

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

(1) MODOC NATION a/k/a MODOC TRIBE)	
OF OKLAHOMA and)	
(2) RED CEDAR ENTERPRISES, INC.,)	
(3) EAGLE TG, LLC,)	
(4) BUFFALO MTE, LLC,)	
(5) TALON MTE, LLC,)	
(6) MODOC MTE, LLC, and)	
(7) WALGA MTE, LLC,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 19-cv-00588-CVE-JFJ
)	
(1) RAJESH SHAH,)	
(2) SHARAD DADBHAWALA,)	
(3) RUSTY BOHL,)	
(4) SOFTEK MANAGEMENT SERVICES, LLC,)	
(5) SOFTEK FEDERAL SERVICES, LLC, and)	
(6) SOFTEK SOLUTIONS, INC.,)	
)	
Defendants.)	

AMENDED COMPLAINT AND JURY DEMAND

Plaintiffs, Modoc Nation, a/k/a Modoc Tribe of Oklahoma, (“Modoc Tribe” or “Tribe”), Red Cedar Enterprises, Inc. (“Red Cedar”), Eagle TG, LLC (“Eagle”), Buffalo MTE, LLC (“Buffalo”), Talon MTE, LLC (“Talon”) Modoc MTE, LLC (“Modoc MTE”) and Walga MTE, LLC (“Walga”), for their Amended Complaint and Jury Demand against Individual Defendants Rajesh Shah (“Rajesh”), Sharad Dadbhawala (“Sharad”), Rusty Bohl (“Rusty”) and Corporate Defendants Softek Management Services, LLC (“SMS”), Softek Federal Services, LLC (“SFS”) and Softek Solutions, Inc. (“SS”) (referred to collectively as “Softek”), hereby allege as follows:

INTRODUCTION

1. This case arises out of a sophisticated conspiracy, scheme and fraudulent course of conduct from July 2010 to July 2019 by which individual Defendants Rajesh, Sharad and Rusty, with and through Softek, defrauded and deceived Plaintiffs and fraudulently and unlawfully took fees, salaries, loan interest and other payments from Plaintiffs of more than \$14.6 million.

2. Rajesh, Sharad and Rusty teamed up in 2010 after a fraud dispute arising out of Yash Technologies' ("Yash") investment in Suh'dutsing Technologies ("Suh'dutsing"), an 8(a) disadvantaged government contracting entity of the Cedar Band of the Paiute Tribe in Utah, which Rajesh managed and controlled for Yash as Suh'dutsing's Chief Operating Officer, and with whom Sharad and Rusty worked, from 2006 to 2010 when the Paiute Tribe terminated them.

3. They launched this fraud scheme after Yash's dispute arose with the Paiute Tribe when individual Defendants met with the Modoc's Chief and Tribal Council beginning in July 2010 and convinced them that Softek was a consortium of companies that was uniquely situated and experienced to successfully invest in, finance and manage Red Cedar for the Tribe and form, invest in, manage and finance other Modoc Tribal entities ("MTE's") Defendants would qualify with the SBA as 8(a) economically disadvantaged companies and procure lucrative government and commercial contracts from which the Modoc Tribe could earn profits for care and welfare of its impoverished tribal members.

4. Rajesh, Sharad, Rusty and Softek carried out the scheme, conspiracy and fraudulent course of conduct by entering into a number of agreements with Plaintiffs in 2010 and 2014 by which from January 2011 through July 2019 they fraudulently took fees of more than \$8.6 million out of Plaintiffs' profits.

5. The Modoc Tribe began discovering Defendants' fraudulent scheme in July 2019 and terminated the Softek agreements and Defendants' employment. The Tribe's investigation has continued since July and is continuing to unravel and discover the extent of Defendants' conspiracy, scheme and concealed fraudulent course of conduct to defraud and deceive Plaintiffs.

6. Plaintiffs now bring this action to recover not less than \$8.6 million of fees they so far have discovered these Defendants fraudulently requested, invoiced, billed and received as fees and siphoned off to the detriment of Plaintiffs, another \$5.0 million of loan losses the Tribe discovered and repaid as a result of Defendants' schemes and fraud, and almost \$1.0 million of forfeitable salaries Rajesh and Rusty received as Plaintiffs' employees while they were defrauding Plaintiffs and breaching their fiduciary duties.

