING IMPROPRIETIES 27
V. FACTS COMMON TO INDIVIDUAL PLAINTIFF JEFFREY STIFFARM'S CAUSES OF ACTION 29

VI. FACTS COMMON TO INDIVIDUAL PLAINTIFF GENO LEVALDO'S CAUSES OF ACTION 30

VII. FACTS COMMON TO INDIVIDUAL PLAINTIFF DEREK AZURE'S CAUSES OF ACTION 32

VIII. ...FACTS COMMON TO INDIVIDUAL PLAINTIFF BRIAN WING'S CAUSES OF ACTION 35

IX. FACTS COMMON TO INDIVIDUAL PLAINTIFF CURTIS HORN'S CAUSES OF ACTION 37

X. CLAIMS FOR RELIEF 39

FIRST CLAIM FOR RELIEF: 39

TORTIOUS INTERFERENCE WITH BUSINESS RELATIONSHIP OR PROSPECTIVE ECONOMIC ADVANTAGE (AGAINST BOTH DEFENDANTS BY PLAINTIFF IMDG) 39

SECOND CLAIM FOR RELIEF: 41

PROFESSIONAL NEGLIGENCE (AGAINST BOTH DEFENDANTS BY PLAINTIFF IMDG) 41

THIRD CLAIM FOR RELIEF (ALTERNATIVE TO SECOND CLAIM FOR RELIEF): 43

BREACH OF FIDUCIARY DUTY (AGAINST BOTH DEFENDANTS BY PLAINTIFF IMDG) 43

FOURTH CLAIM FOR RELIEF: 46

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (AGAINST BOTH DEFENDANTS BY INDIVIDUAL PLAINTIFFS) 46

FIFTH CLAIM FOR RELIEF: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS (AGAINST BOTH DEFENDANTS BY INDIVIDUAL PLAINTIFFS) 47

SIXTH CLAIM FOR RELIEF: 49

CIVIL CONSPIRACY (AGAINST ALL DEFENDANTS BY ALL PLAINTIFFS) 49

XI. RELIEF REQUESTED 51

XII. JURY DEMAND 51

Plaintiffs Fort Belknap Indian Community Planning and Development Corporation d/b/a Island Mountain Development Group ("IMDG"), a wholly owned tribal entity, Jeffrey Stiffarm, Geno LeValdo, Derek Azure, Brian Wing, and Curtis Horn ("Individual Plaintiffs"), by and though undersigned counsel, file this Complaint and allege the following upon personal knowledge, information, and belief as set forth herein:

I. INTRODUCTION

1. A Tribal Council's authority and control over the executive operations of its own corporations is a fundamental tenet of tribal self-government and democracy. Attorney Jennifer Weddle and her law firm Greenberg Traurig LLP defied that tenet through a campaign of false and incendiary rhetoric and actions in their attempt to control the internal operations of Island Mountain Development Group (IMDG), a wholly owned tribal entity of the Gros Venture (Aaniiih) and Assiniboine (Nakoda) Tribes of the Fort Belknap Indian Community of Montana ("FBIC" or "Tribe"), for their own financial benefit. The actions of Jennifer Weddle and Greenberg Traurig directly led to January 2023 protests and attacks on members of the Tribal Council (the "Council").

2. When Defendant Weddle realized the Council appointed a new board, she double crossed her client by calling and asking third-party lenders to issue a default against her client to then justify an attempt to transfer all assets of FBIC's

wholly owned tribal entities out of state to the Rosebud Sioux Tribe of South Dakota.

3. The Council had called a special meeting to appoint a Board of Directors for IMDG because it had become increasingly concerned about expiration of board terms, the significant debts IMDG had incurred, and the lack of information the IMDG Board and their legal counsel, Jennifer Weddle, was providing to the Council regarding IMDG's commercial activities.

4. Upon information and belief Defendant Weddle told the IMDG Board and employees that if the Council appointed a different IMDG board this would result in an event of default and the third-party lenders would seize all assets and all employees would lose their jobs. Since the Fort Belknap Indian Reservation is a place where unemployment is very high, many of the IMDG employees became very afraid they were going to lose their jobs. As a direct and foreseeable consequence of Defendants' conduct the employees became very angry when they thought the Council action could cost them their jobs. On the date of the meeting and the day after, a group of over 200 IMDG employees, who the IMDG CEO gave administrative leave with pay, attended the meeting. After the January 19th meeting some of these members attacked the Tribal Council in an attempt to intimidate the Councilmembers to reverse the appointment of a new IMDG board. In addition to

those physically present, approximately 180 other IMDG employees appeared by Zoom.

5. Upon information and believe after the January 19th meeting Defendant Weddle and the former IMDG CEO called the third-party lenders to tell them what happened and asked them to issue an event of default letter.

6. The next day the event of default letter was issued, and the employees were told that unless the Council reversed their vote, they were all out of job.

7. On January 20th when the employees heard that the feared Event of Default was triggered the IMDG employees were afraid. These employees swarmed the tribal offices and demanded the Council reverse their vote.

8. On both days Councilmembers were threatened. FBIC Council had to call for law enforcement to control the meeting. The Councilmembers found threatening messages on their car windshields and one Councilmember's beloved horse was found shot a few days later. One member of the public who spoke in favor of the tribal council members came home to find one of his horses had been shot and killed.

9. When the Defendants understood that the Council was not going to reverse their decision, they devised a scheme to convert all the IMDG's tribal lending assets, excluding any debt, which included creating new bank accounts and

removing servers and personnel records out of state to the Rosebud Sioux Tribe of South Dakota.

10. Defendants' actions were the reason a default was issued by the third-party lenders.

11. All these events were a direct and foreseeable consequence of Defendants' calls for rallying against Defendants' client.

12. Defendants' actions have caused damages to IMDG and the Tribal Councilmembers who voted for appointment of a new IMDG Board.

II. JURISDICTION AND VENUE

13. This Court possesses jurisdiction over the subject matter of this action pursuant to 28 U.S.C § 1332 because the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and is between citizens of different states. This Court also possesses jurisdiction of the subject matter of this action pursuant to 28 U.S.C. § 1367.

14. This Court possesses personal jurisdiction over the Defendants in this action because the conduct that forms the basis of this Complaint occurred in the State of Montana; arose out of contractual relationships between parties that were originated, and negotiated, at least in part, in Montana; the bank accounts held as collateral for IMDG's obligations to the third-party lenders (as defined below) are

located in the State of Montana; and, the action involves communications between the parties that were directed to a person or entity in Montana.

15. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in this District, and a substantial part of property that is the subject of this action is situated in this District.

16. Assignment to the Great Falls Division of this Court is proper pursuant to Local Rule 1.2(c)(3) of this District because all or most of the events giving rise to Plaintiffs' claims occurred in Blaine County and Phillips County on the Fort Belknap Indian Reservation.

III. PARTIES

Plaintiff IMDG

17. Plaintiff IMDG is a wholly owned enterprise of the FBIC Tribe, a federally recognized Indian Tribe whose reservation is in the State of Montana.

18. The Tribe established IMDG in 2006 with the aim of providing much needed revenue, employment opportunities, and economic development for the Tribe and the residents of the Fort Belknap Indian Reservation.

19. Managed through IMDG, the Tribe wholly owns several businesses, among them several businesses which operate short-term, small dollar installment-

based consumer lending portfolios. IMDG and the IMDG's Board of Directors operate as managers of the businesses, pursuant to each company's by-laws.

20. IMDG's principal place of business is in Hays, Montana, located within the exterior boundaries of the Fort Belknap Indian Reservation. IMDG is incorporated under the laws of the Tribe and is governed by a Board of Directors appointed by the Council. IMDG also is registered with the Montana Secretary of State as a corporation formed in the State of Montana.

21. IMDG manages the tribally owned entity GVA Holdings, LLC. GVA Holdings, LLC conducts short-term, small-dollar installment-based lending portfolios through additional Tribal subsidiaries.

Plaintiff Jeffrey Stiffarm

22. Plaintiff Jeffrey Stiffarm is an enrolled member of the Gros Ventre (Aaniiih) Tribe, at all times relevant has been President of the FBIC and is a resident of the Fort Belknap Indian Reservation.

23. Plaintiff Stiffarm has served on the Council since 2016. He is currently in his first term as FBIC President.

24. Prior to serving as FBIC President, Plaintiff Stiffarm served in different capacities on the Tribal Council, at all levels of law enforcement, and as a counselor for the Yellowstone Boys and Girls Ranch in Billings. Along with a career serving in various law enforcement capacities, Plaintiff Stiffarm possesses

certifications pertaining to his professional career in law enforcement, including a certification from the Montana Law Enforcement Academy.

25. Plaintiff Stiffarm has grounded himself by following his ancestors' traditions.

26. Plaintiff Stiffarm was raised on the Fort Belknap Indian Reservation. He is married to his wife, Jessica.

Plaintiff Geno LeValdo

27. Plaintiff Geno LeValdo is an enrolled member of the Gros Ventre (Aaniiih) Tribe, is a member of the Council, was appointed a member of the Interim IMDG Board of Directors formed on January 19, 2023 (the "Interim Board") and has since served as chairman of IMDG and is a resident of the Fort Belknap Indian Reservation.

28. For many years, Plaintiff LeValdo worked as a Fort Belknap Juvenile Probation officer. He also has coached varsity basketball at Harlem and Hays Lodgepole.

29. Plaintiff LeValdo also regularly follows his ancestors' traditions.

30. Plaintiff LeValdo has lived on the Fort Belknap Indian Reservation most of his life.

Plaintiff Derek Azure

31. Plaintiff Derek Azure is an enrolled member of the Assiniboine (Nakoda) Tribe, is a member of the Council, and was appointed to the Interim Board on January 19, 2023.

32. Plaintiff Azure was taught by his family to value hard work and service to his community. Plaintiff Azure saw his father, who was a tribal member, dedicate his life to help the Fort Belknap Community and other tribes to become self-sufficient. In addition to serving on the Fort Belknap Tribal Council, Plaintiff Azure volunteers his time coaching both girls' and boys' basketball and boy's football. He enjoys working with native youth.

Plaintiff Brian Wing

33. Plaintiff Brian Wing is an enrolled member of the Assiniboine (Nakoda) Tribe, is a member of the Council, and was appointed to the Interim Board on January 19, 2023. He has since served as secretary/treasurer of the Interim Board. Plaintiff Azure has since served as vice- chairman of Interim Board and is a resident of the Fort Belknap Indian Reservation.

34. Plaintiff Wing is a tribal member and has had prior years of service on the Fort Belknap Tribal Council. In this capacity he has had to make hard choices and done so when he knows it is the right thing to do. He was raised by his grandparents in Lodgepole, and he was taught by them to serve his community.

35. Plaintiff Wing is a resident of the Fort Belknap Indian Reservation.

Plaintiff Curtis Horn

36. Plaintiff Curtis Horn is an enrolled member of the Assiniboine (Nakoda) Tribe, is a member of the Council, and was appointed to the Interim Board on January 19, 2023.

37. Plaintiff Horn has served on the Fort Belknap Council since 1997. While it has not been consecutive terms, he has served quite a few years. He comes from a family who has dedicated their lives to serving the Fort Belknap Community and to practicing their culture and traditions. His father served in World War II and was a tribal council member for many years. Because of his family's service, he has been raised to value and believe in protecting his culture. Tribal members' future is one of his primary concerns in his tribe.

38. Plaintiff Horn is a resident of the Fort Belknap Indian Reservation.

Defendants

39. Defendants are the former legal counsel of IMDG, who used IMDG for their own financial benefit and attempted to stop the Tribal Council from appointing a new board.

Defendant Jennifer Weddle

40. Defendant JENNIFER WEDDLE is an individual and a resident of the State of Colorado.

41. Defendant Weddle is a shareholder of Defendant Greenberg Traurig LLP ("Greenberg Traurig") in the Denver, Colorado office of the law firm.

Defendant Weddle currently serves as co-chair of the firm's American Indian Law Practice group.

42. Defendant Weddle and her firm, Greenberg Traurig, served as legal counsel for IMDG for over thirteen years and have represented the IMDG-managed subsidiaries at all time periods relevant to this dispute.

43. At all times relevant to this Complaint, Defendant Weddle acted within the scope of her duties as a shareholder and lawyer of Defendant Greenberg Traurig.

44. At all times relevant to this Complaint, Defendant Weddle transacted business within the State of Montana.

45. Defendant Weddle represented IMDG for several years, including in connection with the financing transactions between Plaintiff IMDG and various third-party lenders in 2018 and 2021.

Defendant Greenberg Traurig LLP

46. Defendant GREENBERG TRAURIG LLP (Greenberg Traurig) is a New York registered entity with its principal place of business in New York City, New York.

47. Defendant Greenberg Traurig is the law firm in which Defendant Weddle is a shareholder and co-chair of the American Indian Law Practice group at the firm's Denver, Colorado office.

48. Defendant Greenberg Traurig entered into certain contractual agreements with IMDG for legal services and provided legal services on behalf of IMDG all times relevant to this dispute.

IV. FACTS COMMON TO ALL COUNTS

49. IMDG and certain IMDG managed affiliates that conduct tribal lending activities are parties to certain loan agreement with third-party lenders.

Defendants' Deliberate Efforts to Undermine Tribal Council's Authority to Appoint IMDG Board

50. On or about January 19, 2023, the Council, in accordance with the Fort Belknap Indian Community Constitution, voted at a special meeting to appoint the Interim Board. What should have occurred is a peaceful transition of power between the prior IMDG Board of Directors ("Prior Board") and the Board. Instead, after the special meeting, Council members who voted for appointment of the Interim Board were physically and verbally assaulted by IMDG employees, who upon information and belief were being coached and encouraged by Defendant Weddle.

51. Upon information and belief, after Defendant Weddle received the notice of the special meeting, she began contacting members of the Prior Board and IMDG executive staff and inciting them to harass and threaten the Council members who had scheduled the special meeting. Specifically, Defendant Weddle told

IMDG employees that if the Council appointed new board members, IMDG's third party lenders would revolt by freezing all bank accounts and assets and leave the Fort Belknap Reservation. If that happened, according to Defendant Weddle, hundreds of tribal members and employees of IMDG and its subsidiaries would lose their jobs.

52. At the January 19 meeting, over 200 IMDG staff and administration all on paid administrative leave, along with their families and friends attended personally and over 170 employees attended via Zoom.

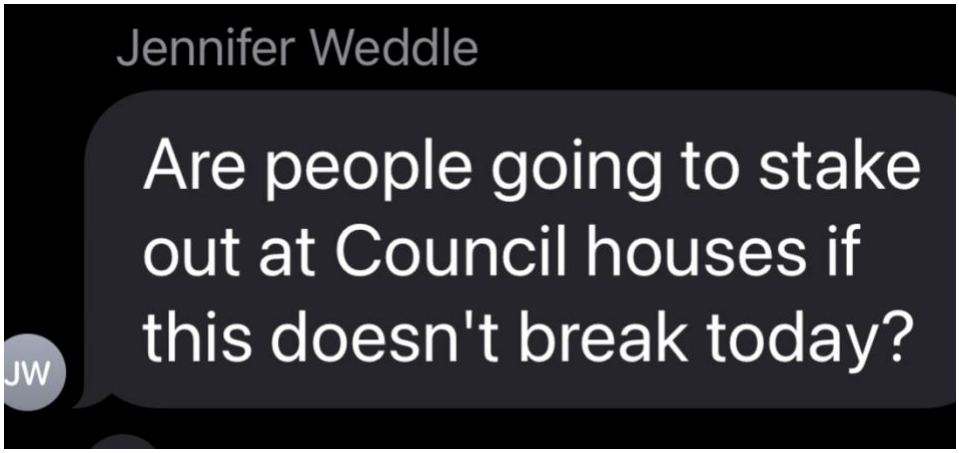
53. At this meeting, the Council voted to appoint six Council members of the Interim Board, thus replacing the members of the Prior Board whose terms had expired pursuant to the Tribal resolutions appointing them. Fort Belknap Indian Community Resolution No. 14-2023, appointing the Interim Board, was signed by FBIC President, Plaintiff Stiffarm.

54. Upon information and belief, after the vote, Defendant Weddle informed IMDG administrative staff not to go to work the next day but instead to appear at the Council's chambers and demand that the Council rescind its action.

55. Upon information and belief, pursuant to the instructions from Defendant Weddle, for several days after the January 19, 2023, special meeting, the Council members were attacked. On January 20, 2023, over 200 angry employees all on paid administrative leave from IMDG with their families swarmed the tribal

offices demanding that the Prior Board be reinstated. Council members were threatened. The Council had to call for law enforcement to control the crowd that gathered.

56. Defendants had orchestrated the attacks on the Council by telling IMDG employees they were going to lose their jobs and it was all the fault of the five council members voting to appoint a board and that the employees needed to attack. Defendant Weddle went so far as to suggest that IMDG employees "stake out" out the Councilmembers' homes:



Events Leading Up to the Special Meeting

57. The Council addressed the Prior Board appointments because their appointments had expired but also were concerned about the Prior Board's persistent failure to provide financial information when the Council had requested regarding information regarding its business activities and its financing

arrangements with the Lenders. (As discussed below, the Prior Board persisted in its refusal to provide financial information to the Council after it had been replaced.)

58. The Council also was concerned about the influence of Defendant Weddle on the Prior Board and her involvement in setting up the financial structure and loan program. Finally, the Council was concerned about the legitimacy of the Prior Board under IMDG's organizational documents and Tribal law.

59. Upon information and belief, as counsel to IMDG, Defendants Weddle and Greenberg Traurig advised IMDG to resist addressing the Council's concerns regarding these issues and that if the Council took any action, it would be an event of default.

60. President Stiffarm, on behalf of the Council, initiated communications with then-IMDG CEO Terry Brockie and the Prior Board early in 2022, prompted by the Council's concern over IMDG's financial condition and the membership of the Board.

61. Mr. Stiffarm's first letter to Mr. Brockie, dated February 1, 2022, asked for a list of current IMDG Board members and the dates on which their terms expired. The IMDG Bylaws provide for six persons to serve on the Board, for staggered terms of four years each (following the expiration of the initial terms, which varied in length to accommodate subsequent staggered terms). The Council had reviewed Tribal resolutions appointing various Board members. These

resolutions indicated that several members' terms either had expired or were scheduled to expire in March 2022.

62. A true copy of Mr. Stiffarm's initial letter to Mr. Brockie is attached to the Complaint as **Exhibit A.** In response to President Stiffarm's question about Board membership, Mr. Brockie stated that all the [Prior] Board members' terms would expire on the same date, in January 2024, and refused to provide the requested information respecting salaries. A copy of his response is attached to this Complaint as **Exhibit B.**

63. On information and belief, this letter was prepared and sent on the advice and at the direction of Defendant Weddle.

64. The Council responded to Mr. Brockie's letter on April 7, 2022, strongly objecting to his conclusion respecting the terms of the Prior Board members. A copy of this letter is attached to this Complaint as **Exhibit C.**

65. Mr. Stiffarm's initial letter to Mr. Brockie (Exhibit A) also requested information about IMDG's payroll. In his response (Exhibit B), Mr. Brockie refused to provide this information.

66. In July of 2022, President Stiffarm, on behalf of the Council, sent a letter to Mr. Brockie and the Prior Board requesting additional financial information. A copy of this letter is attached to this Complaint as **Exhibit D**.

67. On or about August 22, 2022, Mr. Brockie provided a written response to President Stiffarm and the Council. Mr. Brockie provided some of the information the Council had requested, but failed and refused to provide other crucial information, including the financing agreements between IMDG and/or its affiliates and the third-party lenders.

68. Over the next few months, the Tribal Council continued discussion with the Prior Board and Defendants Weddle and Greenberg Traurig in an unsuccessful attempt to gain full access to the requested financial records of IMDG, to which the Tribal Council was entitled.

69. During this time, the Council began to discover significant unexplained debts and losses of revenue, and evidence of other potentially serious improprieties at IMDG. This evidence, as well as IMDG's failure to ensure or confirm the legitimacy of the Prior Board, caused the Council to set a special meeting for January 19, 2023, to vote to replace the Prior Board.

Defendants' Continued Interference with IMDG Operations

Defendant Weddle Triggers Event of Default

70. After the special meeting on January 19, 2023, in the middle of the night, Defendant Weddle called IMDG's third-party lenders. Despite being counsel to IMDG, on information and belief, she decided to inform the third-party lenders, to whom she held no duty, of the FBIC Council's action in appointing the Interim

Board and stated that, in her opinion, this appointment violated Tribal law and thus constituted an Event of Default under the Agreements. As a direct result of Defendant Weddle's action that was not at her client's direction, the third-party lenders notified IMDG of an "Event of Default" under the Agreements (the "Default Notice"). The Default Notice informed IMDG that the third-party lenders intended immediately to exercise control of the deposit accounts of IMDG that had been pledged as collateral for the loans. The Council received a copy of this letter on January 20, 2023.

71. The Default Notice did not describe precisely what actions triggered the "Event of Default". In subsequent correspondence, first with Jeffrey Stiffarm and then with IMDG's new legal counsel, the third-party lenders clarified that Defendant Weddle's phone call advising them of the appointment of the Interim Board precipitated their actions.

72. The Council appointed the Interim Board because, contrary to Defendant Weddle's advice to IMDG, the terms of the purported members of the Prior Board did not extend to January 2024, but had expired as provided in the Tribal resolutions appointing them. Defendant Weddle's advice was based on a fundamental legal error in interpreting the organizational documents of IMDG, the resolutions appointing the members of the Prior Board, and Tribal law. Her flawed

legal analysis is set out in the letter from Mr. Brockie to Mr. Stiffarm dated February 3, 2022 (Exhibit B).