PARTIES

7. Plaintiff Modoc Nation is a federally recognized Indian tribe organized under the Oklahoma Indian Welfare Act of 1936, Title 25 U.S.C. §5203 and is incorporated as a non-profit corporation under Oklahoma law for the welfare and benefit of its impoverished tribal members. The Tribe is a citizen of Oklahoma and maintains its offices and headquarters in Miami, Oklahoma. At all times pertinent to this action the Tribe maintained its bank accounts at the Interstate Bank of Commerce, a financial institution, located in Oklahoma ("IBC").

8. Plaintiff Red Cedar is a wholly owned corporation of the Tribe chartered under the Modoc Tribe's Constitution and laws. Red Cedar is a citizen of Oklahoma and maintains its office and headquarters in Miami, Oklahoma. At all times pertinent to this action the Tribe maintained its bank accounts at IBC in Oklahoma.

9. Plaintiff Eagle is a limited liability company the sole member of which is the Tribe. Eagle was formed on August 9, 2012 under the laws of the State of Texas, and its citizenship is that of the Tribe as Eagle's sole member, which is Oklahoma. At all times pertinent to this action Eagle maintained its bank accounts at IBC in Oklahoma from which it wired and paid fees to Softek and Defendants.

10. Plaintiff Talon is a limited liability company the sole member of which is the Tribe. Talon was formed on November 6, 2012 under the laws of the State of Texas, and its citizenship is that of the Tribe as Talon's sole member, which is Oklahoma. At all times pertinent to this action Talon maintained its bank accounts at IBC in Oklahoma from which it wired and paid fees to Softek and Defendants.

11. Plaintiff Buffalo is a limited liability company the sole member of which is the Tribe. Buffalo was formed on July 12, 2012 under the laws of the State of Utah, and its citizenship is that of the Tribe as Buffalo's sole member, which is Oklahoma. At all times pertinent to this action Buffalo maintained its bank accounts at IBC in Oklahoma from which it wired and paid fees to Softek and Defendants.

12. Plaintiff Modoc MTE is a limited liability company the sole member of which is the Tribe. Modoc MTE was form on June 4, 2014 under the laws of the Modoc Tribe, and its citizenship is that of the Tribe as its sole member, which is Oklahoma. Modoc MTE maintained its bank accounts at IBC in Oklahoma from which it wired and paid fees to Softek and Defendants.

13. Plaintiff Walga is a limited liability company the sole member of which is the Tribe. Walga was formed on July 20, 2015 under the laws of the State of Kansas, and its citizenship is

that of the Tribe as its sole member, which is Oklahoma. Walga maintained its bank accounts at IBC in Oklahoma from which it wired and paid fees to Softek and Defendants.

14. Defendant Rajesh is a permanent U.S. resident and citizen of India who resides in Union City, CA.

15. Defendant Sharad is a citizen of India who resides in Campbell, CA.

16. Defendant Rusty is a U.S. citizen who resides in Flower Mound, TX.

17. Corporate Defendants SMS, SFS and SS are California companies formed under California law. SS is the sole member and owns SFS; and SFS is the sole member and owns SMS. All three corporations maintain their principal place of business at 39899 Balentine Dr., Suite 190, Newark, CA 94560. At all times pertinent to this action Softek maintained its bank accounts at a Wells Fargo NA bank located in Texas in which Softek received payments of fees, loans, interest and other payments Plaintiffs wired from their IBC bank accounts to Softek's and Defendants' Wells Fargo bank accounts.

18. Rajesh is and, at all times was, the founder, owner, managing member, and/or chief executive officer of SMS, SFS and SS to which he referred collectively as Softek. Rajesh was also employed as Red Cedar's Chief Executive Officer from June 2011 through November 2012, and thereafter he became CEO of Talon in 2013 and remained CEO until terminated in July 2019.

19. Sharad is, and at all times was, the CFO and/or Chief Accounting Officer of SMS, SFS and SS to which he referred collectively as Softek. He also acted through Softek as the *de facto* chief accounting manager of Plaintiffs' accountants from 2011 to 2014.

20. Rusty was a manager and employee of SMS to which he referred as Softek. He is an owner and officer of RKS Solutions, Inc. which Rusty used in the fraud scheme as a conduit to

receive consulting fees. He also became a salaried employee of Red Cedar in early 2014 and continued until July 2019 when the Tribe discovered his betrayal of Red Cedar and fraud on Plaintiffs and terminated him.