73. Members of the Prior Board themselves believed that their terms would expire pursuant to the resolutions appointing them rather than in January 2024.

74. The Council explained in detail the errors in this legal analysis in Mr. Stiffarm's letter to Mr. Brockie dated April 7, 2022 (Exhibit C). In the letter, the Council emphasized the need to resolve this issue, in particular, because the terms of a number of the Prior Board members already had expired.

75. Defendant Weddle failed and refused to take action to resolve this issue with the Council.

Defendant Weddle Refuses to Comply With Her Clients' Instructions

76. After its receipt of the Default Notice, the Interim Board requested copies of the third-party lending Agreements from Defendants Weddle and Greenberg Traurig.

77. Defendants Weddle and Greenberg Traurig refused to provide the Interim Board—their client—with copies of the Agreements.

78. On January 31, 2023, representatives of the third-party lenders flew to Montana to meet with the interim IMDG Board of Directors and the Council.

Defendant Weddle also flew to Montana, met the third-party lenders at the Billings airport, and drove them to Fort Belknap (an almost three-hour drive).

79. Shortly after the meeting, Defendant Weddle again refused to provide copies of the Agreements to her client, the Interim Board of Directors. Defendant Weddle continued to insist without explanation that the Agreements are "confidential," and could not be shared with or reviewed by anyone other than herself. Following the meeting between the Interim Board and the third-party lenders, Defendant Weddle drove the third-party lenders off the Fort Belknap Indian Reservation.

80. As a result of Defendant Weddle's conduct, On February 3, 2023, the third-party lenders, acting through their legal counsel, wrote a letter to the Council and the Chair of the Interim Board requesting that the Council sign a number of certifications "to evidence IMDG's good faith in curing the situations giving rise to the current events of default." Among other terms, the third-party lenders requested IMDG to acknowledge that it would not change its legal counsel—*i.e.*, the Defendants—without prior consultation with and approval by the third-party lenders. The third-party lenders also requested a new legal opinion from the Defendants certifying that the appointment of the Interim Board was accomplished in compliance with Tribal law and IMDG organizational documents.

81. IMDG declined to comply with the third-party lenders' request.

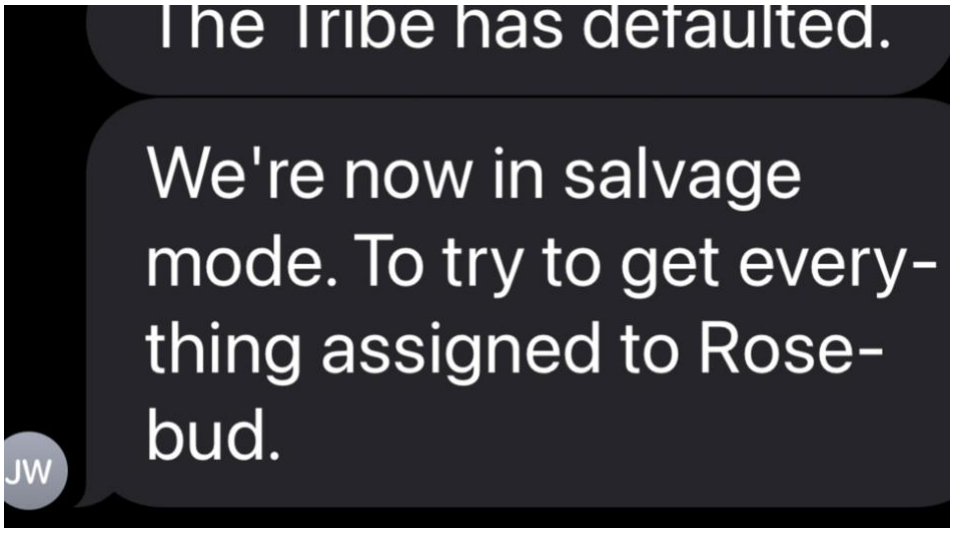
82. In February 2023, the Interim Board ultimately obtained copies of the Agreements, not from the Defendants but from the IMDG Chief Financial Officer. On or about February 10, 2023, the Interim Board terminated its engagement with Defendants Weddle and Greenberg Traurig based, in part, on their refusal to provide their clients with copies of the Agreements.

83. On or about February 15, 2023, after the Interim Board terminated Defendants' legal relationship, Defendant Weddle contacted the third-party lenders and verbally informed third-party lenders that she was withdrawing legal opinions she provided to the third-party lenders in connection with the Agreements, claiming among other reasons that subsequent events had nullified her opinion that the appointment of the IMDG Board of Directors was valid under organizational documents and tribal law. She also informed the third-party lenders of her opinion that the Interim Board's appointment by the Council was in violation of Tribal law and IMDG organizational documents.

84. Because the third-party lenders have declared an event of default, IMDG and its subsidiaries are unable to obtain outside financing to fund existing and new projects. As a result, IMDG and its subsidiaries are suffering negative reputational impact, and have lost and will continue to lose revenue. IMDG's Chief Financial Officer has estimated losses incurred at hundreds of millions of dollars over the next three to five years.

Defendant Weddle Attempts to Transfer IMDG's Lending Businesses to Another Tribe

85. On March 28, 2023, the Interim Board discovered documents, letters, emails, and text messages from Defendant Weddle in which she advised certain Prior Board members to sign documents dated January 22, 2023, effectively authorizing conversion of all IMDG tribal online lending businesses—including all IMDG's assets, businesses, and jobs—out of the state of Montana to the Rosebud Sioux Tribe in South Dakota.



86. In furtherance of her attempt to transfer IMDG assets to the Rosebud Sioux Tribe, Defendant Weddle drafted a letter for IMDG leadership to send to IMDG employees that the Tribal Council's action triggered an Event of Default with the third-party lenders. Defendant Weddle's letter further erroneously asserted that the Tribal Council caused the third-party lenders to seize IMDG business assets and terminate the employees' jobs.

87. Meanwhile, Defendant Weddle was working on a list of assets to take to the Rosebud Sioux Tribe, and a timeline to make the transfer of IMDG's assets. In addition, she was also drafting a request to Rosebud to allow certain IMDG Senior management staff to transfer to jobs at Rosebud.

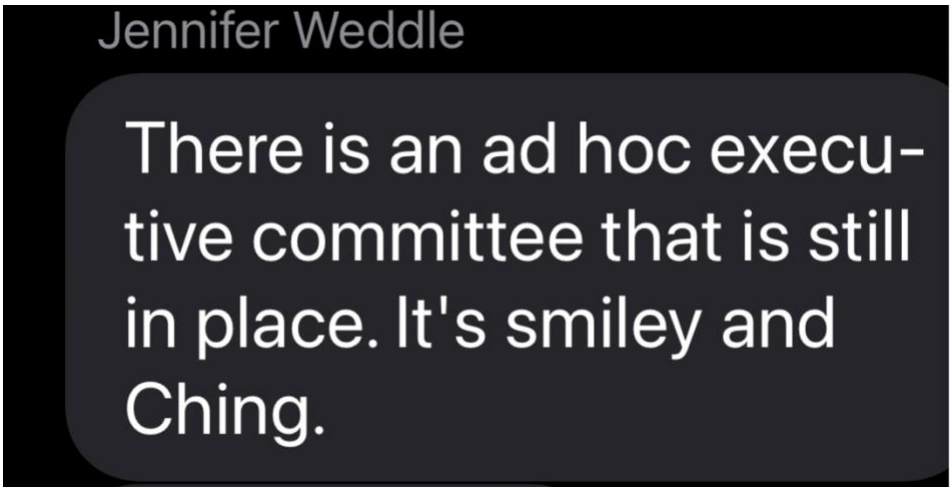
88. As part of her efforts to transfer IMDG's assets to the Rosebud Sioux Tribe, on January 24, 2023, Defendant Weddle responded to an email from IMDG's Chief Compliance Officer advising that IMDG phone contracts should be included in the transfer of assets.

89. Defendant Weddle was still acting as IMDG's legal counsel at this time, despite taking direct actions which would have caused economic harm to her client IMDG.

90. Other IMDG employees later provided witness statements confirming the Defendants' plan. Defendants Weddle and Greenberg Traurig, along with Prior Board members and staff acting at the direction of Defendants, appear to have devised this scheme a day after the Interim Board was put in place by the Council. The consequences of this attempted act—unauthorized by the sitting, existing Interim Board (Defendants' client)—would have devastated FBIC, leaving hundreds of tribal members employed by IMDG without paychecks, and set FBIC's financial wellbeing back decades.

91. Fortunately, Defendants' scheme to covert IMDG's assets and move them out-of-state to another tribe was not realized, but not because Defendants took any actions to stop it.

92. Defendant Weddle attempted to effectuate the transfer scheme through two Prior Board members, Tracy "Ching" King and Christopher "Smiley" Guardipee acting as an "ad hoc executive committee" of the Prior Board.



93. The Prior Board had established an ad hoc executive committee in 2018 but had rarely if ever used it. Defendant Weddle's attempt to use this inactive committee (whose members no longer were seated on the IMDG Board) to accomplish the unauthorized transfer was a blatant play to bypass the authority of the newly appointed Interim Board, and conceal information related to business dealings from the Council.

94. Mr. King, also at the direction of Defendant Weddle, further signed documents as a member of the ad hoc committee authorizing Mr. Brockie to set up

a new bank account for the purpose of transferring IMDG money into the new account. By this time, however, the Lenders had taken control of IMDG's accounts.

95. Also acting upon the advice of Defendant Weddle, Mr. King further ordered all computer servers and personnel information be removed from the IMDG business premises.

Defendant Weddle's Billing Improprieties

96. During the course of their representation of IMDG, Defendants Weddle and Greenberg Traurig did not keep contemporaneous billing statements and did not submit timely invoices to IMDG reflecting the services performed.

97. In December 2022, despite the Defendants' failure to submit invoices at any time in 2022, IMDG paid Defendants Weddle and Greenberg Traurig a total of $2,850,000 for that year.

98. In late January 2023, Defendants Weddle and Greenberg Traurig created invoices for calendar year 2022. The total amount of these invoices was even more than the amount IMDG had paid for services rendered in 2022.

99. Defendants' failure to submit timely invoices required IMDG to pay more than its agreed share under an arrangement between IMDG and an affiliate (also represented by Defendants) respecting sharing of expenses, including attorney fees.

100. The declaration of an Event of Default resulted from the Defendants' failure to ensure the legitimacy of the Prior Board when put on notice of the Council's concerns, in turn forcing the Council to appoint of the Interim Board. As a result of the Defendants' actions, IMDG has incurred significant damages in addition to those resulting from its inability to obtain financing, as alleged above, and its payment of excessive attorney fees to the Defendants. IMDG has incurred substantial fees for payment of the Lenders' counsel and to its own counsel, as well as other fees and penalties charged by the Lenders and other damages resulting from the declaration of the Event of Default.

101. IMDG has a sovereign interest in protecting its assets, and in controlling its governance and operations.

102. Defendants' actions have caused damages not only to IMDG but also to the tribal members who, as Council members, voted for appointment of the Interim Board.

103. Defendants have acted with actual malice as defined in § 27-1-221(2), MCA. Defendants are liable for punitive damages pursuant to §§ 27-1-220 and -221, MCA, in an amount to be proven at trial based upon the financial condition of the Defendants. *See Kearns v. Ford Motor Co.*, 567 F.3d 1120, 1125 (9th Cir. 2009) ("It is well-settled that the Federal Rules of Civil Procedure apply in federal court, . . . irrespective of whether the substantive law at issue is state or federal."); *Teague*

v. Remington Arms Co., CV 18-184-M-DLC, at *33-34 (D. Mont. Nov. 22, 2022) (applying federal procedural rules to punitive damages claim).

104. Plaintiff reserves the right to amend this Complaint to make further allegations as and when facts are determined during discovery.

V. FACTS COMMON TO INDIVIDUAL PLAINTIFF JEFFREY STIFFARM'S CAUSES OF ACTION

105. Individual Plaintiffs hereby incorporate every allegation in this Complaint as though fully set forth herein.

106. On or about January 19, 2023, the night the Council voted to appoint the Interim Board, Plaintiff Stiffarm was confronted by approximately many angry IMDG employees who had gathered outside of Council's Chambers.

107. As Plaintiff Stiffarm walked past the IMDG employees gathered outside Council's Chambers, they cursed at him and told him to "watch his back."

108. Plaintiff Stiffarm was able to walk past the IMDG employees, but later received threatening text messages from IMDG staff.

109. Plaintiff Stiffarm feared for his safety as well as the safety of his family. He slept that night with his pistol on his nightstand.

110. The next day, Plaintiff Stiffarm was again confronted by IMDG employees gathered in the lobby of the Council's Chambers.

111. Plaintiff Stiffarm called law enforcement to escort him past the group of IMDG employees.

112. Upon information and belief, Plaintiff Stiffarm believes it was Defendant Weddle that instigated the group of IMDG employees to gather and attack tribal leaders.

113. Plaintiff Stiffarm had growing suspicions of Defendant Weddle's level of control over the IMDG Board over the years. Plaintiff Stiffarm learned from other Council members and IMDG employees that Defendant Weddle would purchase tickets for members to professional football or basketball games in Denver to influence their votes regarding IMDG business matters.

VI. FACTS COMMON TO INDIVIDUAL PLAINTIFF GENO LEVALDO'S CAUSES OF ACTION

114. Individual Plaintiffs hereby incorporate every allegation in this Complaint as though fully set forth herein.

115. On or about January 19, 2023, the night the Council voted to appoint the Interim Board, Plaintiff LeValdo was confronted by approximately many IMDG employees gathered outside Council's chambers. The IMDG employees were calling the Council "dumb," and saying they "did not know what they were doing."

116. Plaintiff LeValdo also heard IMDG employees making threats to harm him, his colleagues, and their family members.

117. Plaintiff LeValdo had to walk another tribal member out of the office because of the threats and large number of angry IMDG employees gathered outside Council's chambers.

118. For weeks, Plaintiff LeValdo struggled to sleep or attend events in public for fear he was going to be attacked by angry IMDG employees.

119. On the next day, January 20, 2023, and throughout the next few days, some IMDG employees and some of their family members continued to call crying and others giving implied threats that if the Council did not reverse their decision, they would no longer have a job at IMDG.

120. Mr. LeValdo, after the vote on January 19th and the day following, Mr. LeValdo feared for his life and felt he needed to take actions to protect himself given the behavior of the IMDG employees.

121. Upon information and belief, Plaintiff LeValdo believes that it was Defendant Weddle who instigated the anger of the IMDG employees and orchestrated the employees gathering outside of tribal offices.

122. Plaintiff LeValdo learned approximately eight weeks later that Defendant Weddle had sent text and email messages to the third-party lenders informing them that she believed there had been an Event of Default, to the IMDG CEO to have the IMDG employees take over the Tribal Office, and to Prior Board members requesting them to sign documents converting all IMDG assets to the Rosebud Sioux Tribe in South Dakota.

123. Plaintiff LeValdo was shocked to learn of Defendant Weddle's level of involvement in orchestrating the IMDG employee protests at the tribal offices.

124. Plaintiff LeValdo has reason to believe Defendant Weddle is still affecting and dividing tribal members at FBIC, and fears for his and his family's safety, as well as their property.

VII. FACTS COMMON TO INDIVIDUAL PLAINTIFF DEREK AZURE'S CAUSES OF ACTION

125. Individual Plaintiffs hereby incorporate every allegation in this Complaint as though fully set forth herein.

126. On or about January 19, 2023, the night the Council voted to appoint the Interim Board, Plaintiff Azure left the tribal offices building and found two handwritten notes on the windshield of his car that said, "We know where you live" and "you better watch yourself."

127. When Plaintiff Azure read the notes, he believed those in support of the Prior Board were dangerous and feared for his safety.

128. Plaintiff Azure drove home where he lives by himself. He repeatedly received calls from family members checking on his safety.

129. Plaintiff Azure also received text messages from IMDG employees, the former CEO, and relatives of IMDG employees saying there were 400 people now without jobs and questioning his abilities as a Councilmember. Plaintiff Azure also received a call from an IMDG employee that said IMDG would be sending all its employees to the Tribal Office the next day.

130. Plaintiff Azure called his colleagues and learned IMDG employees had tried to fight them as they were leaving the building.

131. Plaintiff Azure felt unsafe that night and placed a loaded handgun near his bed. Plaintiff Azure did not sleep that night.

132. The next day, Plaintiff Azure arrived at the Tribal Office at approximately 8 a.m. He and Plaintiff LeValdo were the only two present at the time. After a few minutes, a group of IMDG employees filled the chamber and began yelling at Plaintiffs Azure and LeValdo. Plaintiff LeValdo left, and Plaintiff Azure was by himself as the crowd grew bigger and their angry words louder. Plaintiff Azure feared he would be attacked.

133. Plaintiff Azure then left the chamber and met Plaintiff LeValdo upstairs with the other four Council members and their legal counsel.

134. During the meeting, Tribal Councilmember Dominic Messerly came into the room and informed them that IMDG employees were threatening to kill themselves if the Council did not reverse their decision.

135. Plaintiff Azure and the Council adjourned their meeting and went back to the Council Chambers. The IMDG employees began threatening the five councilmen. Plaintiff Stiffarm had Council Chambers cleared and locked the doors.

136. Plaintiff Azure and the other Councilmembers later met with Mr. Brockie, who insisted at the advice of Defendant Weddle that the Council reinstate

the Prior Board, otherwise the IMDG Lenders would declare default and employees would lose their jobs.

137. Plaintiff Azure's fear of harm was realized on or about January 21, 2023, when he went to check on his three horses. When he got to the field, he did not see the horses. After searching the area, he found two of the horses, both Sorels, shot dead with bullet holes in their chests. He was unable to find the third horse, a Bay.

138. Plaintiff Azure cannot easily replace his horses, which were well-trained and young. He had to take out a loan to purchase a new horse.

139. Plaintiff Azure believes his Sorel horses were shot and the Bay horse stolen by angry IMDG employees in retaliation for the Council refusing to reinstate the Prior Board, anger and retaliation which was instigated and encouraged by Defendant Weddle.

140. Plaintiff Azure learned approximately eight weeks later that Defendant Weddle had sent texts and email messages to the third-party lenders informing them that she believed there had been an Event of Default, to the IMDG CEO requesting the IMDG employees take over the Tribal Office, and to Prior Board members requesting them to sign documents converting all IMDG assets to the Rosebud Sioux Tribe in South Dakota.

141. Plaintiff Azure was shocked to learn of Defendant Weddle's level of involvement in orchestrating the IMDG employee protests at the tribal offices.

142. Plaintiff Azure has reason to believe Defendant Weddle is still affecting and dividing tribal members at FBIC, and fears for his and his family's safety, as well as their property.

VIII. FACTS COMMON TO INDIVIDUAL PLAINTIFF BRIAN WING'S CAUSES OF ACTION

143. Individual Plaintiffs hereby incorporate every allegation in this Complaint as though fully set forth herein.

144. Plaintiff Brian Wing was present at the Council meeting held on or about January 19, 2023, to replace the Prior Board.

145. After the meeting, Plaintiff Wing overheard IMDG employees gathered outside Council's Chambers say, "You guys are [MFers] and both of you guys are going to pay for it."

146. Plaintiff Wing felt threatened by the IMDG employees gathered outside the Council's Chambers.

147. The next day, on or about January 20, 2023, Plaintiff Wing observed IMDG employees gathered outside Council's chambers. Plaintiff Wing overheard the employees making negative comments about him and his family.

148. Even before the events of January 19, 2023, Plaintiff Wing believed Defendant Weddle exercised excessive control over the IMDG Board, as she appeared to make all the decisions for the board.

149. Plaintiff Wing's suspicions that Defendant Weddle exercised excessive control over IMDG's Board were confirmed in late March, when he saw the emails exchanged January 19 through January 24 between Defendant Weddle and IMDG employees.

150. Plaintiff Wing lost months of tribal work as a result of Defendant Weddle instigating the IMDG employee protest.

151. Plaintiff Wing suffered health problems as a result of the stress from the IMDG employee protest organized by Defendant Weddle.

152. As a result of the IMDG employee protests instigated by Defendant Weddle, Plaintiff Wing did not sleep much, experienced tension and stress in his family relationships, and suffered an infection that took him months to recover from.

153. Plaintiff Wing learned approximately eight weeks later that Defendant Weddle had sent texts and email messages to the third-party lenders informing them that she believed there had been an Event of Default, to the IMDG CEO requesting the IMDG employees take over the Tribal Office, and to Prior Board members

requesting them to sign documents converting all IMDG assets to the Rosebud Sioux Tribe in South Dakota.

154. Plaintiff Wing was shocked to learn of Defendant Weddle's level of involvement in orchestrating the IMDG employee protests at the tribal offices.

155. Plaintiff Wing has reason to believe Defendant Weddle is still affecting and dividing tribal members at FBIC, and fears for his and his family's safety, as well as their property.

IX. FACTS COMMON TO INDIVIDUAL PLAINTIFF CURTIS HORN'S CAUSES OF ACTION

156. Individual Plaintiffs hereby incorporate every allegation in this Complaint as though fully set forth herein.

157. Plaintiff Curtis Horn was present in Council's Chambers on or about January 19, 2023, the night the Council voted to appoint the Interim Board.

158. As he was leaving Council's Chambers, Plaintiff Horn encountered several angry and argumentative IMDG employees yelling at him outside Council's Chambers. Plaintiff Horn felt bullied and intimidated by the IMDG employees.

159. The next morning, Plaintiff Horn arrived at Council's Chambers. He walked through the crowd of IMDG employees and family members, including Mr. Brockie.