21. Rusty falsely held himself out from 2011 to July 2019 to Plaintiffs' employees as the Tribe's representative from whom they should take directions and to whom they should report instead of to Plaintiffs and the Tribe.

22. Rusty proved his *mala fides* when, after his termination and receipt of a Preservation of Evidence letter from Tribal council, he immediately committed spoliation of relevant evidence. On July 24, 2019 he removed from his office computer *all* electronic data evidencing the RICO Enterprise, the individual Defendants' racketeering activities, Defendants' conspiracy and scheme, and his communications with his co-conspirators and fraudulent course of conduct in which he participated from July 2010 through August 2019.

23. Defendants were motivated and profitably participated in the conspiracy scheme to defraud, and fraudulent course of conduct because they shared in the millions of dollars of fraudulent fees paid to them and salaries that they unlawfully derived from the fraud, scheme and conspiracy.

JURISDICTION AND VENUE

24. This Court has original jurisdiction of this action pursuant to 18 U.S.C. §1964(c) and 28 U.S.C. §1331 because it is a civil action arising under the Racketeer Influenced and Corrupt Organizations Act (“RICO”) and the Court has supplemental jurisdiction over the Oklahoma state law claims pursuant to 28 U.S.C. §1367 because the state law claims are an integral part of and so related to the RICO claims as to form part of the same case. This Court also has jurisdiction of this action under 28 U.S.C. §1332 because the controversy is between citizens of different states and foreign citizens and the amount in controversy exceeds \$75,000.

25. This court has venue of this action pursuant to 19 U.S.C. §1964(c) and 28 U.S.C. §1391(a)(2) because Defendants transacted business and affairs within this district and a substantial part of the acts, events, misrepresentations, fraud and omissions giving rise to this action and claims occurred in Miami, Oklahoma within this District.

DEFENDANTS’ CONSPIRACY, SCHEME AND FRAUDULENT COURSE OF CONDUCT

26. From 2005 to 2010 the individual Defendants were working with Yash and Manoi Bahoti, Yash’s owner and a close associate of Rajesh, who invested in Suh’dutsing, the Paiute Tribe’s 8(a) company, to provide financing and management to Suh’dutsing in return for a percentage of profits. Bahoti designated Rajesh to serve as the COO of Suh’dutsting, and Rajesh managed and controlled its operations and other tribal 8(a) companies for Bahoti’s benefit. Sharad and Rusty also worked with Yash and Rajesh under their contracts with Suh’dutsing and the Paiutes.

27. Yash’s ownership and Rajesh, Sharad and Rusty’s services ended abruptly in 2010 when a fraud dispute arose over Yash’s profits, and a lawsuit was filed in 2011 between Yash and

Suh'dutsing that triggered fraud claims and counterclaims. Yash confidentially settled the lawsuit in 2013 preventing disclosure of the terms.

28. Individual Defendants decided in 2010, when their relationship with Suh'dutsing blew up, to team and create Softek and with Manoi Bahoti's financial backing to approach the Modoc Tribe and propose that Softek invest in, manage and finance Red Cedar, the Modoc's 8(a) company, and form a network of new MTE's that Defendants would qualify as 8(a) companies to secure government and commercial contracting businesses from which Defendants could derive enormous personal profit.

29. Rusty was familiar with the Modoc Tribe and Red Cedar's 8(a) company from his former wife's engagement since 2001 as the Tribe's auditor and from Rusty's efforts in 2005 to partner with Red Cedar to develop construction projects in return for consulting fees and payments.

30. Rusty was the first to meet with the Tribe in July 2010. He reminded the Tribe of his earlier efforts in 2005 to partner with Red Cedar, and he boasted that he had successfully managed and developed lucrative contracting businesses for the Wyandotte Tribe through its tribally owned 8(a) companies. The Wyandotte Tribe is headquartered in Miami, Oklahoma and was well known to the Modocs as having successful 8(a) contracting businesses.

31. Rusty pitched the Modocs with Defendants' proposal that Softek would invest in Red Cedar and provide management, financing and business development services to expand Red Cedar's 8(a) businesses and, in addition, would form, invest in, manage and finance other new MTE's and qualify them as 8(a) companies to enter into profitable government and commercial contracts.

32. The Tribe expressed interest in Rusty's proposal and Rusty quickly introduced the Modocs to his fellow co-conspirators, Rajesh and Sharad. Defendants drafted, emailed and SS signed a Letter of Intent, dated August 16, 2010, with the Modoc Tribe proposing that Softek purchase a 49% interest in Red Cedar, share in 49% of its profits and receive a 40% management fee.

33. From August to December 2010 Defendants exchanged emails, cell phone calls and had meetings at the Tribe's Miami Oklahoma office during which they falsely described what Softek had to offer and would provide to the Tribe, Red Cedar and the newly formed MTE's. Defendants never disclosed to the Tribe any information about the terminations, fraud dispute and litigation with the Paiute Tribe over Yash's investment and Rajesh's management and control of its 8(a) program.

34. Rajesh represented and described what the Softek consortium would provide to Red Cedar and the new MTE's that Defendants would form and qualify as 8(a) companies:

- a. SMS, Softek's management consulting company, would provide Red Cedar and the new MTE's with all the management personnel and infrastructure necessary to manage, operate and develop the MTE businesses and procure government and commercial contracts;
- b. SFS, Softek's financial consulting company, would provide Red Cedar and the new MTE's with financing for all the working and operating capital necessary to fund their businesses and projects; and

- c. SS, Softek's information technology ("IT") consulting company, would provide the IT expertise to procure and perform government and commercial IT contracts.

35. Rajesh's representations and descriptions of the Softek consortium were utterly false, and he intentionally concealed the following material facts which he and Defendants had a duty to disclose:

- a. SMS did not exist in 2010. Rajesh formed SMS in January 2011 with only Rajesh and Sharad as its employees. It had no capital. It had no experience in providing business management and development services to customers;
- b. SFS did not exist in 2010. Rajesh formed SFS in January 2011 when he formed SMS. SFS's only employees were Rajesh and Sharad. SFS had no capital and no experience in extending credit and providing loans for working capital and financing businesses; and
- c. SS, although formed in 2003, only had Rajesh and Sharad as employees. SS had minimal capital and little if any experience providing IT consulting services.

36. Defendants drafted, and emailed for review and signature to the Tribe and Red Cedar, several agreements which they and the Tribal Chief and Tribal members, in reliance upon Rajesh's statements alleged above, signed in December 2010 and which, but for Defendants' false representations, statements and descriptions would not have agreed to and signed:

- a. An ownership agreement by which SFS would purchase 49% of Red Cedar, signed by Rajesh on December 20, 2010 (before SFS existed);

- b. A profit-sharing-agreement by which SFS would split profits 51%/49% with the Tribe signed by Rajesh on December 20, 2010 (before SFS existed); and
- c. A corporate management services agreement (“Management Agreement”) for SMS to provide management services to Red Cedar and other Modoc MTE’s, signed by Rajesh on December 20, 2010 (before SMS existed). SMS’s services were described to include providing executive officers, government contract officer services, government proposal, program, project and management services, general accounting services, tax services, and payroll services; and it provided that SMS would provide all funding to conduct Red Cedar’s business and operations.

37. Defendants included in the Management Agreement a provision that falsely induced the Tribe and Red Cedar to agree to Softek’s contracts to which, had Defendants been truthful, they would not have agreed. It assured the Modoc Tribe and Red Cedar of Defendants’ integrity and their transparency and reporting on SMS’s management services:

- a. Defendants would design and operate a financial accounting and control system that would provide internal accounting controls in compliance with Sarbanes-Oxley;
- b. Defendants would maintain full and accurate books of account at Red Cedar’s office;
- c. Defendants would provide monthly, quarterly and annual statements reporting all revenues, deductions and disbursements;

- d. Defendants would provide remote access to SMS's data base;
- e. Defendants would maintain the accounting records and prepare and issue financial statements in accordance with GAAP;
- f. Defendants would have the annual financial statements audited by a recognized firm; and
- g. Defendants would provide reports to show SMS's "amounts of profit distributions," and would issue reports "clearly showing the calculation and payment of the managers' fee."