160. Plaintiff Horn informed Mr. Brockie that the IMDG employees were disrupting Council business and making tribal employees feel afraid, and that they needed to leave.

161. Plaintiff Horn later learned that Defendant Weddle had directed Mr. Brockie and the other IMDG employees to gather outside the Council's Chambers. Plaintiff Horn further learned Defendant Weddle had stoked fear in the IMDG employees by saying some employees were threatening to kill themselves as a result of the Council's decision not to reinstate the Prior Board.

162. Plaintiff Horn believes Defendant Weddle is still interfering with and causing harm to IMDG and the Council. At one of his first meetings as a member of the Interim Board, Defendant Weddle and one of the IMDG Lenders' representatives appeared at a Zoom meeting of the Interim Board. The Lender's representative stated he would come to Fort Belknap and take all the collateral, including buildings, equipment, vehicles, and Mr. Brockie's house and cars. Plaintiff Horn and other Interim Board members had to remove members of the Prior Board members from the meeting.

163. Plaintiff Horn had growing suspicions of Defendant Weddle's level of control over the IMDG Board over the years, as he learned from other Council members and IMDG employees that Defendant Weddle would purchase tickets for

members to professional football or basketball games in Denver to influence their votes over IMDG business matters.

164. Plaintiff Horn learned approximately eight weeks later that Defendant Weddle had sent text and email messages to the third-party lenders informing them that she believed there had been an Event of Default, to the IMDG CEO requesting the IMDG employees take over the Tribal Office, and to Prior Board members requesting them to sign documents converting all IMDG assets to the Rosebud Sioux Tribe in South Dakota.

165. Plaintiff Horn was shocked to learn of Defendant Weddle's level of involvement in orchestrating the IMDG employee protests at the tribal offices.

166. Plaintiff Horn has reason to believe Defendant Weddle is still affecting and dividing tribal members at FBIC, and fears for his and his family's safety, as well as their property.

X. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF:

Tortious Interference with Business Relationship or Prospective Economic Advantage (Against Both Defendants by Plaintiff IMDG)

167. Plaintiff IMDG hereby incorporates every allegation in this Complaint as though fully set forth herein.

168. Defendants intentionally and willfully acted to interfere with the business management, operations, and governance of Plaintiff IMDG, by taking the

actions alleged above, including refusing to ensure the legitimacy of the Prior Board after having been placed on notice of the Council's opinion that existing members' terms had expired; refusing the Council's legitimate requests for financial information concerning IMDG and its affiliates; advising third-party lenders that appointment of the Interim Board was contrary to Tribal law and constituted an Event of Default; wrongfully withholding the Agreements and other relevant business and financial information requested by IMDG and the Council; advising members of the Prior Board to convert all of IMDG tribal lending businesses, assets, and jobs out of the State of Montana in effort to undermine IMDG's Interim Board; devising a plan to physically and emotionally harm Council members in order to intimidate them to reverse the decision to appoint the Interim Board; and having discussion with third-party lenders and their legal counsel regarding the validity of the IMDG Board's appointment of the Interim Board, both before and after Greenberg Traurig was terminated as legal counsel, causing significant harm to IMDG's relationship with its third-party lenders.

169. Defendants' actions were calculated to cause damage to Plaintiffs and Plaintiffs' businesses.

170. Defendants' actions were undertaken with intention to disrupt Plaintiffs' business or economic relationships, and with the wrongful, unlawful, or

malicious purpose of causing damage or loss, without right or justifiable cause or excuse.

171. Defendants' actions have resulted in actual damages or loss to Plaintiff IMDG, including damage to its reputation and loss of revenue.

172. Defendants' conduct as alleged above constituted actual malice as defined in § 27-1-221(2), MCA. Defendants had knowledge of facts or intentionally disregarded facts that created a high probability of harm to IMDG, and deliberately proceeded to act in conscious or intentional disregard, or indifference to, the high probably of injury to IMDG, which was certain to result from, among other conduct alleged above, precipitating the Event of Default, devising the plan to transfer all of IMDG's assets, and encouraging the harassment suffered by Council members.

173. Defendants are liable for punitive damages pursuant to §§ 27-1-220 and -221, MCA, in an amount to be proven at trial based upon the financial condition of the Defendants.

SECOND CLAIM FOR RELIEF:

Professional Negligence (Against Both Defendants by Plaintiff IMDG)

174. Plaintiff IMDG hereby incorporates every allegation in this Complaint as though fully set forth herein.

175. Defendants had a duty to exercise the appropriate standard of care when advising Plaintiff IMDG on legal and regulatory matters related to the business.

176. Defendants breached such duty during the course of their representation of IMDG, by taking the actions alleged above, including refusing to ensure the legitimacy of the Prior Board after having been placed on notice of the Council's opinion that existing members' terms had expired; refusing the Council's legitimate requests for financial information concerning IMDG and its affiliates; advising the third-party lenders that appointment of the Interim Board was contrary to Tribal law and constituted an Event of Default; wrongfully withholding the Agreements and other relevant business and financial information requested by IMDG and the Council; advising members of the Prior Board to convert all of IMDG tribal lending businesses, assets, and jobs out of the State of Montana in effort to undermine IMDG's Interim Board; devising a plan to physically and emotionally harm Council members in order to intimidate them to reverse the decision to appoint an Interim Board; and having discussion with the third-party lenders and their legal counsel regarding the validity of the IMDG Board's appointment of the Interim Board, both before and after Greenberg Traurig was terminated as legal counsel, causing significant harm to IMDG's relationship with its Lenders.

177. Defendants' actions have resulted in actual damages or loss to Plaintiffs, including damage to business reputation and loss of revenue, and future lost earnings.

178. Defendants' conduct as alleged above constituted actual malice as defined in § 27-1-221(2), MCA. They had knowledge of facts or intentionally disregarded facts that created a high probability of harm to IMDG, and deliberately proceeded to act in conscious or intentional disregard, or indifference to, the high probably of injury to IMDG, which was certain to result from, among other conduct alleged above, precipitating the Event of Default , devising the plan to transfer all of IMDG's assets, and encouraging the harassment suffered by Council members.

179. Defendants are liable for punitive damages pursuant to §§ 27-1-220 and -221, MCA, in an amount to be proven at trial based upon the financial condition of the Defendants.

THIRD CLAIM FOR RELIEF (ALTERNATIVE TO SECOND CLAIM FOR RELIEF):

Breach of Fiduciary Duty (Against Both Defendants by Plaintiff IMDG)

180. Plaintiff IMDG hereby incorporates every allegation in this Complaint as though fully set forth herein.

181. Defendants Weddle and Greenberg Traurig were in a special relationship with Plaintiff IMDG by virtue of providing legal and professional services and advice to Plaintiff IMDG.

182. The advice and services provided by Defendants Weddle and Greenberg Traurig were intended by Defendants to guide the conduct of IMDG regarding a technically complex subject matter.

183. Plaintiff IMDG reasonably expected that it could rely on the professional advice provided by Defendants Weddle and Greenberg Traurig to its benefit.

184. Defendants Weddle and Greenberg Traurig breached their fiduciary duties to Plaintiff IMDG, by taking the actions alleged above, to the detriment of IMDG. These actions include refusing to ensure the legitimacy of the Prior Board after having been placed on notice of the Council's opinion that existing members' terms had expired; refusing the Council's legitimate requests for financial information concerning IMDG and its affiliates; advising third-party lenders that appointment of the Interim Board was contrary to Tribal law and constituted an Event of Default; wrongfully withholding the Agreements and other relevant business and financial information requested by IMDG and the Council; advising members of the Prior Board to convert all of IMDG tribal lending businesses, assets, and jobs out of the State of Montana in effort to undermine IMDG's Interim Board; devising a plan to physically and emotionally harm Council members in order to intimidate them to reverse the decision to appoint an Interim Board; and having discussion with the third-party lenders and their legal counsel regarding the validity

of the IMDG Board's appointment of the Interim Board, both before and after Greenberg Traurig was terminated as legal counsel, causing significant harm to IMDG's relationship with its Lenders.

185. Defendants further caused harm to Plaintiff IMDG during the course of their representation by improperly purchasing items for IMDG Board Members to earn their votes and improperly influence IMDG Board decision-making for their own financial benefit.

186. Defendants Weddle and Greenberg Traurig were paid for their professional services and advice despite not having properly or lawfully provided services to IMDG and breaching their fiduciary duties to IMDG, and instead acting against IMDG's interests and for their own financial benefit and interest.

187. Defendants' breach of their fiduciary duties has caused Plaintiff IMDG damages.

188. Defendants' conduct as alleged above constituted actual malice as defined in § 27-1-221(2), MCA. They had knowledge of facts or intentionally disregarded facts that created a high probability of harm to IMDG, and deliberately proceeded to act in conscious or intentional disregard, or indifference to, the high probably of injury to IMDG, which was certain to result from, among other conduct alleged above, precipitating the Event of Default, devising the plan to transfer all of IMDG's assets, and encouraging the harassment suffered by Council members.

189. Defendants are liable for punitive damages pursuant to §§ 27-1-220 and -221, MCA, in an amount to be proven at trial based upon the financial condition of the Defendants.

FOURTH CLAIM FOR RELIEF:

Intentional Infliction of Emotional Distress (Against Both Defendants by Individual Plaintiffs)

190. Individual Plaintiffs hereby incorporate every allegation of this Complaint as though fully set forth herein.

191. Defendants intentionally inflicted severe emotional distress on Individual Plaintiffs by participating in and devising a plan to physically and emotionally harm Individual Plaintiffs in an attempt to gain control of them and have them reverse the decision to appoint the Interim Board.

192. As a direct and proximate cause of Defendants' outrageous conduct, Individual Plaintiffs have sustained serious, severe, and ongoing distress.

193. Individual Plaintiffs' serious, severe, and ongoing emotional distress was a reasonably foreseeable consequence of Defendants' outrageous conduct, intentional acts, and/or omissions.

194. The emotional distress sustained by Individual Plaintiffs is both justified and reasonable under the circumstances.

195. Defendants' conduct has had a severe and traumatic effect upon Individual Plaintiffs and continues to cause emotional harm.

196. Defendants acted intentionally and in a manner which was wholly indifferent to the likely and foreseeable impact of their outrageous conduct, intentional acts, and/or omissions.

197. Defendants' conduct as alleged above constituted actual malice as defined in § 27-1-221(2), MCA. They had knowledge of facts or intentionally disregarded facts that created a high probability of harm to the individual plaintiffs, and deliberately proceeded to act in conscious or intentional disregard, or indifference to, the high probably of injury to them, which was certain to result from, among other conduct alleged above, the Defendants' encouraging the harassment suffered by Council members.

198. Defendants are liable for punitive damages pursuant to §§ 27-1-220 and -221, MCA, in an amount to be proven at trial based upon the financial condition of the Defendants.

FIFTH CLAIM FOR RELIEF:

Negligent Infliction of Emotional Distress (Against Both Defendants by Individual Plaintiffs)

199. Individual Plaintiffs hereby incorporate every allegation of this Complaint as though fully set forth herein.

200. Defendants negligently inflicted severe emotional distress on Individual Plaintiffs by participating in devising a plan to physically and emotionally harm the Individual Plaintiffs in an attempt to damage them, gain

control of them, and force them to reverse their decision to appoint the Interim Board.

201. As a direct and proximate consequence of Defendants' conduct, Individual Plaintiffs have sustained serious, severe, and ongoing distress.

202. Individual Plaintiffs' serious, severe, and ongoing emotional distress was a reasonably foreseeable consequence of Defendants' conduct.

203. The emotional distress sustained by the Individual Plaintiffs was and continues to be of a type which no reasonable person could be expected to endure.

204. The emotional distress sustained by the Individual Plaintiffs is both justified and reasonable under the circumstances.

205. Defendants' conduct has had a severe and traumatic effect upon the Individual Plaintiffs and continues to cause emotional harm.

206. Defendants acted negligently and in a manner which was wholly indifferent to the likely and foreseeable impact of their conduct. As a direct, immediate, and proximate consequence of Defendants' conduct, Individual Plaintiffs have experienced and continue to experience serious and severe emotional distress.

207. Defendants' conduct as alleged above constituted actual malice as defined in § 27-1-221(2), MCA. They had knowledge of facts or intentionally disregarded facts that created a high probability of harm to the individual plaintiffs,

and deliberately proceeded to act in conscious or intentional disregard, or indifference to, the high probably of injury to them, which was certain to result from, among other conduct alleged above, the Defendants' encouraging the harassment suffered by Council members.

208. Defendants are liable for punitive damages pursuant to §§ 27-1-220 and -221, MCA, in an amount to be proven at trial based upon the financial condition of the Defendants.

SIXTH CLAIM FOR RELIEF:

Civil Conspiracy (Against All Defendants by All Plaintiffs)

209. Plaintiffs hereby incorporate every allegation in this Complaint as though fully set forth herein.

210. Defendants and others, constituting two or more persons, had an object of using IMDG for their own financial benefit during the course of their representation of IMDG;

211. Defendants, and others, had a meeting of the minds to accomplish their objective of using and controlling IMDG for their own financial benefit and to the detriment of IMDG;

212. Defendants, along with others, undertook unlawful, overt acts in furtherance of their objective to use and control IMDG for their own financial benefit, and influence IMDG and Individual Plaintiffs' governance of IMDG,

including refusing to ensure the legitimacy of the Prior Board after having been placed on notice of the Council's opinion that existing members' terms had expired; refusing the Council's legitimate requests for financial information concerning IMDG and its affiliates; advising third-party lenders that appointment of the Interim Board was contrary to Tribal law and constituted an Event of Default; wrongfully withholding the Agreements and other relevant business and financial information requested by IMDG and the Council; advising members of the Prior Board to convert all of IMDG tribal lending businesses, assets, and jobs out of the State of Montana in effort to undermine IMDG's Interim Board; devising a plan to physically and emotionally harm Council members in order to intimidate them to reverse the decision to appoint an Interim Board; and having discussion with the third-party lenders and their legal counsel regarding the validity of the IMDG Board's appointment of the Interim Board, both before and after Defendants were terminated as legal counsel, causing significant harm to IMDG's relationship with its Lenders.

213. Defendants' actions have resulted in actual damages or loss to Plaintiffs, including paying Defendants Weddle and Greenberg Traurig's legal fees.

214. Defendants' conduct consisted of malice and Defendants are liable for punitive damages pursuant to §§ 27-1-220 and -221, MCA, in an amount to be proven at trial based upon the financial condition of the Defendants.

XI. RELIEF REQUESTED

WHEREFORE, Plaintiffs demand judgment against Defendants for:

1. Compensatory and punitive damages to Plaintiffs in an amount to be determined at trial;

2. An order of disgorgement of all profits wrongfully made by Defendants through their wrongful conduct described herein;

3. Award attorney fees and costs to Plaintiffs;

4. All other legal and equitable relief to which Plaintiffs are entitled;

5. Such further relief as this Court deems just and proper.

XII. JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully submitted this 11th day of September, 2023.

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Exhibit 7

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, GREAT FALLS DIVISION

JEFFREY STIFFARM, GENO LEVALDO, DEREK AZURE, BRIAN WING, AND CURTIS HORN, Plaintiffs, v. JENNIFER WEDDLE, AND GREENBERG TRAURIG LLP, Defendants.	Case No. 4:23-CV-00054-BMM **PLAINTIFFS' PRELIMINARY PRETRIAL STATEMENT**

Plaintiffs respectfully submit this Preliminary Pretrial Statement pursuant to this Court's November 6, 2023 Order and Local Rule 16.2(b).

A. Brief Factual Outline of the Case

In addition to any facts stipulated to by all parties, Plaintiffs provide the following:

Plaintiffs are currently or are former members of the Fort Belknap Community Council (the "Tribal Council" or "Council"), the governing body of the Gros Ventre (Aaniiih) and Assiniboine (Nakoda) Tribes of the Fort Belknap Indian Community of Montana ("FBIC" or "Tribe"). The Tribal Council is the owner of Fort Belknap Community Planning and Development Corporation d/b/a Island Mountain Development Group (IMDG). The Tribal Council established IMDG in 2006 to bring much needed revenue, economic development, and job opportunities to those on the Reservation. IMDG is governed by a Board of Directors appointed by the Tribal Council.

Defendants Jennifer Weddle and her law firm, Greenberg Traurig LLP (Greenberg Traurig), served as legal counsel for IMDG and its

affiliates for over thirteen years. Beginning in 2018, Defendant Weddle represented IMDG in connection with the financing transactions between IMDG and various third-party lenders (the "Lenders").

The Tribal Council became increasingly concerned that Defendant Weddle was using IMDG for her own financial benefit after the IMDG Board persisted in refusing to provide financial information about the transactions with Lenders and IMDG's business activities. The Tribal Council also began discovering significant unexplained debts, losses of revenue, and evidence of other potentially serious improprieties at IMDG.

The Tribal Council also became concerned about the legitimacy of the membership of the IMDG Board of Directors under IMDG's organization documents and Tribal law, as many of the Board members terms were already expired or set to expire in March 2022.

FBIC President, Plaintiff Jeffrey Stiffarm, initiated communications with then-IMDG Chief Executive Officer (CEO) Terry Brockie and the IMDG Board of Directors early in 2022 requesting information related to IMDG's Board of Directors term limits, IMDG's payroll, including the

salaries of the members of IMDG's Board of Directors, and information related to the financing agreements between IMDG, its affiliates, and the Lenders. At the direction of Defendant Weddle, Mr. Brockie refused to provide the requested information and stated all Board members' terms would expire in January 2024.

Based on the evidence of financial improprieties at IMDG, as well as IMDG's failure to ensure or confirm the legitimacy of the IMDG Board of Directors, the Tribal Council set a special meeting for January 19, 2023 and voted to appoint six sitting Tribal Council members to the Interim Board.

After receiving notice of the special meeting, Defendant Weddle began contacting members of the prior IMDG Board and IMDG executive staff inciting them to harass and threaten the Council members who had scheduled the special meeting. Specifically, Defendant Weddle told IMDG employees that if the Council appointed new board members, IMDG's third-party lenders would revolt by freezing bank accounts and assets, and leave the Fort Belknap Reservation, which would leave hundreds of tribal members and IMDG employees without jobs.

After the Tribal Council voted to appoint an Interim Board, Defendant Weddle also informed IMDG administrative staff not to go to work the next day but instead appear at the Tribal Council's chambers and demand that the Tribal Council rescind its action. Defendant Weddle told the IMDG employees they would lose their jobs and it was the fault of the five Tribal Council members voting to appoint a new Board. Defendant Weddle went so far as to text a group IMDG employees asking if the employees were going to "stake out" at the Tribal Council members' homes.

On January 20, 2023, and for several days thereafter, the Individual Plaintiff Tribal Council members were attacked. On January 20, over 200 angry employees all on paid administrative leave from IMDG, together with members of their families, swarmed the tribal offices demanding that the prior Board be reinstated. The Tribal Council had to call for law enforcement to control the crowd that gathered. The Councilmembers found threatening messages on their car windshields and one Councilmember's beloved horse was found shot a few days later.

Also after the special meeting on January 19, 2023, in the middle of the night, Defendant Weddle called the Lenders, to whom she had no duty, to inform them of the Tribal Council's action in appointing an interim Board and stated that in her opinion, the appointment violated Tribal law and constituted an Event of Default under the Agreements. As a direct result of Defendant Weddle's action, which was not taken at her client IMDG's direction, the Lenders notified IMDG of an Event of Default under the lending agreements on January 20, 2023.

After receiving the Event of Default notice from the Lenders, the Tribal Council requested copies of the lending agreements from Defendants Weddle and Greenberg Traurig. Defendants refused to provide their client, IMDG, with copies of the agreements. Defendant Weddle continued to insist without explanation that the Agreements were confidential and could not be shared or reviewed by anyone other than herself.

On February 10, 2023, the Interim Board terminated its engagement with Defendants Weddle and Greenberg Traurig based, in part, on their

refusal to provide their client with copies of the Agreements. Defendant Weddle again contacted the Lenders and informed them she was withdrawing her legal opinions she provided in connection with the Agreements and that IMDG's appointment of an Interim Board violated Tribal law and IMDG's organizational documents.

On March 28, 2023, the Interim Board discovered documents, letters, emails, and text messages from Defendant Weddle in which she advised certain members of the prior IMDG Board to sign documents dated January 22, 2023, effectively authorizing conversion of all IMDG tribal online lending businesses, including all IMDG's assets, businesses, and jobs, out of the state of Montana to the Rosebud Sioux Tribe in South Dakota. Defendant Weddle attempted to effectuate this transfer through two prior Board Members, Tracy "Ching" King and Christopher "Smiley" Guardipee, acting as an "ad hoc executive committee" of the prior Board. The ad hoc executive committee was established in 2018 but had rarely if ever been used. Defendant Weddle's attempt to use the inactive committee, whose members were no longer seated on the IMDG Board,

was a blatant play to bypass the authority of the newly appointed Interim Board and continue to conceal information from the Tribal Council.

Further, Defendants knew that their injury caused to IMDG, a wholly owned tribal entity, would also cause injury to the Plaintiffs. In addition to their attempts to transfer IMDG's assets so they could continue controlling the company for their own financial benefit, Defendants' goal of their actions was to injure the Plaintiffs. Upon information and belief the Defendants recommended or guided employees of IMDG and their relatives to take action to remove Plaintiffs from their elected offices in January 2023, and also concerning the election in the latter part of 2023. This advice was given despite the fact that the Defendants were acting as legal representatives for the Tribe and its affiliated organizations in January of 2023.

B. Jurisdiction and Venue

This Court has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1332, providing diversity jurisdiction, as this matter in controversy

exceeds the sum of $75,000, exclusive of interest and costs, and is between citizens of different states.