38. Defendants' assurances upon which the Tribe and Red Cedar justifiably relied were false. Defendants never intended to and didn't carry out any of the assurances other than having Rusty's former wife, who was auditing the Tribe's annual financial statements and whom the Tribe trusted, perform the audits of Plaintiffs' annual financial statements, every one of which Defendants caused to be false and misleading by material misstatements and omissions. Nor did Defendants intend to carry out the other services for the fees for which they had contracted but intended to and did issue fraudulent invoices for fees from 2012 to October 1, 2014. Defendants provided the assurances of transparency and amounts of fees to induce the Tribe and Red Cedar to enter into the agreements with Softek, and the Tribe and Red Cedar relied upon such assurances to enter into the agreements and would not have done so but for such assurances and concealment of Defendants' intent to fraudulently invoice management fees.

39. In January 2011, because Softek had no management personnel to provide the sundry management services under the agreement, Rajesh began hiring personnel to provide the

promised management services. To that end, during the next few months Softek employed the following:

- a. A CFO (Sharard) who officed in California to design and provide the financial accounting, control and reporting system;
- b. A COO who officed in Texas to oversee the marketing and business development for government contracting business;
- c. A Director (Rusty) who officed in Texas to manage construction contracting;
- d. A V.P. of government contracting who officed in Texas;
- e. A V.P. of government IT contracting who officed in Texas and became an employee of Red Cedar;
- f. A Director of accounting, finance and operations who officed in Utah, who, with assistants in the Utah office, did the accounting for and became employees of Plaintiffs, and who as a signatory on all of Plaintiffs' bank accounts wired payments of fees from Plaintiffs' IBC accounts to Softek's Well Fargo accounts;
- g. An assistant for systems and administration support; and
- h. A Director of human resources.

40. SMS contracted with vendors to handle SMS's payroll and fringe benefits programs.

41. The December 2010 agreements between Softek, Red Cedar and the Tribe were subject to and effective only upon SBA approval. The agreements were replaced when Rajesh determined that the SBA likely would not approve the agreements.

42. To replace them, Rajesh falsely represented to the Tribe and Red Cedar that Defendants would manage, finance and develop the businesses of Red Cedar and the new MTE's for a 40% management fee ("Replacement Agreement") and omitted and concealed from the Tribe that Defendants intended to, would and did fraudulently request, invoice and bill Plaintiffs for management fees from 2012 to October 1, 2014. The Tribe and Red Cedar agreed in justifiable reliance upon Rajesh's false representations that were made to induce the Tribe and Red Cedar to agree to the Replacement Agreement. The Tribe would not have agreed to the Replacement Agreement had it known the concealed truth that Defendants intended to, would and did defraud Plaintiffs by fraudulently requesting, invoicing and billing fees to Plaintiffs for Softek's management and financing services.

43. In June, 2011 Rajesh became the CEO of Red Cedar. Within six months Rajesh committed his first major breach of fiduciary duty and act of disloyalty by unilaterally adopting an undisclosed "32 % incentive plan" that Rajesh used from 2011 through 2014 to pay Softek more than the 40% management fee to which Softek had agreed to charge Red Cedar and the MTE's.

44. From January 2012 to October 1, 2014, Defendants through SMS fraudulently requested, charged and sent invoices to Plaintiffs upon which Plaintiffs relied to pay Defendants' management and development fees of more than \$4.0 million.

SMS'S MANAGEMENT AND FORMATION OF NEW MTE'S

45. In January 2011, Defendants took over the management of Red Cedar. SBA had qualified it as an 8(a) economically disadvantaged corporation in 2005.

46. In 2012, Red Cedar, although qualified as an 8(a), was not registered as an information technology ("IT") provider even though Defendants had falsely represented to the Tribe that they were IT experts and would expand Red Cedar's business into government and commercial IT businesses. Defendants did not know about the need for registration to bid for and procure government IT contracts. They were informed of the need to do so by Bud Cool, who said he could bid for an IT contract with the government on behalf of Red Cedar if Defendants registered it.

47. After Red Cedar was registered, Rajesh hired Bud Cool as a consultant for Red Cedar. He prepared a bid and procured a \$20.0 million IT contract for Red Cedar, the first and by far largest contract of the kind Defendants had falsely represented they were experienced in procuring from the government.

48. Rajesh executed a consulting contract between Bud Cool and Red Cedar, instead of SMS, to pay a commission of 20% of the profits on the contract. Nevertheless as Rajesh was wont to do, he never paid the commission despite the fact that the contract was very profitable (because the commission expense would have reduced Red Cedar's net profits from which Softek's fees were paid).

49. In January 2012, Defendants caused Eagle to be formed. Eagle was approved as an 8(a) and registered to provide IT services to government installations. From 2013 through July 2019 Defendants fraudulently requested and received fees paid from Eagle's profits.

50. Eagle was not Defendants' idea. The idea of Eagle and its business plans were prepared by Bud Cool and his partner Randy Muennink, who in 2013 became the manager of Eagle. Both were experienced IT specialists unlike Defendants. Together, the two of them bid for, managed and developed all government IT contracts for Plaintiffs after 2012.

51. In July 2012, Defendants caused Buffalo to be formed to provide government construction services. Buffalo was approved by the SBA as an 8(a) company on December 20, 2013. From 2013 through July 2019, Defendants falsely invoiced, requested and were paid fees from Buffalo's profits.

52. In November 2012, Defendants formed Talon. Like Eagle, it was Bud Cool's and Randy Muennink's idea. They prepared the business plan for Talon to become an information technology hardware reseller.

53. The SBA denied 8(a) approval of Talon in 2013. It laid dormant until Rajesh revived it in 2014 to use as a conduit to fraudulently transfer and conceal SMS's fees without disclosure in the Plaintiffs' financial statements and SMS's reports to the Tribe.

54. Defendants formed Walga in July 2015, and it was approved by the SBA as an 8(a) company. Softek provided it with no financing because Softek had ceased financing the MTE's in 2013. From 2017 through July 2019 Defendants falsely requested and were paid fees from Walga's profits.

55. Defendants also formed Modoc MTE in June 2014, and it was approved as an 8(a) company by the SBA. Softek provided it with no financing as Softek had ceased financing the MTE's in 2013. From 2017 through July 2019 Defendants falsely requested and were paid fees from Modoc MTC's profits.

**SFS'S FINANCING OF RED CEDAR, EAGLE AND BUFFALO'S
WORKING AND OPERATING CAPITAL**

56. In February 2011, to show SFS's purported bona fides as a financial company, SFS issued and signed a non-recourse loan agreement with Red Cedar to extend up to \$1.0 million of working capital to finance Red Cedar's operations and projects.

57. SFS had no capital for lending. Softek borrowed funds for the loans from Bahoti and investors with whom Rajesh had established financial relationships.

58. During 2011, SFS loaned Red Cedar working capital of \$284,900; and in 2012 and 2013, SFS loaned Red Cedar an additional \$725,000. Defendants had Red Cedar repay \$750,000 of the amount in 2013.

59. Sometime in early 2015 Sharad took the loan off Red Cedar's books by causing backdated assignments as of October 1, 2014 to Talon of Red Cedar's note payable balance and reflecting Red Cedar's loan as retired on its 2014 financial statements. Talon carried the loan balance on its books after the assignment and it remains on its books.

60. SFS also entered into a non-recourse loan agreement with Eagle in March 2012 to extend up to \$1.0 million for working capital and operating expenses.

61. Upon Eagle's approval as an 8(a) company in 2013, SFS loaned Eagle approximately \$860,000. Sometime in early 2015 as with Red Cedar, Sharad took the loan off Eagle's books by causing backdated assignments as of October 1, 2014 to Talon of Eagle's note

payable balance and reflecting Eagle's loan as retired on Eagle's financial statements. Talon carried the loan balance on its books after the assignment and Softek caused Talon to repay Softek approximately \$450,000 of the loan balance during 2015 to July 2019.

62. SFS entered into a non-recourse loan agreement with Buffalo in September 2012.

63. After Buffalo's approval in 2013, SFS made one \$80,000 loan to Buffalo. As with Red Cedar and Eagle, in early 2015 Sharad took the loan off Buffalo's books by causing a backdated assignment as of October 1, 2014 to Talon of Buffalo's note payable balance and reflecting Buffalo's loan as retired on its 2014 financial statement. Talon carried the loan balance on its books until Softek caused Talon to repay it.

64. SFS entered into a non-recourse loan agreement with Talon in November 2012. SFS made several loans to Talon totaling \$155,000 in 2013, mainly to cover Talon's salary paid to Rajesh (as CEO of a dormant company). The full amount was repaid by early 2014. As alleged above, Sharad backdated assignments and transferred the Red Cedar, Eagle and Buffalo loan balances onto Talon's books.