This Court further has jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. § 1367, allowing the exercise of supplemental jurisdiction.

C. & D. Factual Basis and Legal Theories of Each Claim.

1. **Defendants have intentionally and negligently inflicted severe emotional distress on the Individual Tribal Councilmember Plaintiffs by participating in and devising a plan to physically and emotionally harm Plaintiffs in attempt to gain control of them and have them reverse their decision to appoint the Interim Board.**

"[A] plaintiff's independent or 'stand alone' claim for intentional or negligent infliction of emotional distress can be maintained only upon a showing that the plaintiff suffered 'serious' or 'severe' emotional distress as the reasonably foreseeable consequence of the defendant's act or omission." *Puryer v. HSBC Bank USA, Nat'l Ass'n*, 2018 MT 124, ¶ 38, 391 Mont. 361, 419 P.3d 105 (overruled in part on other grounds, *Odom v. Bank of N.Y. Mellon*, 2020 MT 58, at n.3, 399 Mont. 552, 459 P.3d 225). A

plaintiff's emotional distress is "serious" or "severe" if it is such that "that no reasonable person could be expected to endure it." *Puryer*, ¶7 38.

Defendants negligently and intentionally inflicted severe emotional distress on the Individual Councilmember Plaintiffs by participating in and devising a plan to have IMDG employees and their family retaliate against and harm the Plaintiffs physically and emotionally in attempt to gain control of them and have them rescind their decision to appoint the Interim Board. Defendants' outrageous conduct was the direct and proximate cause of the Plaintiffs' serious, severe, and ongoing emotional distress, which is justified and reasonable under the circumstances.

Further, Defendants negligently and intentionally acted to injure the Individual Tribal Council members through their interference and attempt to control IMDG's business management, operations, and governance by refusing to take any action to ensure the legitimacy of the Prior Board even after being notified by the Tribal Council that the existing members' terms had expired. Defendants also intentionally and willfully acted to interfere with IMDG's business management, operations, and governance by

refusing the Tribal Council's legitimate requests for financial information related to IMDG and its affiliates; advising the Lenders that the Tribal Council's appointment of an Interim Board constituted an Event of Default; wrongfully withholding IMDG's agreements with the Lenders and other relevant information requested by the Tribal Council, the owners of IMDG; advising members of the Prior Board to transfer all IMDG lending businesses, assets, and jobs to an out-of-state tribe in effort to undermine and conceal information from the IMDG Interim Board; and communicating with the Lenders regarding the validity of the appointment of the Interim Board, both before and after IMDG terminated Defendants as legal counsel, causing a continuation of the claimed Event of Default.

Defendants' intentional and negligent conduct further constitutes actual malice under § 27-1-221(2), MCA, because Defendants had knowledge of facts or intentionally disregarded facts that created a high probability of harm to the Plaintiffs, and deliberately proceeded to act in conscious or intentional disregard, or indifference to, the high probability

of injury to the Plaintiffs. As such, Defendants are liable to each Individual Plaintiff for punitive damages pursuant to §§ 27-1-220 and -221, MCA.

2. <u>Defendants and others, constituting two or more persons, had an object of using IMDG for their own financial benefit during the course of their representation of IMDG, and undertook unlawful, overt acts in furtherance of their objective and to influence Plaintiffs' governance of IMDG.</u>

Civil conspiracy is established by the following elements: "(1) two or more persons . . . ; (2) an object to be accomplished; (3) a meeting of the minds on the object or course of action; (4) one or more unlawful overt acts; and (5) damages as the proximate result thereof." *Sullivan v. Cherewick*, 2017 MT 38, ¶ 24, 386 Mont. 350, 391 P.3d 62.

Defendants and others, including prior Board members of the inactive "ad hoc" committee, which constitute two or more persons, had a meeting of the minds to accomplish their objective of using IMDG for their own financial benefit during the course of their representation of IMDG, to the detriment of IMDG and the Plaintiffs, who are current or former members of the Tribal Council, the sole owner of IMDG.

Defendants and the others undertook unlawful, overt acts to undermine the IMDG Interim Board and the Tribal Council to influence IMDG and Plaintiffs' governance of IMDG so that Defendants could continue to further their objective of using IMDG for their own financial benefit. These overt acts include Defendants refusing to take action to ensure the legitimacy of the IMDG's prior Board, even after being put on notice by the Tribal Council that the existing members' terms had expired. Defendants further took overt acts in furtherance of their objective of using IMDG for their own financial benefit by refusing the Tribal Council's legitimate requests for financial information related to IMDG and its affiliates, despite the Tribal Council being the sole owner of IMDG. Defendants also advised the Lenders that the Tribal Council's appointment of an Interim Board constituted an Event of Default, wrongfully withheld IMDG's own agreements with the Lenders and other relevant information requested by the Tribal Council, the owners of IMDG. Lastly, Defendants advised members of the Prior Board to transfer all IMDG lending businesses, assets, and jobs to an out-of-state tribe in effort to undermine

and conceal information from the IMDG Interim Board; and communicated with the Lenders regarding the validity of the appointment of the Interim Board, both before and after IMDG terminated Defendants as legal counsel, causing a continuation of the Event of Default.

E. Computation of Damages

1. **Economic damages of Plaintiffs:** As a consequence of Defendants' conduct, the Plaintiffs have sustained and will continue to sustain notable economic losses. These losses encompass lost income -- both past and future -- as well as adverse effects on their professional paths. In addition, there are past and anticipated medical expenses attributable to the Defendants' conduct. While the exact amount of these economic damages has yet to be determined, it is intended to be calculated and presented during discovery.

2. **Non-economic damages of Plaintiffs:** As a consequence of Defendants' conduct, Plaintiffs have suffered and will suffer psychological and emotional distress, humiliation, and mental and

physical pain and anguish, in a sum to be proven at trial. These damages require no computation at this time.

3. **Punitive damages:** Plaintiffs are seeking punitive damages in this action. These damages require no computation at this time.

D. Pendency of Related State or Federal Litigation

Plaintiffs are not aware of the pendency of related state or federal litigation.

E. Proposed Deadlines Relating to Joinder of Parties or Amendment of the Pleadings

Upon meeting and conferring with Defendants, Plaintiffs agree with the mutually proposed date of March 4, 2024, as the deadline to join parties and amend pleadings.

F. Identification of Controlling Issues of Law Suitable for Pretrial Disposition

Plaintiffs believe that after appropriate discovery, legal issues in this case may be subject to pretrial dispositive motions.

G. The Name and City and State of Current Residence of Each Individual known or believed to have information that may be

used in proving or denying any party's claims or defenses, and a summary of that information.

1. **Plaintiff Jeffrey Stiffarm**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Mr. Stiffarm is the current President of Fort Belknap Community Council (FBCC) (the "Tribal Council"), and has knowledge of the Fort Belknap Indian Community's (the "Tribe") relationship with IMDG, and the events leading up to and following the events of January 19, 2023.

2. **Plaintiff Geno LeValdo**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Mr. LeValdo was a member of the Tribal Council, and has knowledge of the events leading up to and following the events of January 19, 2023. Mr. LeValdo also has knowledge concerning the termination of Greenberg Traurig and Jennifer Weddle's legal services in February 2023.

3. **Plaintiff Curtis Horn**, c/o Matt Law Office, 310 E Main, Cut

Bank, MT 59427, Telephone (406) 873-4833. Mr. Horn was a member of the Tribal Council, and has knowledge of the events leading up to and following the events of January 19, 2023.

4. **Plaintiff Brian Wing**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Mr. Wing was a member of the Tribal Council, and has knowledge of the events leading up to and following the events of January 19, 2023.

5. **Derek "Sam" Azure**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Mr. Azure was a member of the Tribal Council, and has knowledge of the events leading up to and following the events of January 19, 2023.

6. **Evan Azure**, IMDG, 353 Old Hays Rd, P.O. Box 470, Hays, MT. 59527, (406)673-3031. Mr. Azure was appointed as IMDG Chief Executive Officer (CEO) in April 2023. Mr. Azure has knowledge of the events leading up to his appointment as IMDG CEO.

7. **Dominic Messerly**, Mr. Messerly was a member of the Tribal Council and has knowledge of the events leading up to and

following the events of January 19, 2023.

8. **Warren Morin,** Mr. Morin was was a member of the Tribal Council and has knowledge of the events leading up to and following the events of January 19, 2023.

9. **Judith King**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Ms. King is the sister of Tracy "Ching" King and the current Vice President of the Tribal Council. Ms. King has knowledge of the events leading up to and following the events of January 19, 2023.

10. **Ben Speakthunder,** he was employed by Fort Belknap Indian Community as a Sergeant of Arms and then later as the Constuction foreman for Snake Butte Construction. Mr. Speakthunder has knowledge of the events leading up to and following the events of January 19, 2023.

11. **Gary Lamere,** c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Mr. Lamere was employed as the Acting Chief of Police on January 19, 2023 and has

knowledge of the events leading up to and following the events of January 19, 2023.

12. **Felecia Messerly, Harlem, Montana, 406-353-2205.** She has knowledge of the events leading up to and following the events of January 19, 2023.

13. **Steve Fox,** c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Mr. Fox was a council member on January 19, 2023 and has knowledge of the events leading up to and following the events of January 19, 2023.

14. **Terry Brockie**. Mr. Brockie was the previous IMDG CEO and has knowledge regarding the legal services provided by Greenberg Traurig and Jennifer Weddle, IMDG's relationship to and interactions and communications with the Tribal Council, IMDG's relationship with its Lenders, and the events leading up to and following the events of January 19, 2023.

15. **Tracy "Ching" King**. Mr. King was a former member of the Tribal Council, as well as a former member of the IMDG Board

of Directors. Mr. King is the brother of FBCC Vice President Judith King. Mr. King has knowledge regarding IMDG's relationship to the Tribal Council, IMDG's communications and interaction with the Tribal Council, the events leading up to and following the events of January 19, 2023, the formation of the Ad Hoc Executive Committee, and the communications with representatives of the Rosebud Sioux Tribe's Sicangu Corporation.

16. **Christopher "Smiley" Guardipee**. Mr. Guardipee was a former member of the IMDG Board of Directors. Mr. Guardipee has knowledge regarding IMDG's relationship to the Tribal Council, the events leading up to and following the events of January 19, 2023, the formation of the Ad Hoc Executive Committee, and the communications with representatives of the Rosebud Sioux Tribe's Sicangu Corporation.

17. **Dana Pyette,** Ms. Pyette is the former IMDG Chief Financial Officer. Ms. Pyette has knowledge of IMDG's finances, including

the payments made to Greenberg Traurig and Jennifer Weddle. Ms. Pyette also has knowledge of the debts and liabilities of IMDG, including under the Lending Agreements with IMDG Lenders. Ms. Pyette also has knowledge of the events leading up to and following the events of January 19, 2023.

18. **Delina Cuts the Rope**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Ms. Cuts the Rope is the current FBIC Chief Administrative Officer and has knowledge of the events leading up to and following the events of January 19, 2023. Ms. Cuts the Rope also has knowledge of the communications and interactions between the Tribal Council and IMDG.

19. **Jessica Stiffarm**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Ms. Stiffarm is the current FBIC Chief Documents Officer and has knowledge of the events leading up to and following the events of January 19, 2023. Ms. Stiffarm also has knowledge of the communications and

interactions between the Tribal Council and IMDG and Tribal Council and Jennifer Weddle. Ms. Stiffarm also has knowledge related to how the events of January 19, 2023 and thereafter have affected Plaintiff Jeffrey Stiffarm.

20. **Catherine Aragon**, c/o Matt Law Office, 310 E Main, Cut Bank, MT 59427, Telephone (406) 873-4833. Ms. Aragon is the current FBIC legal counsel and has knowledge of the events leading up to and following the events of January 19, 2023. Ms. Aragon also has knowledge of the communications and interactions between the Tribal Council and IMDG and Tribal Council and Jennifer Weddle and Greenberg Traurig staff related to Tribal council resolutions authorizing to loan documents and facility documents.

21. **Denise Doney**, Former Personnel Director of IMDG. Ms. Doney participated in the discussions related to planning for the January 19th meeting and meetings thereafter. She was involved in removing property from IMDG.

22. **Pete Stiffarm**, Former IT Director of IMDG. Mr. Stiffarm participated in the discussions related to planning for the January 19th meeting and meetings thereafter. He was involved in removing property from IMDG.

23. **Charlo Kirkaldie**, Former Human Resource Specialist. Mr. Kirkaldie has knowledge of IMDG Executive committee meetings regarding January 19th and meeting thereafter regarding matters alleged in the complaint.

24. **Chris Biewer**, Former Director Online Lending. Mr. Biewer participated in discussions with Jennifer Weddle, IMDG Board, and Executive staff regarding transferring assets to the Rosebud Sioux Tribe. He also participated in discussions regarding board member terms.

25. **Ross McLinden**, Fomer Chief Compliance Officer. Mr. McLinden participated in discussions with Jennifer Weddle, IMDG Board, and Executive staff regarding transferring assets to the Rosebud Sioux Tribe. He also participated in discussions

regarding board member terms.

26. **Jackie Blackbird**, Former Chief Communication Officer. Ms. Blackbird participated in discussions with Jennifer Weddle, IMDG Board, and Executive staff regarding transferring assets to the Rosebud Sioux Tribe. She also participated in discussions regarding board member terms.

27. **Bobbi Werk**. IMDG, 353 Old Hays Rd, P.O. Box 470, Hays, MT. 59527, (406)673-3031. Ms. Work is employed in IMDG finance. She has knowledge related to IMDG finances.

28. **Corey Fox**, IMDG, 353 Old Hays Rd, P.O. Box 470, Hays, MT. 59527, (406)673-3031. Mr. Fox is employed in the IMDG IT department and has knowledge related to the events in the complaint.

29. **James Flansburg**, IMDG, 353 Old Hays Rd, P.O. Box 470, Hays, MT. 59527, (406)673-3031. Mr. Flansburg has knowledge related to IMDG board meeting and events leading up to January 19th meeting and events thereafter.

30. **Kenneth Helgerson**, Lodgepole MT, former IMDG Board Member. Mr. Helgerson has information related to IMDG business and has knowledge related to IMDG board meetings and events leading up to January 19th meeting and events thereafter.

31. **Cindy Kilgore**, Acting CFO, IMDG, 353 Old Hays Rd, P.O. Box 470, Hays, MT. 59527, (406)673-3031. Ms. Kilgore has knowledge of IMDG finances.

32. **Taylor McCabe,** IMDG, 353 Old Hays Rd, P.O. Box 470, Hays, MT. 59527, (406)673-3031. Mr. McCabe has knowledge related to IMDG business, including IMDG board meetings and events leading up to January 19th meeting and events thereafter.

33. **Charmayne Healy**. Ms. Healy has knowledge related to IMDG board meeting and events leading up to January 19th meeting and events thereafter.

34. **Jarret Azure,** Fort Belknap Indian Community Insurance, 656 Agency Main Street, Harlem, MT. 59526 (406)353-2205. Mr.

Azure was for a period of time interim CEO of IMDG. He has knowledge related to IMDG board meeting and events leading up to January 19th meeting and events thereafter.

35. **Phillip Shortman,** address unknown. Mr. Shortman has knowledge related to IMDG board meetings and events leading up to January 19th meeting and events thereafter.

36. **William Main,** P.O. Box 1052, Harlem, MT, 59526, 406-945-7349. Mr. Main has knowledge related to IMDG board meetings and events leading up to January 19th meeting and events thereafter.

37. **Dustin Monroe**. Mr. Monroe has knowledge related to IMDG board meeting and events leading up to January 19th meeting and events thereafter.

38. **Michelle Fox**, Big Fire Law & Policy Group LLP, 1905 Harney Street, Suite 300, Omaha, NE 68102. Ms. Fox is the former CEO of IMDG and former Consultant for IMDG. Ms. Fox was also the attorney at the time for the Siċaŋġu Corporation and **RL-FB Holdings** and worked for Big Fire law firm. Ms. Fox has

knowledge related to IMDG board meetings and events leading up to January 19th meeting and events thereafter.

39. **Clay Colombe**,27565 Research Park Drive, Mission, SD, 57555, (605)856-8400. CEO of RL-FB Holdings. Mr. Colombe has knowledge of allegations in complaint related to attempts to transfer Fort Belknap online lending business assets to the Rosebud Sioux Tribe, and the activities leading up to this decision.

40. **Oliver James Semans**., PO Box 194, Mission, SD. 57555, (605)856-8400. Mr. Semans has knowledge of allegations in complaint related to attempts to transfer Fort Belknap online lending business assets to the Rosebud Sioux Tribe and the activities leading up to this decision.

41. **John Williams**, P.O. Box 701596, Tulsa, Oklahoma, 74170-1596 (918)732-9435. Mr. Williams is legal counsel to Lenders. Mr. Williams has knowledge of the loans and facility documents between Lenders and the Fort Belknap Indian Community and

their online lending entities. He also has knowledge about the alleged event of default and communications before and after January 19th with Jennifer Weddle and other Greenberg Traurig staff.

42. **Lender** c/o John Williams, P.O. Box 701596, Tulsa, Oklahoma, 74170-1596 (918)732-9435. Owner of Lending company. Lender has knowledge of IMDG's finances, knowledge pertaining to the default letter issued to IMDG, knowledge regarding attempted transfer of assets to the Rosebud Sioux Tribe, and knowledge of Jennifer Weddle's verbal communications regarding her former client, IMDG.

43. **Lender** c/o John Williams, P.O. Box 701596, Tulsa, Oklahoma, 74170-1596 (918)732-9435. Owner of lending company. Lender has knowledge of IMDG's finances, knowledge pertaining to the default letter issued to IMDG, knowledge regarding attempted transfer of assets to the Rosebud Sioux Tribe, and knowledge of Jennifer Weddle's verbal communications regarding her former

client, IMDG.

44. **Clayton Johnson**, 614 Park Drive South, Great Falls, MT 59405, (406) 205-4771. As auditor for Fort Belknap on-line lending businesses and other businesses managed by IMDG, Mr. Johnson has knowledge related to IMDG's finances.

45. **Darlene Azure**, 306 1st St. SW, Harlem, MT. 59527, 406-353-2573. Ms. Azure has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Derek Azure.

46. **Joshua Felecia**, 1029 Custer Avenue, Hardin, MT 406-690-8519. Mr. Felecia has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Derek Azure.

47. **Wynonna Azure**, Gallup, New Mexico, 406-399-293. Ms. Azure has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Derek Azure.

48. **John Filesteel**, , P.O. Box 311,Hays, MT 59527, (406) 390-6213. Mr. Filesteel has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Geno LeValdo.

49. **Colleen Filesteel**, P.O. Box 432 Hays, MT 59524, (406) 390-6670. Ms. Filesteel has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Geno LeValdo.

50. **Tagen LeValdo**, P.O. Box 332, Harlem, MT 59524, (406) 301-2398. Mr. LeValdo has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Geno LeValdo.

51. **Penny Hawley**, P.O. Box 346, Hays, MT 59527, (406) 301-1116. Ms. Hawley has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Geno LeValdo.

52. **Brook LeValdo**, P.O. Box 332, Harlem, MT 59524. Ms. LeValdo has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Geno LeValdo.

53. **Howard Gone**, General Delivery, Hays, MT, (406) 408-0183. Mr. Gone has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Jeffrey Stiffarm.

54. **Barbara Longknife**, General Delivery, Hays, MT, (406) 673-3504. Ms. Longknife has knowledge related to how the events of

January 19, 2023, and thereafter have affected Jeffrey Stiffarm.

55. **Kelsey Stiffarm**, General Delivery, Hays MT, (406) 301-0527. Ms. Stiffarm has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Jeffrey Stiffarm.

56. **Eva Walker**, 906 Route 8, Dodson, MT 59524, (406) 301-2964. Ms. Walker has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Brian Wing.

57. **Kathy Wing**, Lodgepole, MT (406) 461-0824 Ms. Wing has knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Brian Wing.

58. **Harold Edwin Main,** P.O. Box 1052, Harlem, MT, 406-353-5149. Mr. Main was an employee of Kwik Stop on January 19, 2023, and has knowledge of activities that took place at Kwik Stop after the meeting. He also was retaliated against for stating what he saw.

59. **Ed Street,** CPA, REDW, 7425 Jefferson St. NE, Albuquerque, NM 87109. (505) 998-3228, Has knowledge of what individuals

endured with obtaining financial records.

60. **Indian Health Service Medical** providers, (406) 353-3100. These providers have knowledge related to how the events of January 19, 2023, and thereafter have affected Plaintiff Brian Wing.

61. **Defendant Jennifer Weddle**. Ms. Weddle is an attorney with Greenberg Traurig and has knowledge regarding her and Greenberg Traurig's services and advice provided to IMDG, her billing practices, her relationship with the third-party Lenders, knowledge regarding the Lending Agreements between IMDG and the Lenders, IMDG's communications and interaction with the Tribal Council, and the events leading up to and following the events of January 19, 2023.

62. All Defendants' witnesses.

63. Foundation witnesses.

64. Rebuttal witnesses.

65. Plaintiffs reserve the right to add to this list as additional investigation and discovery reveal any other persons likely to have discoverable information pertaining to Plaintiffs' claims.

H. Substance of Any Insurance Agreement

Defendants Greenberg Traurig and Jennifer Weddle are primarily covered under a policy provided by CNA/Columbia Casualty Company, Policy Number 198277147, in the amount of $7,500,000. Defendants state they have additional insurance policies.

I. Status of any Settlement Discussions and Prospects for Compromise of the Case.

The parties have not engaged in any settlement discussions as of the time of filing. Prospects for compromise of the case and resolution of Plaintiffs' claims may be likely.

J. Suitability of Special Procedures

Plaintiffs are not aware of any special procedures suitable to the resolution of their claims.

DATED this 16th day of January, 2024.

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served this 16th day of January, 2024, via the

Court's ECF system upon:

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Attorneys for Defendants

/s/_____
Certifier

Exhibit 8

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Attorneys for Jennifer Weddle and Greenberg Traurig LLP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

FORT BELKNAP INDIAN COMMUNITY PLANNING AND DEVELOPMENT CORPORATION D/B/A ISLAND MOUNTAIN DEVELOPMENT GROUP ("IMDG"); JEFFREY STIFFARM; GENO LEVALDO; DEREK AZURE; BRIAN WING; and CURTIS HORN, Plaintiffs, v. JENNIFER WEDDLE, and GREENBERG TRAURIG LLP, Defendants.	Case No. 4:23-CV-00054-BMM **ANSWER**

Defendants Jennifer Weddle and Greenberg Traurig LLP (collectively "Defendants") provide this Answer to the Complaint, Doc. 1, filed by Plaintiffs Fort Belknap Indian Community Planning and Development Corporation d/b/a Island Mountain Development Group ("IMDG"), Jeffrey Stiffarm, Geno LeValdo, Derek Azure, Brian Wing, and Curtis Horn.

For over a decade, Defendants diligently advised IMDG regarding the Tribe's consumer lending businesses. Those efforts included advising IMDG and IMDG-managed affiliates regarding various agreements with third parties, some of which extended commercial credit to the consumer lending businesses ("Lenders"). Pursuant to those agreements, IMDG and the Fort Belknap Indian Community Council ("FBICC" or "the Council") repeatedly confirmed to the Lenders that IMDG's Board was validly constituted and fully empowered to take all actions with respect to the consumer lending businesses. In five separate Council Resolutions that were expressly incorporated into the Lenders' contracts between 2018 and 2021, the Council promised not to interfere with the IMDG Board or any Tribal entity.

On January 19, 2023, the Council improperly removed the entire IMDG Board without cause. Shortly thereafter, the Lenders declared an Event of Default, confirmed that Event of Default in an email from their counsel, and then submitted a formal Event of Default letter to IMDG and President Stiffarm on January 20,

2023. The Lenders exercised their rights under the operative agreements, seized the Collateral, including control of the lending business bank accounts, and instructed IMDG to observe their obligations under the contracts.

Allegations concerning an alleged transfer of assets to the Rosebud Sioux Tribe are untrue. The IMDG Board and executives sought only to preserve Tribal member employment after the Lenders had already seized the Collateral following the Event of Default. No temporary transfer of any IMDG asset was ever acted upon, and confidential consideration of temporary servicing assistance that would have preserved tribal member employment caused no damage whatsoever.

The Council is solely responsible for the consequences of its actions, not the attorneys or the law firm named as Defendants in this lawsuit. No Greenberg Traurig attorneys were in Montana on January 19 or 20. No Greenberg Traurig attorneys spoke at any public meetings or posted to any social media about any matter involving IMDG. The issues set forth in the Complaint reflect an internal political dispute having nothing to do with Greenberg Traurig's longtime legal representation of its clients.

I. INTRODUCTION

1. Defendants deny the allegations stated in Paragraph 1 of the Complaint.

2. At all times, Defendants acted in the best interests of their clients. Defendants deny the allegations stated in Paragraph 2 of the Complaint.

3. Defendants admit that four members of the Council convened a Special Meeting on January 19, 2023. Defendants deny the remaining allegations stated in Paragraph 3 of the Complaint.

4. Defendants admit they advised IMDG that the Council's purported removal of the entire IMDG Board without cause and President Stiffarm's appointment of certain Council members as the "Interim Board" could constitute an Event of Default under IMDG's agreements with the Lenders. Defendants admit that they advised IMDG that the consequences of an Event of Default could include seizure of IMDG assets and loss of IMDG jobs. Defendants admit that a large number of IMDG employees attended the Special Meeting in person and by Zoom. Defendants admit that IMDG's Board and executive leadership granted employees administrative leave to be able to engage with their Tribal government. Defendants lack sufficient information to admit or deny the remaining allegations stated in Paragraph 4 of the Complaint.

5. Defendants admit that Defendant Weddle attended conference calls between IMDG representatives and the Lenders after the Council's meeting on January 19, 2023. Defendants deny the remaining allegations stated in Paragraph 5 of the Complaint.

6. Defendants admit that the Lenders issued a Notice of Default letter on January 20, 2023. Defendants deny the remaining allegations stated in Paragraph 6 of the Complaint.

7. Defendants admit that the Lenders issued a notice of default letter on January 20, 2023. Defendants lack sufficient information to admit or deny the remaining allegations stated in Paragraph 7 of the Complaint.

8. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 8 of the Complaint.

9. Defendants deny the allegations stated in Paragraph 9 of the Complaint.

10. Defendants deny the allegations stated in Paragraph 10 of the Complaint.

11. Defendants deny the allegations stated in Paragraph 11 of the Complaint.

12. Defendants deny the allegations stated in Paragraph 12 of the Complaint.

II. JURISDICTION AND VENUE

13. Defendants admit that the amount in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and that the dispute is between

citizens of different states. Defendants deny the remaining allegations stated in Paragraph 13 of the Complaint.

14. Defendants admit that this Court has personal jurisdiction over the Defendants as alleged in Paragraph 14 of the Complaint. Defendants deny the referenced bank accounts are located in Montana.

15. Defendants admit that venue is proper in this District. Defendants deny the remaining allegations stated in Paragraph 15 of the Complaint.

16. Defendants admit that assignment to this District is appropriate. Defendants deny the remaining allegations stated in Paragraph 16 of the Complaint.

III. PARTIES

Plaintiff IMDG

17. Defendants admit the allegations stated in Paragraph 17 of the Complaint.

18. Defendants admit the allegations stated in Paragraph 18 of the Complaint.

19. Defendants admit that IMDG manages several businesses, including several businesses which operate short-term, small dollar installment-based consumer lending portfolios, and that IMDG is bound to operate in compliance with its governing documents and the terms of the agreements it has with third

parties. Defendants deny the remaining allegations stated in Paragraph 19 of the Complaint.

20. Defendants admit that IMDG's principal place of business is in Hays, Montana, located within the exterior boundaries of the Fort Belknap Indian Reservation and that IMDG is incorporated under the laws of the Tribe. IMDG is governed by corporate documents that speak for themselves. Defendants deny that IMDG is registered with the Montana Secretary of State as a corporation formed in the State of Montana. Defendants deny the remaining allegations stated in Paragraph 20 of the Complaint.

21. Defendants admit that GVA Holdings, LLC ("GVA Holdings") is a holding company and that the Tribe is the sole member of GVA Holdings. Defendants admit that GVA Holdings' wholly owned subsidiaries conduct short-term, small-dollar installment-based lending portfolios.

Plaintiff Jeffrey Stiffarm

22. On information and belief, Defendants admit that Plaintiff Stiffarm was elected President of the Council following elections held in November 2021. On information and belief, Defendants admit that Plaintiff Stiffarm has been a member of the Council since 2016, and that he was a member of the Council between 2018 and 2021. On information and belief, Defendants admit that Plaintiff Jeffrey Stiffarm is an enrolled member of the Gros Ventre (Aaniiih) Tribe, is the

current President of the Council, and is a resident of the Fort Belknap Indian Reservation. Defendants deny the remaining allegations in Paragraph 22 of the Complaint.

23. Defendants admit the allegations stated in Paragraph 23 of the Complaint.

24. Defendants admit the allegation in Paragraph 24 of the Complaint that Plaintiff Stiffarm has served in different capacities on the Council. Defendants lack sufficient knowledge to admit or deny the remaining allegations stated in Paragraph 24 of the Complaint.

25. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 25 of the Complaint.

26. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 26 of the Complaint.

Plaintiff Geno LeValdo

27. On information and belief, Defendants admit that Plaintiff LeValdo is an enrolled member of the Gros Ventre (Aaniiih) Tribe, was elected to the Council in November 2021, and is a resident of the Fort Belknap Indian Reservation. Defendants deny the remaining allegations stated in Paragraph 27 of the Complaint.

28. Upon information and belief, Defendants admit that Plaintiff LeValdo has worked for many years as a Fort Belknap Juvenile Probation officer and that he has coached varsity basketball at Harlem and Hays Lodgepole.

29. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 29 of the Complaint.

30. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 30 of the Complaint.

Plaintiff Derek Azure

31. On information and belief, Defendants admit that Plaintiff Azure is an enrolled member of the Assiniboine (Nakoda) Tribe and a member of the Council. Defendants deny the remaining allegations stated in Paragraph 31 of the Complaint.

32. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 32 of the Complaint.

Plaintiff Brian Wing

33. On information and belief, Defendants admit that Plaintiff Wing is an enrolled member of the Assiniboine (Nakoda) Tribe, a member of the Council, and a resident of the Fort Belknap Indian Reservation. Defendants deny the remaining allegations stated in Paragraph 33 of the Complaint.

34. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 34 of the Complaint.

35. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 35 of the Complaint.

Plaintiff Curtis Horn

36. On information and belief, Defendants admit that Plaintiff Curtis Horn is an enrolled member of the Assiniboine (Nakoda) Tribe and a member of the Council. Defendants deny the remaining allegations stated in Paragraph 36 of the Complaint.

37. Defendants lack sufficient knowledge to admit or deny the allegations stated in Paragraph 37 of the Complaint.

38. On information and belief, Defendants admit the allegations stated in Paragraph 38 of the Complaint.

Defendants

39. Defendants admit that they are former legal counsel to IMDG. Defendants deny the remaining allegations stated in Paragraph 39 of the Complaint.

Defendant Jennifer Weddle

40. Defendants admit that Defendant Weddle is an individual and a resident of the State of Colorado.

41. Defendants admit that Defendant Weddle is a shareholder of Defendant Greenberg Traurig LLP in the Denver, Colorado office of the law firm.

42. Defendants admit that they served as legal counsel for IMDG and represented IMDG for approximately thirteen years until Plaintiff LeValdo terminated that representation by letter on February 10, 2023. Defendants deny the remaining allegations stated in Paragraph 42 of the Complaint.

43. Defendants admit that Defendant Weddle acted within the scope of her duties as Greenberg Traurig shareholder and lawyer while representing IMDG.

44. Defendants admit that Defendant Weddle transacted business within the State of Montana.

45. Defendants admit that Defendant Weddle represented IMDG for approximately thirteen years until Plaintiff LeValdo terminated that representation by letter on February 10, 2023.

Defendant Greenberg Traurig LLP

46. Defendants admit that Greenberg Traurig LLP is a limited liability partnership organized under the laws of the state of New York. Defendants deny the remaining allegations stated in Paragraph 46 of the Complaint.

47. Defendants admit that Defendant Weddle is a shareholder of Greenberg Traurig LLP and that she is currently the co-chair of the law firm's American Indian Law Practice group.

48. Defendants admit that Greenberg Traurig entered into certain contractual agreements with IMDG for legal services and provided legal services on behalf of IMDG for approximately thirteen years until Plaintiff LeValdo terminated that representation on February 10, 2023. Defendants deny the remaining allegations stated in Paragraph 48 of the Complaint.

IV. FACTS COMMON TO ALL COUNTS

49. Defendants admit that IMDG and certain IMDG affiliates are parties to certain agreements with the Lenders.

Defendants did not undermine the Council's authority, and acted at all times to preserve and protect IMDG interests.

50. Defendants deny the allegations stated in Paragraph 50 of the Complaint.

51. Defendants deny the allegations stated in Paragraph 51 of the Complaint.

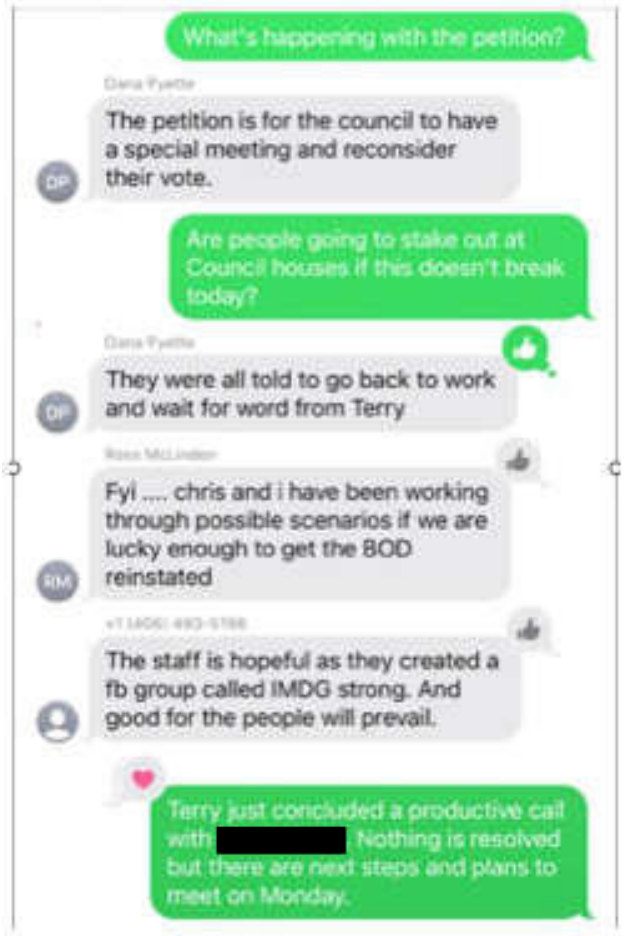
52. On information and belief, Defendants admit that IMDG employees attended the January 19, 2023 special meeting in person and via Zoom. Defendants lack sufficient knowledge to admit or deny the remaining allegations in Paragraph 52 of the Complaint.

53. Defendants deny the allegations stated in Paragraph 53 of the Complaint.

54. Defendants deny the allegations stated in Paragraph 54 of the Complaint.

55. Defendants deny the allegations stated in Paragraph 55 of the Complaint.

56. Defendants deny the allegations stated in Paragraph 56 of the Complaint. Plaintiffs have misled this Court by providing an out of context screen shot of Defendant Weddle's text messages. The referenced communication includes the following complete exchange and reflect Defendant Weddle's green "thumbs up" to confirmation that employees had been told to go back to work:



Events Leading up to the Special Meeting

57. Defendants deny the allegations stated in Paragraph 57 of the Complaint.

58. Defendants deny the allegations stated in Paragraph 58 of the Complaint.

59. Defendants deny the allegations stated in Paragraph 59 of the Complaint.

60. Defendants admit that Plaintiff Stiffarm communicated with then-IMDG CEO Terry Brockie and the Prior Board in 2022. Defendants deny the remaining allegations stated in Paragraph 60 of the Complaint.

61. Defendants admit that Plaintiff Stiffarm sent a letter to Mr. Brockie dated February 1, 2022. Plaintiff Stiffarm's February 1, 2022 letter to Mr. Brockie and the IMDG governing documents speak for themselves. Defendants deny the remaining allegations stated in Paragraph 61 of the Complaint.

62. Defendants admit that the IMDG Board (including Plaintiff Horn's spouse) responded to Plaintiff Stiffarm's February 1, 2022 letter by a letter dated February 3, 2022, and that IMDG did not provide Plaintiff Stiffarm with the position and salary of every IMDG employee. Defendants admit a true and correct copy of Plaintiff Stiffarm's letter to Mr. Brockie is attached to the Complaint as Exhibit A. Defendants admit a true and correct copy of IMDG's February 3, 2022

letter to Plaintiff Stiffarm is attached to the Complaint as Exhibit B. Defendants deny the remaining allegations stated in Paragraph 62 of the Complaint.

63. Defendants deny the allegations stated in Paragraph 63 of the Complaint.

64. Defendants admit that a true and accurate copy of a letter sent to Mr. Brockie by President Stiffarm dated April 7, 2022, is attached as Exhibit C to the Complaint. Defendants deny the remaining allegations in Paragraph 64 of the Complaint.

65. The letters referenced in Paragraph 65 of the Complaint speak for themselves. Defendants deny the remaining allegations in Paragraph 65 of the Complaint.

66. Defendants admit that a true and correct copy of Plaintiff Stiffarm's July 27, 2022 letter to Mr. Brockie and the Prior Board is attached to the Complaint as Exhibit D. Plaintiff Stiffarm's July 27, 2022 letter speaks for itself. Defendants deny the remaining allegations stated in Paragraph 66 of the Complaint.

67. Defendants admit that Mr. Brockie responded to Plaintiff Stiffarm's July 27, 2022 letter on August 19, 2022. Mr. Brockie's thorough response speaks for itself. Defendants deny the remaining allegations stated in Paragraph 67 of the Complaint.

68. Defendants deny the allegations stated in Paragraph 68 of the Complaint.

69. Defendants deny the allegations stated in Paragraph 69 of the Complaint.

Defendants did not interfere with IMDG operations or trigger an Event of Default.

70. Defendants deny that they interfered with IMDG operations or triggered an Event of Default. The Lenders informed CEO Terry Brockie of the Event of Default via telephone on January 19, 2023. On January 20, 2023, the Lenders' counsel emailed a Notice of Event of Default to IMDG attached as Exhibit 1. Counsel for the Lenders then sent a follow up letter confirming the Event of Default attached as Exhibit 2. Defendants deny the remaining allegations stated in Paragraph 70 of the Complaint.

71. The Default Notice speaks for itself. Defendants deny the remaining allegations stated in Paragraph 71 of the Complaint.

72. Defendants deny the allegations stated in Paragraph 72 of the Complaint.

73. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 73 of the Complaint.

74. Defendants deny the allegations stated in Paragraph 74 of the Complaint.

75. Defendants deny the allegations stated in Paragraph 75 of the Complaint.

Defendant Weddle followed her client IMDG's instructions.

76. Defendants deny that they refused to comply with their legitimate client's instructions. Defendants admit the remaining allegations stated in Paragraph 76 of the Complaint.

77. Defendants provided copies of IMDG's agreements with the Lenders to the Interim Board immediately upon request. Defendants deny the remaining allegations stated in Paragraph 77 of the Complaint.

78. Defendants admit that Defendant Weddle and the Lenders flew to Montana on January 30, 3023 and that Defendant Weddle drove them to and from the Fort Belknap Reservation on January 31, 2023.

79. Defendants admit that Defendant Weddle drove representatives of the Lenders back to Billings, Montana, following their meeting with the Council. Defendants deny the remaining allegations stated in Paragraph 79 of the Complaint.

80. The Lenders' February 3, 2023, letter speaks for itself, and is attached as Exhibit 3. Defendants admit the Lenders requested a certification that the appointment of the Interim Board complied with Tribal law and IMDG

organizational documents. Defendants deny the remainder of the allegations in Paragraph 80 of the Complaint.

81. The Lenders' February 3, 2023, letter speaks for itself. Defendants lack sufficient information to admit or deny whether IMDG has continued to refuse to comply with the requests made by the Lenders after February 10, 2023. Defendants deny the remaining allegations stated in Paragraph 81 of the Complaint.

82. Defendants admit Plaintiff LeValdo terminated their representation of IMDG by letter on February 10, 2023. Defendants lack sufficient information to admit or deny allegations regarding information obtained by the Interim Board after February 10, 2023. Defendants deny the remainder of the allegations in Paragraph 82 of the Complaint.

83. Defendants admit that Defendant Weddle communicated with the Lenders' counsel and stated that her legal opinions were no longer in effect as they were based on a set of facts that were no longer correct. Defendants deny the remaining allegations stated in Paragraph 83 of the Complaint.

84. Defendants deny the allegations stated in Paragraph 84 of the Complaint.

Defendant Weddle did not attempt to improperly transfer IMDG's assets to the Rosebud Sioux Tribe; at the time options were considered, the Lenders had already seized the Collateral, including control of the lending business bank accounts and the associated commercial paper.

85. Defendants deny the allegations stated in Paragraph 85 of the Complaint.

86. Defendants deny the allegations stated in Paragraph 86 of the Complaint.

87. Defendants deny the allegations stated in Paragraph 87 of the Complaint.

88. Defendants deny the allegations stated in Paragraph 88 of the Complaint.

89. Defendants admit Defendant Weddle was legal counsel for IMDG as of January 24, 2023. Defendants deny the remainder of the allegations in Paragraph 89.

90. Defendants admit that the potential temporary transfer of certain IMDG assets outside of the collateral was only discussed after the Lenders declared an Event of Default and had seized the IMDG collateral. Defendants deny the remaining allegations stated in Paragraph 90 of the Complaint.

91. Defendants admit no transfer of any IMDG assets to the Rosebud Sioux Tribe ever occurred. Defendants deny the remaining allegations stated in Paragraph 91 of the Complaint.

92. Defendants admit that Tracy "Ching" King and Christopher "Smiley" Guardipee were the two members of the "ad hoc executive committee" previously established by IMDG in 2018 to ensure operational IMDG's operational stability in the event the IMDG Board was unable to achieve a quorum. Defendants deny the remaining allegations stated in Paragraph 92 of the Complaint.

93. Defendants admit that IMDG established an ad hoc executive committee in 2018. Defendants deny the remaining allegations stated in Paragraph 93 of the Complaint.

94. Defendants deny the allegations stated in Paragraph 94 of the Complaint.

95. Defendants deny the allegations stated in Paragraph 95 of the Complaint.

Defendants have not engaged in improper billing practices.

96. Defendants deny the allegations stated in Paragraph 96 of the Complaint.

97. Defendants admit IMDG paid Defendants a total of $2,850,000 for legal services rendered during 2022 and admit that this amount reflected payments for work completed by Defendants in previous years that was outstanding. Defendants deny the remaining allegations stated in Paragraph 97 of the Complaint.

98. Defendants deny the allegations stated in Paragraph 98 of the Complaint.

99. Defendants deny the allegations stated in Paragraph 99 of the Complaint.

100. Defendants deny the allegations stated in Paragraph 100 of the Complaint.

101. Defendants deny the allegations stated in Paragraph 101 of the Complaint.

102. Defendants deny the allegations stated in Paragraph 102 of the Complaint.

103. Defendants deny the allegations stated in Paragraph 103 of the Complaint.

104. Defendants deny the allegations stated in Paragraph 104 of the Complaint.

V. FACTS COMMON TO INDIVIDUAL PLAINTIFF JEFFREY STIFFARM'S CAUSES OF ACTION

105. Defendants reassert each of the preceding responses to the allegations in the Complaint.

106. Defendants deny that the Council voted to appoint the Interim Board on January 19, 2023. Defendants lack sufficient information to admit or deny the remaining allegations stated in Paragraph 106 of the Complaint.

107. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 107 of the Complaint.

108. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 108 of the Complaint.

109. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 109 of the Complaint.

110. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 110 of the Complaint.

111. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 111 of the Complaint.

112. Defendants deny the allegations stated in Paragraph 112 of the Complaint.

113. Defendants deny the allegations stated in Paragraph 113 of the Complaint.

VI. FACTS COMMON TO INDIVIDUAL PLAINTIFF GENO LEVALDO'S CAUSES OF ACTION

114. Defendants reassert each of the preceding responses to the allegations in the Complaint.

115. Defendants deny that the Council voted to appoint the Interim Board on January 19, 2023. Defendants lack sufficient information to admit or deny the remaining allegations stated in Paragraph 115 of the Complaint.

116. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 116 of the Complaint.

117. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 117 of the Complaint.

118. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 118 of the Complaint.

119. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 119 of the Complaint.

120. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 120 of the Complaint.

121. Defendants deny the allegations stated in Paragraph 121 of the Complaint.

122. Defendants deny the allegations stated in Paragraph 122 of the Complaint.

123. Defendants deny the allegations stated in Paragraph 123 of the Complaint.

124. Defendants deny the allegations stated in Paragraph 124 of the Complaint.

VII. FACTS COMMON TO INDIVIDUAL PLAINTIFF GENO LEVALDO'S CAUSES OF ACTION

125. Defendants reassert each of the preceding responses to the allegations in the Complaint.

126. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 126 of the Complaint.

127. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 127 of the Complaint.

128. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 128 of the Complaint.

129. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 129 of the Complaint.

130. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 130 of the Complaint.

131. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 131 of the Complaint.

132. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 132 of the Complaint.

133. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 133 of the Complaint.

134. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 134 of the Complaint.

135. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 135 of the Complaint.

136. Defendants admit that Mr. Brockie advised Plaintiff Azure and other Council members that their actions could lead to an Event of Default and IMDG employees could lose their jobs, among other consequences. Defendants deny the remaining allegations stated in Paragraph 136 of the Complaint.

137. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 137 of the Complaint.

138. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 138 of the Complaint.

139. Defendants deny the allegations stated in Paragraph 139 of the Complaint.

140. Defendants deny the allegations stated in Paragraph 140 of the Complaint.

141. Defendants deny the allegations stated in Paragraph 141 of the Complaint.

142. Defendants deny the allegations stated in Paragraph 142 of the Complaint.

VIII. FACTS COMMON TO INDIVIDUAL PLAINTIFF BRIAN WING'S CAUSES OF ACTION

143. Defendants reassert each of the preceding responses to the allegations in the Complaint.

144. Defendants deny that the Council replaced the Prior Board on January 19, 2023. On information and belief, Defendants admit the remainder of the allegations stated in Paragraph 144 of the Complaint.

145. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 145 of the Complaint.

146. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 146 of the Complaint.

147. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 147 of the Complaint.

148. Defendants deny the allegations stated in Paragraph 148 of the Complaint.

149. Defendants deny the allegations stated in Paragraph 149 of the Complaint.

150. Defendants deny the allegations stated in Paragraph 150 of the Complaint.

151. Defendants deny the allegations stated in Paragraph 151 of the Complaint.

152. Defendants deny the allegations stated in Paragraph 152 of the Complaint.

153. Defendants deny the allegations stated in Paragraph 153 of the Complaint.

154. Defendants deny the allegations stated in Paragraph 154 of the Complaint.

155. Defendants deny the allegations stated in Paragraph 155 of the Complaint.

IX. FACTS COMMON TO INDIVIDUAL PLAINTIFF CURTIS HORN'S CAUSES OF ACTION

156. Defendants reassert each of the preceding responses to the allegations in the Complaint.

157. Defendants deny the Council voted to appoint the Interim Board on January 19, 2023. On information and belief, Defendants admit the remaining allegations of Paragraph 157 of the Complaint.

158. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 158 of the Complaint.

159. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 159 of the Complaint.

160. Defendants lack sufficient information to admit or deny the allegations stated in Paragraph 160 of the Complaint.

161. Defendants deny the allegations stated in Paragraph 161 of the Complaint.

162. Defendants admit that Defendant Weddle attended meetings of the Interim Board by Zoom. Defendants admit that the Lenders informed the Interim Board that seizure of IMDG assets was a potential consequence of the Event of Default. Defendants deny the remaining allegations stated in Paragraph 162 of the Complaint.

163. Defendants deny the allegations stated in Paragraph 163 of the Complaint.

164. Defendants deny the allegations stated in Paragraph 164 of the Complaint.

165. Defendants deny the allegations stated in Paragraph 165 of the Complaint.

166. Defendants deny the allegations stated in Paragraph 166 of the Complaint.

X. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF:

Tortious Interference with Business Relationship or Prospective Economic Advantage (Against Both Defendants by Plaintiff IMDG)

167. Defendants reassert each of the preceding responses to the allegations in the Complaint.

168. Defendants deny the allegations stated in Paragraph 168 of the Complaint.

169. Defendants deny the allegations stated in Paragraph 169 of the Complaint.

170. Defendants deny the allegations stated in Paragraph 170 of the Complaint.

171. Defendants deny the allegations stated in Paragraph 171 of the Complaint.

172. Defendants deny the allegations stated in Paragraph 172 of the Complaint.

173. Defendants deny the allegations stated in Paragraph 173 of the Complaint.

SECOND CLAIM FOR RELIEF:

Professional Negligence (Against Both Defendants by Plaintiff IMDG)

174. Defendants reassert each of the preceding responses to the allegations in the Complaint.

175. Defendants admit that they had those duties imposed by law and contract. Defendants deny that those duties are accurately stated in Paragraph 175 and specifically deny that they breached those duties.

176. Defendants deny the allegations stated in Paragraph 176 of the Complaint.

177. Defendants deny the allegations stated in Paragraph 177 of the Complaint.

178. Defendants deny the allegations stated in Paragraph 178 of the Complaint.

179. Defendants deny the allegations stated in Paragraph 179 of the Complaint.

THIRD CLAIM FOR RELIEF (ALTERNATIVE TO SECOND CLAIM FOR RELIEF):

Breach of Fiduciary Duty (Against Both Defendants by Plaintiff IMDG)

180. Defendants reassert each of the preceding responses to the allegations in the Complaint.

181. Defendants deny the allegations stated in Paragraph 181 of the Complaint.

182. Defendants deny the allegations stated in Paragraph 182 of the Complaint.

183. Defendants deny the allegations stated in Paragraph 183 of the Complaint.

184. Defendants deny the allegations stated in Paragraph 184 of the Complaint.

185. Defendants deny the allegations stated in Paragraph 185 of the Complaint.

186. Defendants deny the allegations stated in Paragraph 186 of the Complaint.

187. Defendants deny the allegations stated in Paragraph 187 of the Complaint.

188. Defendants deny the allegations stated in Paragraph 188 of the Complaint.

189. Defendants deny the allegations stated in Paragraph 189 of the Complaint.

FOURTH CLAIM FOR RELIEF:

Intentional Infliction of Emotion Distress (Against Both Defendants by Individual Plaintiffs)

190. Defendants reassert each of the preceding responses to the allegations in the Complaint.

191. Defendants deny the allegations stated in Paragraph 191 of the Complaint.

192. Defendants deny the allegations stated in Paragraph 192 of the Complaint.

193. Defendants deny the allegations stated in Paragraph 193 of the Complaint.

194. Defendants deny the allegations stated in Paragraph 194 of the Complaint.

195. Defendants deny the allegations stated in Paragraph 195 of the Complaint.

196. Defendants deny the allegations stated in Paragraph 196 of the Complaint.

197. Defendants deny the allegations stated in Paragraph 197 of the Complaint.

198. Defendants deny the allegations stated in Paragraph 198 of the Complaint.

FIFTH CLAIM FOR RELIEF:

Negligent Infliction of Emotional Distress (Against Both Defendants by Individual Plaintiffs)

199. Defendants reassert each of the preceding responses to the allegations in the Complaint.

200. Defendants deny the allegations stated in Paragraph 200 of the Complaint.

201. Defendants deny the allegations stated in Paragraph 201 of the Complaint.

202. Defendants deny the allegations stated in Paragraph 202 of the Complaint.

203. Defendants deny the allegations stated in Paragraph 203 of the Complaint.

204. Defendants deny the allegations stated in Paragraph 204 of the Complaint.

205. Defendants deny the allegations stated in Paragraph 205 of the Complaint.

206. Defendants deny the allegations stated in Paragraph 206 of the Complaint.

207. Defendants deny the allegations stated in Paragraph 207 of the Complaint.

208. Defendants deny the allegations stated in Paragraph 208 of the Complaint.

SIXTH CLAIM FOR RELIEF:

Civil Conspiracy (Against All Defendants by All Plaintiffs)

209. Defendants reassert each of the preceding responses to the allegations in the Complaint.

210. Defendants deny the allegations stated in Paragraph 210 of the Complaint.

211. Defendants deny the allegations stated in Paragraph 211 of the Complaint.

212. Defendants deny the allegations stated in Paragraph 212 of the Complaint.

213. Defendants deny the allegations stated in Paragraph 213 of the Complaint.

214. Defendants deny the allegations stated in Paragraph 214 of the Complaint.

GENERAL DENIAL

Defendants deny all allegations stated in the Complaint not specifically admitted.

AFFIRMATIVE DEFENSES

Subject to discovery which may reveal additional affirmative defenses, Defendants assert the following affirmative defenses:

1. This Court may ultimately lack subject matter jurisdiction over the claims asserted in this lawsuit based on lack of standing or justiciability concerns, including the political question doctrine.

2. As to each cause of action alleged in the Complaint, Plaintiffs fail to state a claim upon which relief can be granted.

3. Plaintiffs have failed to allege an injury sufficient to state a claim for intentional infliction of emotional distress or negligent infliction of emotional distress.

4. Plaintiffs' alleged damages, if any, are the result of the actions of the Council.

5. Without admitting liability, Defendants affirmatively allege that the Council, or other parties and/or third parties not joined in this action were legally responsible or otherwise at fault, in whole or in part, for the damages alleged by Plaintiffs.

6. The Council's actions were an independent, intervening cause of Plaintiffs' alleged damages. Defendants' conduct was neither the cause-in-fact of Plaintiffs' alleged injuries, nor the proximate cause of Plaintiffs' alleged injuries. *Fisher v. Swift Transp. Co.*, 2008 MT 105, ¶¶ 38–39, 342 Mont. 335, 181 P.3d 601.

7. The Council's actions were an intervening superseding cause of Plaintiffs' alleged damages. *Faulconbridge v. State*, 2006 MT 198, ¶ 81, 333 Mont. 186, 142 P.3d 777.

8. Plaintiffs' damages, if any, were caused by unforeseeable, intervening and independent factors unrelated to the actions of Defendants.

9. Plaintiffs' damages, if any, are barred entirely or reduced by their failure to mitigate.

10. Plaintiffs' damages, if any, were caused by its own actions or omissions or the actions or omissions of persons or entities over whom Defendants did not have control.

11. Plaintiffs' claims are barred, in whole or in part, by statutes of limitation or other time-based defenses.

12. Plaintiffs' damages, if any, must be reduced in whole or in part by their own comparative fault.

13. Plaintiffs are estopped from pursuing the relief sought in the Complaint by reason of their own action(s), inaction(s), course of conduct, or by the actions, agreement, or course of conduct of their agents.

14. For any damages Plaintiff IMDG may recover for the claims alleged in the Complaint, Defendants are entitled to a set off.

15. For any damages Plaintiff IMDG may recover for the claims alleged in the Complaint, Defendants are entitled to recoupment.

16. Plaintiffs' claims are barred by the doctrine of unclean hands.

17. Plaintiffs fail to state a claim for punitive damages.

18. Plaintiffs' request for punitive damages is barred because this matter arises from a contract or breach of contract and Defendants are not guilty of actual fraud or actual malice. Mont. Code Ann. §§ 27–1–220(2)(a); Mont. Code Ann. § 27–1–221.

19. Any award of punitive damages in this matter would violate Defendants' rights as established by the United States Constitution, including but not limited to due process and equal protection under the law, as well as the applicable provisions of the Montana Constitution, and would be improper under the common law and public policies of the State of Montana.

20. Defendants hereby provide notice that they intend to rely upon such other affirmative defenses as they may become available or apparent during the course of discovery or other proceedings in this action, and reserves the right to amend this list to assert other applicable defenses that Defendants may be entitled to assert.

RELIEF REQUESTED

NOW THEREFORE, Defendants respectfully request that:

A. Plaintiffs take nothing by way of their Complaint;

B. The Court dismiss the claims asserted in Plaintiffs' Complaint with prejudice;

C. The Court enter judgment in favor of Defendants and against Plaintiffs on all of Plaintiffs' claims;

D. The Court award Defendants their reasonable attorney's fees and costs; and

E. That Defendants be granted such other and further relief as this Court deems just and proper.

Dated this 6th day of November, 2023.

CROWLEY FLECK PLLP

By /s/ Neil G. Westesen
Neil G. Westesen
Griffin B. Stevens
E. Lars Phillips
P.O. Box 797
Helena, MT 59624-0797
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of November, 2023, a true and correct copy of the foregoing was delivered by the following means to the following:

[ ] U.S. Mail	Terryl T. Matt, Esq.
[ ] FedEx	MATT LAW OFFICE, PLLC
[ ] Hand-Delivery	310 E Main Street
[ ] E-Mail	Cut Bank, MT 59427
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/s/ Neil G. Westesen
Neil G. Westesen

Exhibit 9

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Attorneys for Jennifer Weddle and Greenberg Traurig LLP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

JEFFREY STIFFARM; GENO LEVALDO; DEREK AZURE; BRIAN WING; and CURTIS HORN, Plaintiff, v. JENNIFER WEDDLE, and GREENBERG TRAURIG LLP, Defendant.	Case No. 4:23-CV-00054-BMM **DEFENDANTS' PRELIMINARY PRETRIAL STATEMENT**

Defendants Greenberg Traurig LLP and Jennifer Weddle submit this Preliminary Pretrial Statement pursuant to Fed. R. Civ. P. 26(a)(1) and L.R. 16.2(b)(1) and in accordance with this Court's order, Doc. 12 at 1–2.

A. Brief Factual Outline of the Case.
L. R. 16.2(b)(1)(A).

What remains of this case[1] are the allegations by one current and four former elected officials who claim that Defendants—a lawyer and her law firm—instigated and orchestrated personal attacks against them for a "few days" in January 2023, causing emotional distress. Defendants did no such thing. Instead, the experiences each of these elected officials described as the basis for their allegations against Defendants were the product of decisions the Plaintiffs made and actions the Plaintiffs took. These elected officials chose to wrongfully interfere with a tribal business, and the Complaint describes how members of the Fort Belknap Indian Community and employees of that business reacted. But Defendants played no role in those reactions. Defendants did not support, instigate, or encourage any of the adverse behavior allegedly directed by Fort Belknap private citizens toward Fort Belknap elected officials that Plaintiffs describe in their Complaint.

The Fort Belknap Indian Community is led by the Fort Belknap Indian Community Council (the "Council"). In late 2021, the individual Plaintiffs were elected to the Council: Geno LeValdo, Derek Azure, Brian Wing, and Curtis Horn as Councilmembers, and Jeffrey Stiffarm as President. The individual Plaintiffs

[1] Island Mountain Development Group ("IMDG") dismissed its complaint with prejudice on January 10, 2024. Doc. 15.

then began to interfere improperly with the Fort Belknap Indian Community Planning and Development Corporation d/b/a Island Mountain Development Group business. IMDG, through its existing leadership, appropriately rebuffed those attempts.

On January 19, 2023, the Council held a special meeting and purported to remove all members of the IMDG Board of Directors in a bitterly contested and evenly-divided vote. This action violated Tribal law and interfered with IMDG's business. The Council took no further action at that meeting and did not appoint any new board members. Under the Fort Belknap Indian Community's law, the Council's actions at this special meeting had to be ratified at a regular meeting within thirty days to be effective, but they never were.

The consequences of the Council's improper interference with IMDG leadership were immediate and severe. IMDG's principal outside creditor declared an event of default that same night, sent an official notice of default letter on January 20, and eventually seized control of IMDG's bank accounts.

On January 20, 2023, Plaintiff Stiffarm sent a letter—never acted upon by the Council or even discussed at the January 19 meeting—purporting to appoint six members of the Council to the IMDG Board of Directors. Of those six members, four—a majority—were part of the new leadership that had come to power in 2021 and are individual Plaintiffs here: LeValdo, Azure, Wing, and Horn.

On January 24, 2023, IMDG's CEO Terry Brockie resigned in protest over the Council's actions. The new IMDG leadership—improperly appointed by President Stiffarm acting alone and without Council action just days prior and now purportedly acting as the Interim Board of IMDG—met and appointed Jarrett Azure as CEO of IMDG. Jarrett Azure is a close relative of both Plaintiff LeValdo and Plaintiff Azure, two of the six members of the Interim Board.

Both at the January 19, 2023 Special Council meeting and thereafter, members of the Fort Belknap Indian Community voiced their disagreement with the actions taken by the individual Plaintiffs. IMDG's existing Board focused on trying to stabilize the situation, cure the defaults, and provide as much job security for IMDG employees as possible. Defendants provided legal advice to their client of more than a decade until February 10, 2023, when Plaintiff LeValdo purported to terminate that representation.

In the weeks and months that followed, the individual Plaintiffs' actions caused the termination, resignation, or demotion of all but one member of IMDG's executive leadership team, including two CEOs, the CFO, the chief communications officer, the HR Director, the deputy HR director, the General Manager of the 8(a) government contracting business, the chief compliance officer, the General Manager of the lending business, the chief technology officer, and many other long-time IMDG employees, most of whom are Tribal members, as

part of the takeover of IMDG. Plaintiffs also failed to cure the events of default. These actions and inactions precipitated frequent posting on Fort Belknap social media that laid bare the intense Tribal infighting. Defendants had nothing whatsoever to do with these events and never made or reacted to any posts.

This lawsuit was filed only a few weeks before the Tribal primary election. In November of 2023, individual Plaintiffs LeValdo, Azure, Wing, and Horn were up for re-election, and each was defeated by his challenger. All but one of the eight incumbent Council members was defeated in the election, demonstrating Fort Belknap citizens' desire for sweeping change. The new Council terminated the Interim Board and installed a new Board. None of the individual Plaintiffs has any role or authority in IMDG, which voluntarily dismissed its claims in this suit with prejudice on January 10, 2024.

Plaintiffs allege three causes of action against Defendants: (1) intentional infliction of emotional distress (by the individual Plaintiffs against both Defendants); (2) negligent infliction of emotional distress (by the individual Plaintiffs against both Defendants); and (3) civil conspiracy (by the individual Plaintiffs against both Defendants). But Defendants did not cause the actions alleged and the allegations in the Complaint are not sufficient to give rise to claims for intentional or negligent infliction of emotional distress or to establish a civil conspiracy.

In fact, neither Ms. Weddle nor any other Greenberg Traurig lawyer was physically present in Montana immediately before or during any Council proceedings in January 2023. Nor did they speak on the Zoom broadcast of those events or post in the chat for any events. Ms. Weddle does not have any social media account and no Greenberg Traurig attorney directed any communication whatsoever into the public domain related to the significant Tribal intramural political dispute caused by Plaintiffs' illegal ouster of the IMDG Board, subsequent replacement of themselves as the Board, and resulting loan default that put IMDG's roughly 400 jobs at risk. Defendants provided only confidential and privileged legal advice to their client, IMDG.

Defendants deny all of Plaintiffs' claims for relief.

B. The Basis for Federal Jurisdiction and Venue.
L. R. 16.2(b)(1)(B).

Plaintiffs assert subject matter jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1367. Defendants do not contest subject matter or personal jurisdiction or venue.

C. Factual Basis for Defendants' Defenses
L. R. 16.2(b)(1)(C)

The common factual basis for Defendants' defense to the claims made by the Plaintiffs is that Defendants did not cause the harm alleged.

As to the individual Plaintiffs' claims, the Defendants posted nothing to social media, said nothing at the Council meeting, were not present on the Reservation on the evening question, and certainly did not insult or threaten anyone, much less shoot anyone's horses or suggest that anyone else do so. Additional facts are described in connection with the legal theories underlying Defendants' defenses in section D below.

D. Legal Theories underlying Defendants' Defenses.
L. R. 16.2(b)(1)(D).

Defendants reserve the right to supplement and amend their Preliminary Pretrial Statement. Based on the information known at this stage of proceedings, Defendants assert the following affirmative defenses:

1. Plaintiffs have failed state a claim against Defendants and have failed to allege an injury sufficient to state a claim for intentional infliction of emotional distress or negligent infliction of emotional distress.
Affirmative Defense No. 2 and 3

Plaintiffs' claims are barred, in whole or in part, to the extent the Complaint fails to state a claim upon which relief may be granted. Fed. R. Civ. P. 12(b)(6). Further, by seeking elected office, Plaintiffs consented to participate in much of the conduct that they now claim caused them emotional distress, such as the adverse reactions of constituents to actions the individual Plaintiffs took in their elected capacity. Additionally, any conduct that Defendants engaged in was protected by either the First Amendment or privileges related to their obligation as attorneys.

Montana law only allows an independent cause of action for either intentional infliction of emotional distress or negligent infliction of emotional distress when a plaintiff can show serious and severe emotional distress as a reasonably foreseeable consequence of a defendant's intentional act or omission. *Sacco v. High Country Independent Press*, 271 Mont. 209, 896 P.2d 411 (Mont. 1995). Plaintiffs have not alleged sufficient facts to state a claim under either theory, and Defendants anticipate establishing through discovery that the individual Plaintiffs cannot prevail under either theory.

Further, Plaintiffs have failed to allege facts sufficient to establish the elements of a civil conspiracy. *See Schumacker v. Meridian Oil Co.*, 1998 MT 79, ¶ 18, 288 Mont. 217, 956 P.2d 1370.

2. Defendants did not cause the harm alleged by Plaintiffs.
Affirmative Defenses Nos. 4–8 and 10

A defendant is only responsible for the harm they cause. Defendants' conduct was neither the cause-in-fact of Plaintiffs' alleged injuries, nor the proximate cause of Plaintiffs' alleged injuries. *Fisher v. Swift Transp. Co.*, 2008 MT 105, ¶¶ 38–39, 342 Mont. 335, 181 P.3d 601. Plaintiffs' own actions and/or the actions of third parties over whom Defendants have no control were the intervening superseding causes of their alleged damages. *Faulconbridge v. State*, 2006 MT 198, ¶ 81, 333 Mont. 186, 142 P.3d 777. Further, other parties not joined in this action were legally responsible, in whole or in part, for the damages alleged

by the Plaintiffs. Finally, Montana law precludes Plaintiffs from recovering damages from Defendants if those damages were the result of unforeseeable, intervening, or independent factors unrelated to the actions of Defendants. Defendants anticipate discovery will provide additional facts supporting these affirmative defenses.

3. Comparative fault
Affirmative Defense No. 12

Montana law requires that Plaintiffs damages, if any, be reduced in whole or in part by their own comparative fault. Mont. Code Ann. § 27–1–703. Defendants anticipate discovery will provide additional facts supporting this affirmative defense.

4. Plaintiffs should be estopped from pursuing the relief sought in the Complaint due to their own actions, inactions, and course of conduct.
Affirmative Defense No. 13

Equitable estoppel and estoppel by silence are recognized defenses under Montana law. *E.g.*, *Nw. Potato Sales, Inc. v. Beck*, 208 Mont. 310, 316, 678 P.2d 1138, 1141 (Mont. 1984). In addition to the facts described above, Defendants anticipate supporting this affirmative defense with additional facts through discovery.

5. Plaintiffs' claims are barred by the doctrine of unclean hands.
Affirmative Defense No. 16

Under Montana law, a party cannot obtain relief in equity unless they come to court with clean hands. *Kauffman–Harmon v. Kauffman*, 2001 MT 238, ¶ 159, 307 Mont. 45, 36 P.3d 408. In addition to the facts described above, Defendants anticipate establishing through discovery that the doctrine of unclean hands bars Plaintiffs requested relief, in whole or in part.

6. Punitive Damages
Affirmative Defenses Nos. 17–19

Plaintiffs have failed to state a claim for punitive damages. Fed. R. Civ. P. 12(b)(6). Plaintiffs are barred from obtaining punitive damages because Defendants are not guilty of actual fraud or actual malice. Mont. Code. Ann. § 27–1–221 (1). Further, Plaintiffs request for punitive damages must fail because such a request may not be contained in an initial pleading filed with the Court. Mont. Code Ann. § 27–1–221(5). Finally, any award of punitive damages would violate Defendants' constitutional rights. U. S. Const., amend. XIV; Mont. Const. art., I, § 1; Mont. Code Ann. § 27–1–221; *see Cooper Industries v. Leatherman Tool Group*, 532 U.S. 424 (2001).

E. Computation of Damages.
L. R. 16.2(b)(1)(E).

Defendants are not currently seeking damages from the individual Plaintiffs. Defendants reserve the right to seek their attorney's fees and costs to the extent allowed by law.

F. Any Related State or Federal Litigation.
L. R. 16.2(b)(1)(F).

None.

G. Proposed Additional Stipulations of Fact and Choice of Law.
L. R. 16.2(b)(1)(G).

1. Additional Stipulated Facts

None.

2. Choice of Law

Defendants understand that federal law applies to procedural issues in this dispute, and Montana law applies to all substantive issues and to Plaintiffs' claims.

H. Proposed Deadlines Regarding Joinder of Parties and Amendment of Pleadings.
L. R. 16.2(b)(1)(H).

Defendants propose May 6, 2024, as the deadline for joinder of parties and amendment of pleadings.

I. Controlling Issues of Law Suitable for Pretrial Disposition.
L. R. 16.2(b)(1)(I).

Defendants have not yet identified all pretrial motions they intend to file. Defendants anticipate all claims asserted in the Plaintiffs' Complaint are suitable for pretrial disposition through motions for summary judgment.

J. Individuals Believed to Have Information.
L. R. 16.2(b)(1)(J).

Based on the information known at this time regarding Plaintiffs' claims, the following individuals likely have information that may be used in proving or

denying any party's claims or defenses. Defendants reserve the right to amend and supplement this preliminary pretrial statement or to disclose additional information in its written discovery responses.

1. Jennifer Weddle

Denver, Colorado

Ms. Weddle has knowledge regarding the services provided by Greenberg Traurig to IMDG, IMDG's history and business practices, requirements imposed by third-party lenders ("Lenders") and associated documents, IMDG's communications and interaction with the Council, and the events leading up to and following the Council's actions on January 19, 2023 and thereafter.

2. Troy Eid

Denver, Colorado

Mr. Eid has knowledge of certain services provided by Greenberg Traurig to IMDG as well as some of the events leading up to and following the Council's actions on January 19, 2023, and thereafter.

3. Terry Brockie

Fort Belknap Indian Reservation

Mr. Brockie previously served as IMDG's Chief Executive Officer. Mr. Brockie has knowledge regarding the services provided by Greenberg Traurig to IMDG, IMDG's history and business practices and requirements imposed by the

Lenders and associated documents, IMDG's communications and interaction with the Council, and the events leading up to and following the Council's actions on January 19, 2023.

4. Tracy "Ching" King

Fort Belknap Indian Reservation

Mr. King is a former member of the Council, and a former member and Chairman of the IMDG Board of Directors. Mr. King has knowledge regarding some of the events leading up to and following the Council's actions on January 19, 2023.

5. Christopher "Smiley" Gardipee

Fort Belknap Indian Reservation

Mr. Gardipee is a former member and Secretary/Treasurer of the IMDG Board of Directors. Mr. Gardipee has knowledge regarding some of the events leading up to and following the Council's actions on January 19, 2023.

6. Kenneth "Tuffy" Helgeson

Fort Belknap Indian Reservation

Mr. Helgeson was appointed to the IMDG Board of Directors in 2018 and served as its Vice Chairman until January 2023. Mr. Helgeson has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

7. John Hawley

Fort Belknap Indian Reservation

Mr. Hawley was appointed to the IMDG Board of Directors in 2018. Mr. Hawley has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

8. Harold "Jiggs" Main

Fort Belknap Indian Reservation

Mr. Main was appointed to the IMDG Board of Directors in 2018. Mr. Main has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

9. Ramona Horn

Fort Belknap Indian Reservation

Ms. Horn was appointed to the IMDG Board of Directors in 2018. Ms. Horn has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

10. Plaintiff Jeffrey Stiffarm

Fort Belknap Indian Reservation

Mr. Stiffarm is the current President of the Council. Mr. Stiffarm has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

11. Judith King

Fort Belknap Indian Reservation

Ms. King is the current Vice President of the Council. Ms. King has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

12. Plaintiff Geno LeValdo

Fort Belknap Indian Reservation

Mr. LeValdo was a member of the Council. Mr. LeValdo has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

13. Plaintiff Curtis Horn

Fort Belknap Indian Reservation

Mr. Horn was a member of the Council. Mr. Horn has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

14. Steve "Shelley" Fox Jr.

Fort Belknap Indian Reservation

Mr. Fox is a current member of the Council and was a member of the IMDG Interim Board. Mr. Fox has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

15. Plaintiff Derek "Sam" Azure

Fort Belknap Indian Reservation

Mr. Derek Azure was a member of the Council. Mr. Azure has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

16. Mark Azure

Fort Belknap Indian Reservation

Mr. Mark Azure is the Superintendent of the Bureau of Indian Affairs, and he has knowledge of some of the events described in the Complaint.

17. Dominic Messerly

Fort Belknap Indian Reservation

Mr. Messerly was a member of the Council. Mr. Messerly has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

18. Plaintiff Brian Wing

Fort Belknap Indian Reservation

Mr. Wing was a member of the Council. Mr. Wing likely has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

19. Warren Morin

Fort Belknap Indian Reservation

Mr. Morin was a member of the Council. Mr. Morin has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

20. Dana Pyette

Havre, Montana

Ms. Pyette previously served as IMDG's Chief Financial Officer. Ms. Pyette has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

21. Delina Cuts the Rope

Fort Belknap Indian Reservation

Ms. Cuts the Rope is Fort Belknap Indian Community's Chief Administrative Officer. Ms. Cuts the Rope has knowledge of some of the events leading up to and following the Council's actions on January 19, 2023.

22. Terryl Matt

Cut Bank, Montana

Ms. Matt is counsel for the Plaintiffs in this case. Defendants anticipate that Ms. Matt has information concerning a social media posting on January 25, 2023

titled "Public Service Announcement" and published on the FBIC's social media account, as well as other social media postings related to IMDG.

23. Dan Belcourt

Missoula, Montana

Mr. Belcourt is an attorney who represented the Tribe for many years. Defendants anticipate he may have knowledge of the events leading up to and following the Council's actions on January 19, 2023.

24. Ashley Kennedy

Fort Belknap Indian Reservation

Ms. Kennedy was a member of the IMDG Executive team in January 2023, and has knowledge of the events on and after January 19, 2023.

25. James Flansburg

Fort Belknap Indian Reservation

Mr. Flansburg is a current IMDG employee was a member of the IMDG Executive team in January 2023. Mr. Flansburg has knowledge of the events on and after January 19, 2023.

26. Pete Stiffarm

Havre, Montana

Mr. Stiffarm is a former employee of IMDG and was a member of the IMDG Executive team in January 2023. He has information regarding the allegations made in the Complaint.

27. Chris Biewer

Baltimore, Maryland

In January 2023, Mr. Biewer served as IMDG's General Manager of Lender Operations. He has information regarding the allegations made in the Complaint.

28. Ross McLinden

Billings, Montana

Mr. McLinden is a former employee of IMDG and was a member of the IMDG Executive team in January 2023. He has information regarding the allegations made in the Complaint.

29. Jackie Blackbird

Fort Belknap Indian Reservation

Ms. Blackbird is a former employee of IMDG and was a member of the IMDG Executive team in January 2023. She has information regarding the allegations made in the Complaint.

30. Dustin Monroe

Missoula, Montana

Mr. Monroe is a former employee of IMDG and was the General Manager of Buffalo Horse, Inc. in January and February 2023. He has information regarding the allegations made in the Complaint.

31. 'Denise Doney

Fort Belknap Indian Reservation

Ms. Doney is a former employee of IMDG who has knowledge or information regarding the allegations in the Complaint.

32. Charmayne Healy

Billings, Montana

Ms. Healy is a former IMDG employee who has knowledge of the events on and after January 19, 2023.

32. Sunshine Nicholson

Puyallup, Washington

In January and February 2023, Ms. Nicholson served as Administrator of the Fort Belknap Indian Community Tribal Lending Regulatory Authority. She has knowledge regarding the allegations in the Complaint.

33. Various other fact witnesses

Fort Belknap Indian Reservation

Discovery has not yet commenced and there are various other individuals who may have knowledge or information regarding the allegations remaining the

Complaint. Defendants will supplement this preliminary pretrial statement to identify these individuals as discovery proceeds and as appropriate.

K. Insurance.
L. R. 16.2(b)(1)(K).

Various insurance policies with different limits may provide coverage for Jennifer Weddle and Greenberg Traurig. The primary insurance layer is provided by CNA/Columbia Casualty Company, Policy Number 198277147, in the amount of $7,500,000. A copy of that policy has been provided to Plaintiffs. Information regarding excess layers which may provide additional coverage will be provided upon entry of a suitable protective order. Counsel makes no representation regarding coverage under any insurance policy.

L. Status of any Settlement Discussions and Prospects for Compromise.
L. R. 16.2(b)(1)(L).

Plaintiff IMDG's claims against both Defendants have been dismissed with prejudice pursuant to the Joint Stipulation for Dismissal with Prejudice and Order by this Court. The individual Plaintiffs have not attempted to negotiate the dismissal of their claims and the likelihood of compromise is currently unknown.

M. Suitability of Special Procedures
L. R. 16.2(b)(1)(M).

Beyond the procedures disclosed in the Joint Discovery Plan and the Discovery Protocol agreed to by the parties, as well as entry of a protective order regarding confidential documents, Defendants do not believe this case warrants

any special procedures. However, given that all claims asserted by IMDG in this lawsuit have been dismissed with prejudice, Defendants expect that significant issues concerning the attorney-client privilege may arise during this litigation. The remaining Plaintiffs are not entitled to any information covered by the attorney client privilege that exists between IMDG and Defendants absent a waiver of that privilege, which Defendants cannot unilaterally give. Therefore, the fact that discovery may seek to invade extensive information protected by the attorney client privilege may need to be specially addressed.

Dated this 16th day of January, 2024.

CROWLEY FLECK PLLP

By /s/ Neil G. Westesen
Neil G. Westesen
Griffin B. Stevens
E. Lars Phillips
P.O. Box 797
Helena, MT 59624-0797
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 2024, a true and correct copy of the foregoing was delivered by the following means to the following:

[ ] U.S. Mail	Terryl T. Matt, Esq.
[ ] FedEx	MATT LAW OFFICE, PLLC
[ ] Hand-Delivery	310 E Main Street
[ ] E-Mail	Cut Bank, MT 59427
[x] ECF	terrylm@mattlawoffice.com

Jeffrey G. Winter, Esq.
DUROCHER &WINTER, P.C.
P.O. Box 1629
Great Falls, MT 59401
jwinter@mtlawyers.net

/s/ Neil G. Westesen
Neil G. Westesen

Exhibit 10

[redacted]

Terry Brockie
Chief Executive Officer
353 Old Hays Road
Hays, Montana 59527
Via email at: terry.brockie@islandmtn.com

With Copy to: Jennifer Weddle at weddlej@gtlaw.com

Re: Event of Default

Dear Mr. Brockie,

[redacted] hereby declares an Event of Default has occurred on all loan agreements, associated promissory notes and other associated documents (the "Facility Documents") between [redacted] and entities affiliated with the Fort Belknap Indian Community and managed by Island Mountain Development Group ("IMDG") (the "Borrower Entities"). The Tribal Council's actions, broadcast via social media, abrogates Tribal Council Resolutions executed between 2018 and 2021 and violate other provisions of the Facility Documents. [redacted] is hopeful the Event of Default will be cured quickly. However, as a precaution, [redacted] has provided the required Conforming Instruction to the Borrower Entity's financial institutions to exercise immediate control over the financial accounts of the Borrower Entities until such time as [redacted], in its sole discretion, has determined the Event of Default cured. Under the terms of existing Deposit Account Control Agreements, the financial institutions have been instructed to prevent the withdrawal, transfer, disposition of, or the exercise of any other form of dominion or control over associated Collateral without [redacted]'s prior written consent. [redacted] will inform you of new approval protocols regarding banking operations as soon as it has completed its analysis.

IMDG is to take no actions during this period that would impact any Collateral for any of the loan agreements or associated notes in effect for the Borrower Entities without [redacted]'s consent. [redacted] reserves the rights pursuant to the power of attorney granted in an Event of Default regarding the Collateral associated with the Borrower Entities to take such actions [redacted], in its sole discretion, deems appropriate. [redacted] explicitly reserves all other rights and privileges under the loan agreements and promissory notes for use at a future time. Failure to exercise those rights at this time shall not constitute a waiver thereof.

[redacted] values its relationship with IMDG and the Fort Belknap Indian Community, and it is [redacted]'s sincere hope that steps are taken to immediately cure the Event of Default.

Sincerely,

[redacted]

Exhibit 11

JOHN T. WILLIAMS
ATTORNEY

CONFIDENTIAL INFORMATION—NOT FOR DISTRIBUTION
PROTECTED UNDER JOINT DEFENSE PRIVILEGE

February 3, 2023

Jennifer Weddle
Counsel for IMDG
Via email at weddlej@gtlaw.com

With copy to:

Fort Belknap Indian Community Council
Via email at: council@ftbelknap.org

Geno LaValdo
Interim Chairman
IMDG Board of Directors
Via email at glavaldo@ftbelknap.org

Jarrett Azure
Interim CEO IMDG
Via email at jarrett.azure@islandmtn.com

Re: Due Diligence Renewal and Certifications

Dear Ms. Weddle:

First, my client, [redacted], wishes to thank the Council, the IMDG Interim Board and the IMDG Interim CEO for taking the time to meet on Tuesday, January 31, 2023. As expressed in those meetings, [redacted] values the positive social impacts its business relationship with IMDG managed entities has created for the Tribes' members. During [redacted]'s several visits to the reservation, their team has heard firsthand how impactful the educational opportunities and jobs resulting from IMDG's successes have been on the lives of Tribal members. [redacted] understands and appreciates that nearly 400 jobs and approximately half of the Tribal government's budget are dependent on the continued operations of the lending businesses managed by IMDG.

As discussed with the IMDG Board, [redacted] needs to renew the due diligence completed when the transactions with the IMDG entities were signed. We currently lack legal documentation demonstrating that either the Interim Board or the Interim CEO are properly seated and licensed under Tribal Law. As with any business counterparty, [redacted] must have proper documentation on who has authority to act. Please convey to the Tribal parties that these are questions typically sent to any counterparty in a similar situation to ensure there are no future complications regarding authorizations completed during this interim period and going forward. These due diligence questions are attached as Schedule A to this letter. [redacted] respectfully requests the answers to these questions by 5:00 PM Mountain time February 10, 2023.

PO Box 701596 Tulsa, Oklahoma 74170-1596
Office 918-732-9435 |Fax 918-515-4334 | info@jtw-law.com
WWW.JOHNTWILLIAMSLAW.COM

Finally, to clarify the commitments made by the Council and IMDG Board at the January 31, 2023 meetings, [redacted] respectfully requests that the parties identified in Schedule B and Schedule C sign a certification of the commitments made to restoring stability and protecting the Collateral. These certifications incorporate the basic governmental and corporate fiduciary duties to which the Council agreed in each of the Tribal Authorizing Resolutions made at the closing of each transaction. Please provide signed certifications by 5:00 PM Mountain time February 10, 2023.

[redacted] wishes to convey that it is very hopeful that the Council and the IMDG Board remain committed to the path toward restoring IMDG stability. As explained, this stability is essential in protecting the Collateral which in turn also protects important Tribal assets and jobs. [redacted] looks forward to the normalization of our relationship with IMDG and the Tribes and the continued professional management of the Tribes' lending assets by IMDG.

Sincerely,

John T. Williams

John T. Williams
John T. Williams, LLC
Counsel, [redacted]

Schedule A
Due Diligence Questions

The following are [redacted]'s initial due diligence questions. Based on the responses, [redacted] reserves the right to request additional due diligence materials.

(1) In closing the previous transactions, IMDG Bylaws from 2006 were provided (attached to the Omnibus Secretary Certificate provided with each transaction). Please confirm there have been no changes to this version of the IMDG Bylaws.

(2) Confirmation of Interim Board Members.

a. Please describe the process used and explain under which provisions of the IMDG Bylaws the Council removed the sitting Board members on or about January 19, 2023.

b. Please provide any documentation (specifically including meeting notices, minutes, Council Resolutions, motion/ action sheets, etc.) for removal of the sitting Board members on January 19, 2023. All Council Resolutions and minutes should be properly-certified.

c. Please describe the process of how the current interim Board was appointed by the Council including appointment qualifications considered. Please note and explain any discrepancies, if any, with the IMDG Bylaws.

d. Please provide the documentation (specifically including any meeting notices, minutes, Council Resolutions, motion/ action sheets, etc.) for the Council meeting appointing the interim Board members. All Council Resolutions and minutes should be properly-certified.

e. Please provide the background checks conducted on each Interim Board member.

f. Please provide evidence of submission for licensing of each Interim Board member to the Tribal Lending Regulatory Authority.

g. At our January 31, 2023 meeting, Interim Board Chairman LeValdo indicated a directive controlling public disclosure of information related to IMDG was sent to Tribal personnel. Please provide a copy of that directive and explain to whom it was sent.

(3) Actions of the Interim Board.

a. Please provide a list of all actions taken by the Interim Board since their appointment, the date on which the action was taken, and the minutes from the applicable meeting.

b. Please provide all Board Resolutions authorizing any actions taken by the Interim Board. All Board Resolutions must be certified by the Chairman and Secretary/Treasurer of the Board.

c. Please describe the selection and hiring process planned for the new Board (replacing the Interim Board) and the timing.

(4) Authority of CEO.

a. Please provide the resignation letter of Terry Brockie.

b. Please provide evidence that the Board has accepted the resignation or taken such other action as required to allow for the appointment of a new CEO.

c. Please describe the selection and hiring process for the Interim CEO.

d. Please provide any documentation relating to the appointment of Jarrett Azure as the Interim Chief Executive Officer of IMDG (including any meeting notices, minutes, Board Resolutions, etc.). All Board Resolutions must be certified by the Chairman and Secretary/Treasurer of the Board.

e. Please provide the background checks conducted on the Interim CEO.

f. Please provide evidence of submission for the licensing of the Interim CEO to the Tribal Lending Regulatory Commission.

g. Please describe the selection and hiring process planned for a permanent CEO and the timing.

(5) Legal Counsel.

a. Please identify all counsel engaged by IMDG as of January 19, 2023.

b. Please identify all counsel currently engaged by the Tribal government with any regard to IMDG or litigation involving any of the lending companies managed by IMDG and identify such counsel's experience in the subject-matter of tribal lending.

Schedule B
IMDG Board Certifications

To evidence IMDG's good faith in curing the situations giving rise to the current events of default, the undersigned IMDG officials do hereby certify the following:

(1) Key People Assurances. The IMDG Board understands that the professional IMDG management team that currently manages the Tribe's lending entities is essential in managing the assets which constitute the Collateral. The IMDG Board also acknowledges that (a) specialized legal counsel is essential for the operation and defense of the companies owning the pledged Collateral, (b) the legal opinions given by Greenberg Traurig as a condition to closing each [redacted] loan remain foundational and the failure of such legal opinions to remain in good-standing constitute an Event of Default. The IMDG Board hereby provides [redacted] written assurances that no changes in IMDG management or legal counsel will be made without prior consultation with [redacted]. In this highly regulated complex industry, the stability of senior staff and operations is essential.

(2) IMDG Board. The IMDG Board understands and agrees that (a) an IMDG Board at least partially insulated from the Tribal politics of the Council is important to the long-term management of assets currently managed by IMDG and pledged as Collateral, and (b) the installation of a Board to replace the Interim Board is essential to restoring stability to IMDG. To this end, the Interim IMDG Board agrees to complete its process required for Council appointment of IMDG Board members pursuant to the Bylaws as soon as possible.

(3) Personal Guarantee of Key Man. Terry Brockie made a personal guarantee on the debt of the lending companies as a key man in his role as CEO. The Board understands and agrees that either the Board Chairman or the CEO must step into the personal guarantee made my Terry Brockie due to his departure from IMDG.

(4) Litigation Cooperation and Coordination. The Board understands and agrees that litigation (including, but not limited to, pending litigation in federal court in the state of Alabama) poses a risk to the Tribe's economic wellbeing as well as nearly 400 IMDG jobs. Although [redacted] is not a party to any litigation, litigation represents a risk to the Collateral or the joining of [redacted] as party. Therefore, the Board agrees to keep [redacted] legal counsel apprised of any lawsuits and any actions at either the IMDG or Council level through IMDG legal counsel. Confidentiality of information provided to [redacted] shall be protected under a joint defense agreement created by this certification. Further, the Board shall ensure that any defense of litigation against the Council, Tribal officials, IMDG or IMDG managed entities shall utilize litigation counsel specializing in tribal financial services. A fragmented approach on behalf of the Tribes could be devastating to the Tribes' economy and negatively impact the Collateral.

(5) Confidentiality. The Board understands and agrees that, in the highly competitive and litigious FinTech industry in which the Tribes' lending entities participate, the protection of confidential and proprietary information is extremely important to the success of the companies and the protection of the Collateral. This includes all business competitive information such as employee salaries, vendor payments, etc. Each IMDG Board member and employee agrees to sign a confidentiality agreement prepared by IMDG Counsel and approved by [redacted] counsel. If the IMDG Board decides to release information to the Council or any third-party counsel or consultant, then that party must also sign the confidentiality agreement agreed to by IMDG and [redacted]. The IMDG Board agrees to direct IMDG counsel to strictly enforce such confidentiality agreements. Further, the IMDG Board agrees that no public release of IMDG information shall be allowed without the review of the CEO and at least four days prior advance notice to [redacted] counsel by IMDG counsel. The Board each individually pledges to make no negative social media statements related to IMDG business. The Board understands and will honor their duties of loyalty, confidentiality and other fiduciary duties to IMDG.

(6) Effect of Failure. The Board understands and agrees that a failure to continue or perform the matters certified in this document shall be taken as a failure to act in good faith to cure the current Events of Default which may result in alteration of the current conforming instructions to the bank and the liquidation of the Collateral in a manner that could impact IMDG operations and employment.

I, Geno LaValdo, do hereby certify that the IMDG Board understands and agrees to each of the items listed above and intends to act in continued good faith.

_____
Geno LaValdo, Chairman, IMDG Board

I, Jarrett Azure do hereby certify that the IMDG Board and IMDG Senior Management understands and agrees to each of the items listed above and intends to act in continued good faith.

_____
Jarrett Azure, CEO IMDG

Schedule C
Council Certifications

To evidence the Fort Belknap Indian Community Council's good faith in curing the situations giving rise to the current Events of Default, the undersigned Tribal officers do hereby certify the following:

(1) IMDG Board. The Council understands and agrees that an IMDG Board at least partially insulated from the Tribal politics of the Council is important to the long-term management of assets currently managed by IMDG and pledged as Collateral. To that end and no later than March 15, 2023, the Council agrees to complete its process to replace the Interim IMDG Board members pursuant to the Bylaws with new Board members having staggered terms.

(2) Litigation Cooperation and Coordination. The Council understands and agrees that litigation (including, but not limited to, pending federal court litigation in the state of Alabama) poses a risk the Tribes' economic wellbeing as well as nearly 400 IMDG jobs. Although [redacted], is not a party to any litigation, litigation represents a risk to the Collateral or the joining of [redacted] as party. Therefore, the Council agrees to keep [redacted] counsel apprised of any lawsuits and any actions at either the IMDG or Council level. Confidentiality of information provided to [redacted] shall be protected under a joint defense agreement created by this certification. Further, the Council shall ensure that any defense of litigation against the Council, Tribal officials or IMDG shall utilize litigation counsel that specializes in the tribal financial services and shall coordinate all communications and defenses with IMDG Counsel. A fragmented approach on behalf of the Tribes could be devastating to the Tribes' economy and negatively impact the Collateral.

(3) Confidentiality. The Council understands and agrees that, in the highly competitive and litigious FinTech industry in which the Tribes' lending entities exist, the protection of confidential and proprietary information is extremely important to the success of the companies and the protection of the Collateral. Each Council member and employees with access to such information agree to sign a confidentiality agreement prepared by IMDG Counsel and approved by [redacted] counsel. If the Council decides to release information to any third-party legal counsel or consultant, then that party must also sign the confidentiality agreement agreed to by IMDG and [redacted]. The Council agrees to strictly enforce such confidentiality agreements. Further, the Council agrees that no public release of IMDG information shall be allowed without the review of the IMDG CEO and with at least four days prior advance notice to [redacted] counsel by IMDG counsel.

(4) Effect of Failure. The Council understands and agrees that a failure to continue or perform the matters certified in this document shall be taken as a failure to act in good

faith to cure the current event of default which may result in alteration of the current conforming instructions to the bank and the liquidation of the Collateral in a manner that could impact IMDG operations and employment.

I, Jeffrey Stiffarm, do hereby certify that the Council understands and agrees to each of the items listed above and intends to act in continued good faith regarding the current situation.

_____
Jeffrey Stiffarm, President

I, Judith King, do hereby certify that the Council understands and agrees to each of the items listed above and intends to act in continued good faith regarding the current situation.

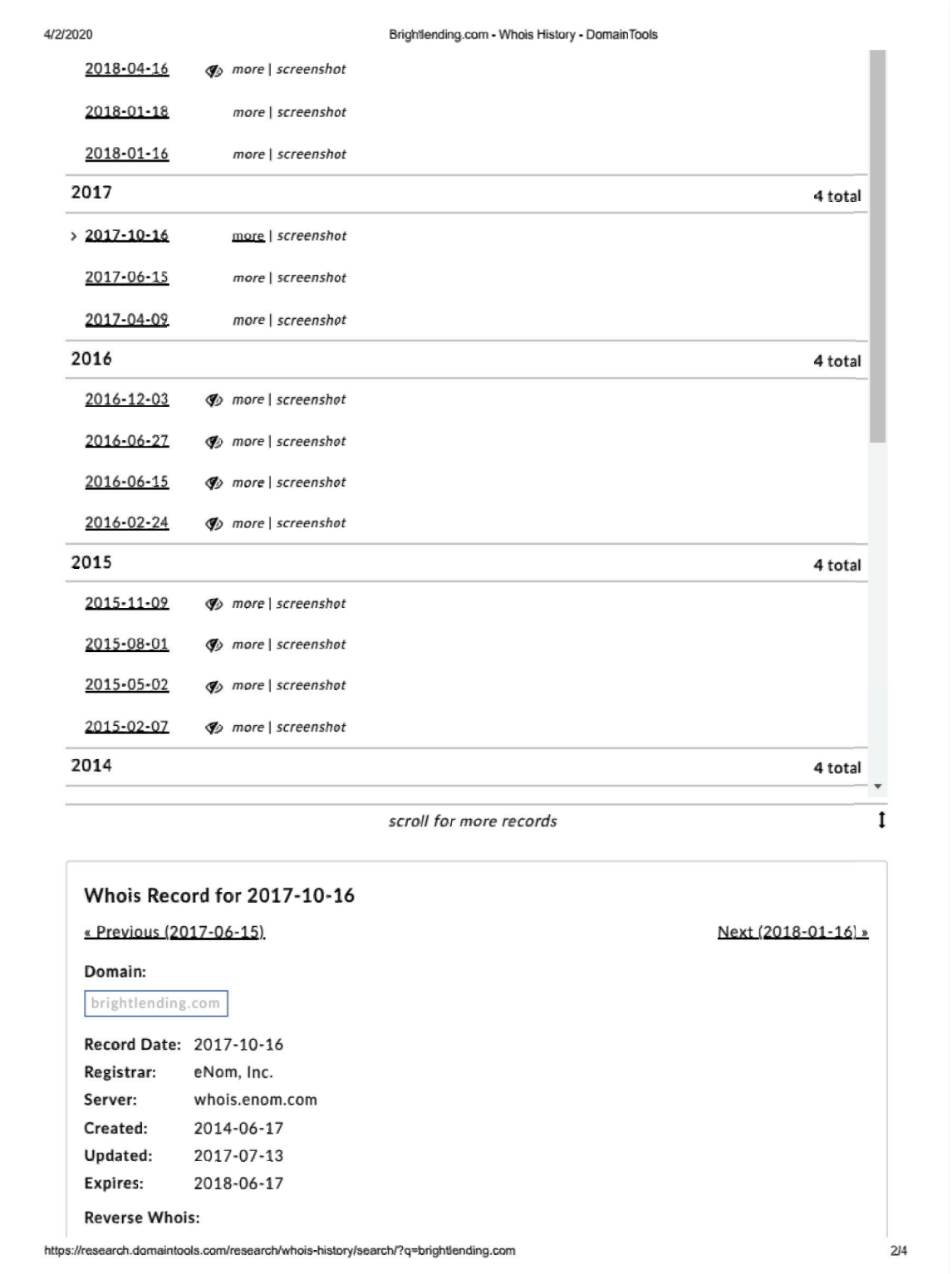
_____
Judith King, Vice President

I, Robert Bearcub, do hereby certify that the Council understands and agrees to each of the items listed above and intends to act in continued good faith regarding the current situation.

_____
Robert Bearcub, Secretary Treasurer

Exhibit 12

PLAINTIFF'S EXHIBIT G
Domain Registration for brightlending.com, Record Date: October 16, 2017



4/2/2020 Brightlending.com - Whois History - DomainTools

2018-04-16	more | screenshot	
2018-01-18	more | screenshot	
2018-01-16	more | screenshot	
2017		**4 total**
› 2017-10-16	more | screenshot	
2017-06-15	more | screenshot	
2017-04-09	more | screenshot	
2016		**4 total**
2016-12-03	more | screenshot	
2016-06-27	more | screenshot	
2016-06-15	more | screenshot	
2016-02-24	more | screenshot	
2015		**4 total**
2015-11-09	more | screenshot	
2015-08-01	more | screenshot	
2015-05-02	more | screenshot	
2015-02-07	more | screenshot	
2014		**4 total**

scroll for more records

Whois Record for 2017-10-16

« Previous (2017-06-15) Next (2018-01-16) »

Domain:
brightlending.com

Record Date: 2017-10-16
Registrar: eNom, Inc.
Server: whois.enom.com
Created: 2014-06-17
Updated: 2017-07-13
Expires: 2018-06-17

Reverse Whois:

https://research.domaintools.com/research/whois-history/search/?q=brightlending.com 2/4

PLAINTIFF'S EXHIBIT G
Domain Registration for brightlending.com, Record Date: October 16, 2017

abuse@enom.com domains@borrowworks.com

```
Domain Name: BRIGHTLENDING.COM
Registry Domain ID: 1863250430_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.enom.com
Registrar URL: www.enom.com
Updated Date: 2017-05-29T21:40:13.00Z
Creation Date: 2014-06-17T21:38:00.00Z
Registrar Registration Expiration Date: 2018-06-17T21:38:00.00Z
Registrar: ENOM, INC.
Registrar IANA ID: 48
Reseller: NAMECHEAP.COM
Domain Status: clientTransferProhibited https://www.icann.org/epp#clientTransferProhibited
Registry Registrant ID:
Registrant Name: BEN GATZKE
Registrant Organization: TOTAL MANAGEMENT, INC.
Registrant Street: 1845 SHELBY LN
Registrant City: FAYETTEVILLE
Registrant State/Province: AR
Registrant Postal Code: 72704
Registrant Country: US
Registrant Phone: +1.8176758404
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: DOMAINS@BORROWWORKS.COM
Registry Admin ID:
Admin Name: BEN GATZKE
Admin Organization: TOTAL MANAGEMENT, INC.
Admin Street: 1845 SHELBY LN
Admin City: FAYETTEVILLE
Admin State/Province: AR
Admin Postal Code: 72704
Admin Country: US
Admin Phone: +1.8176758404
Admin Phone Ext:
Admin Fax:
Admin Fax Ext:
Admin Email: DOMAINS@BORROWWORKS.COM
Registry Tech ID:
Tech Name: BEN GATZKE
Tech Organization: TOTAL MANAGEMENT, INC.
Tech Street: 1845 SHELBY LN
Tech City: FAYETTEVILLE
Tech State/Province: S
Tech Postal Code: 72704
Tech Country: US
Tech Phone: +1.8176758404
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: DOMAINS@BORROWWORKS.COM
Name Server: CRUZ.NS.CLOUDFLARE.COM
Name Server: TODD.NS.CLOUDFLARE.COM
DNSSEC: unSigned
Registrar Abuse Contact Email: abuse@enom.com
Registrar Abuse Contact Phone: +1.4252982646
URL of the ICANN WHOIS Data Problem Reporting System: http://wdprs.internic.net/
```

PLAINTIFF'S EXHIBIT H

Domain Registration for brightlending.com, Record Date: January 18, 2018

2017-04-09	more | screenshot	
2016		**4 total**
2016-12-03	more | screenshot	
2016-06-27	more | screenshot	
2016-06-15	more | screenshot	
2016-02-24	more | screenshot	
2015		**4 total**
2015-11-09	more | screenshot	
2015-08-01	more | screenshot	
2015-05-02	more | screenshot	
2015-02-07	more | screenshot	
2014		**4 total**
2014-11-23	more | screenshot	
2014-09-09	more | screenshot	
2014-06-19	more | screenshot	
2014-06-17	more | screenshot	
2011		**5 total**
2011-05-31	more | screenshot	

scroll for more records

Whois Record for 2018-01-18

« Previous (2018-01-16) Next (2018-04-16) »

Domain:

brightlending.com

Record Date: 2018-01-18
Registrar: NameCheap Inc.
Server: whois.namecheap.com
Created: 2014-06-17
Updated: 2018-01-09
Expires: 2018-06-17

Reverse Whois:

PLAINTIFF'S EXHIBIT H

Domain Registration for brightlending.com, Record Date: January 18, 2018

abuse@namecheap.com domains@borrowworks.com

```
Domain name: brightlending.com
Registry Domain ID: 1863250430_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.namecheap.com
Registrar URL: http://www.namecheap.com
Updated Date: 2018-01-09T12:19:00.00Z
Creation Date: 2014-06-17T21:38:38.00Z
Registrar Registration Expiration Date: 2018-06-17T21:38:38.00Z
Registrar: NAMECHEAP INC
Registrar IANA ID: 1068
Registrar Abuse Contact Email: abuse@namecheap.com
Registrar Abuse Contact Phone: +1.6613102107
Reseller: NAMECHEAP INC
Domain Status: ok https://icann.org/epp#ok
Registry Registrant ID:
Registrant Name: Ben Gatzke
Registrant Organization: Total Management, Inc.
Registrant Street: 1845 Shelby Ln
Registrant City: Fayetteville
Registrant State/Province: AR
Registrant Postal Code: 72704
Registrant Country: US
Registrant Phone: +1.8176758404
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: domains@borrowworks.com
Registry Admin ID:
Admin Name: Ben Gatzke
Admin Organization: Total Management, Inc.
Admin Street: 1845 Shelby Ln
Admin City: Fayetteville
Admin State/Province: AR
Admin Postal Code: 72704
Admin Country: US
Admin Phone: +1.8176758404
Admin Phone Ext:
Admin Fax:
Admin Fax Ext:
Admin Email: domains@borrowworks.com
Registry Tech ID:
Tech Name: Ben Gatzke
Tech Organization: Total Management, Inc.
Tech Street: 1845 Shelby Ln
Tech City: Fayetteville
Tech State/Province: S
Tech Postal Code: 72704
Tech Country: US
Tech Phone: +1.8176758404
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: domains@borrowworks.com
Name Server: todd.ns.cloudflare.com
Name Server: cruz.ns.cloudflare.com
DNSSEC: unsigned
URL of the ICANN WHOIS Data Problem Reporting System: http://wdprs.internic.net/

For more information on Whois status codes, please visit https://icann.org/epp
```

Exhibit 13

Home > Whois Lookup > BrightLending.com

Whois Record for BrightLending.com

− Domain Profile

Registrar	GoDaddy.com, LLC IANA ID: 146 URL: https://www.godaddy.com,http://www.godaddy.com Whois Server: whois.godaddy.com abuse@godaddy.com (p) +1.4806242505
Registrar Status	clientDeleteProhibited, clientRenewProhibited, clientTransferProhibited, clientUpdateProhibited
Dates	3,786 days old Created on 2014-06-17 Expires on 2029-06-17 Updated on 2024-06-18
Name Servers	CRUZ.NS.CLOUDFLARE.COM (has 24,990,179 domains) TODD.NS.CLOUDFLARE.COM (has 24,990,179 domains)
IP Address	104.22.72.129 - 3 other sites hosted on this server
IP Location	- California - San Jose - Cloudflare Inc.
ASN	AS13335 CLOUDFLARENET, US (registered Jul 14, 2010)
Domain Status	Registered And No Website
IP History	66 changes on 66 unique IP addresses over 18 years
Hosting History	5 changes on 5 unique name servers over 21 years

Whois Record (last updated on 2024-10-28)

```
Domain Name: brightlending.com
Registry Domain ID: 1863250430_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: https://www.godaddy.com
Updated Date: 2024-06-18T23:47:27Z
Creation Date: 2014-06-17T16:38:38Z
Registrar Registration Expiration Date: 2029-06-17T16:38:38Z
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: +1.4806242505
```

```
Domain Status: clientTransferProhibited https://icann.org/epp#clientTransferProhibited
Domain Status: clientUpdateProhibited https://icann.org/epp#clientUpdateProhibited
Domain Status: clientRenewProhibited https://icann.org/epp#clientRenewProhibited
Domain Status: clientDeleteProhibited https://icann.org/epp#clientDeleteProhibited
Registry Registrant ID: Not Available From Registry
Registrant Name: Registration Private
Registrant Organization: Domains By Proxy, LLC
Registrant Street: DomainsByProxy.com
Registrant Street: 100 S. Mill Ave, Suite 1600
Registrant City: Tempe
Registrant State/Province: Arizona
Registrant Postal Code: 85281
Registrant Country: US
Registrant Phone: +1.4806242599
Registrant Phone Ext:
Registrant Fax:
Registrant Fax Ext:
Registrant Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=brightlending.com
Registry Tech ID: Not Available From Registry
Tech Name: Registration Private
Tech Organization: Domains By Proxy, LLC
Tech Street: DomainsByProxy.com
Tech Street: 100 S. Mill Ave, Suite 1600
Tech City: Tempe
Tech State/Province: Arizona
Tech Postal Code: 85281
Tech Country: US
Tech Phone: +1.4806242599
Tech Phone Ext:
Tech Fax:
Tech Fax Ext:
Tech Email: Select Contact Domain Holder link at
https://www.godaddy.com/whois/results.aspx?domain=brightlending.com
Name Server: CRUZ.NS.CLOUDFLARE.COM
Name Server: TODD.NS.CLOUDFLARE.COM
DNSSEC: unsigned
URL of the ICANN WHOIS Data Problem Reporting System: http://wdprs.internic.net/
```



Tools

Hosting History	
Monitor Domain Properties	▾
Reverse IP Address Lookup	▾
Network Tools	▾

Exhibit 14

SOFTWARE IMAGES

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