65. SFS never entered into non-recourse loan agreements with Walga or Modoc MTE because SMS and SFS had ceased financing the MTE's in 2013.

66. Notwithstanding Sharad's retirement of the loans on Red Cedar's and Eagle's 2014 financial statements, Rajesh directed Sharad to email the Tribe in July 2019 and fraudulently demand that the Tribe repay Red Cedar's and Eagle's loan balances. Sharad also demanded that the Tribe pay Softek \$2.0 million of fees Softek claimed was due and unpaid. Knowing Softek's demands were fraudulent, the Tribe rejected them.

**IMPLEMENTATION OF FUNDS ACCOUNTING FINANCING TO REPLACE
SFS'S CESSATION OF FINANCING IN 2013**

67. During 2013 and thereafter, Bahoti and Softek's other investors upon which Softek relied for financing loans and credit to Plaintiffs stopped providing funds. Consequently, Defendants stopped providing loans and financing to Plaintiffs in 2013.

68. Rajesh and Sharad had become familiar with and schooled themselves on the government enterprise funds accounting ("funds accounting") the Tribe's auditor had adopted as the auditor of the Plaintiffs' financial statements to account for loans between Plaintiffs as transfers of funds. Because they had stopped financing Plaintiffs in 2013, Defendants implemented the funds accounting method to disguise and enable them to have the Plaintiffs finance each other's working capital and operating needs for projects by making inter-company loans, instead of Softek providing loans to Plaintiffs as Defendants falsely represented Softek would provide.

69. The loans between the Plaintiffs were accounted for as funds transfers on Plaintiffs' books and in their financial statements instead of loans or amounts due to and due from Plaintiffs.

**RAJESH'S 2014 MANAGEMENT SERVICES AGREEMENT AND
CREATION OF THE TALON FEE ACCOUNT AS A CONDUIT TO
TRANSFER UNDISCLOSED FEES TO SMS**

70. In 2014 Rajesh decided he would get the Tribe to sign a written management agreement directly with Softek and the Modoc Tribe. So Defendants drafted, emailed and the Tribe and SMS signed, a Corporate Management Services Agreement ("Corporate Management Agreement") dated as of October 1, 2014.

71. Rajesh cleverly drafted the Corporate Management Agreement, this time in summary form, so that the Agreement would fraudulently represent and mislead the Tribe to believe that Softek would continue to provide the same business development and management

services that Softek previously had been providing and would continue to arrange the same loans and financing of Plaintiffs for working capital and operating funds for their government and commercial contracting projects and business operations. Rajesh's representations were utterly false, as Defendants never intended to provide and did not provide the Plaintiffs with continued management and financing and made the representations to induce the tribe to sign the Agreement. Rajesh omitted and concealed Defendants' intent to charge Plaintiffs with fraudulent fees for management and financing that Softek would and did not provide.

72. The Tribe, reasonably believing that Defendants were honest and Defendants' representations were true, signed the Corporate Management Agreement. The Tribe would not have signed the Agreement had it known that Rajesh's representations and omissions were false and Defendants did not intend to and did not provide the agreed management and financing to Plaintiffs and, in addition, intended to fraudulently charge them management and financing fees for the promised management and financing services.

73. Relying on the fact that there were now four MTE's for SMS to manage and SFS to finance, Rajesh provided that for Softek's continued management and financing of the MTE's, the Tribe would be charged and pay two fees:

- a. For its continued management of the Plaintiffs' businesses, Rajesh provided that the Tribe would pay Softek 40% of each of the Plaintiffs' monthly net profits; and
- b. For its continued financing extension of credit to the Plaintiffs and loans for working capital and projects, the Tribe would pay SMS 49% of each of the Plaintiffs' adjusted net profit.

74. Defendants included an oblique reference in the agreement that SMS would use Talon as a transfer account for fees and distributions.

75. Using the above reference in the agreement to the transfer account, Defendants caused a funds transfer account to be maintained on Plaintiffs' books, and from 2014 through July 2019, by email and cell phone, Defendants issued instructions to Plaintiffs' accountants to transfer payments for Softek's fees into the transfer account, which were then deposited into Talon's account and, from Talon's account transferred by wire to Softek and Defendants' accounts.

76. Softek did not accurately describe the amounts due as Softek's management and financing fees. Defendants falsely described them as payments for "support" and "outside services."

77. Worse, Defendants' misdescriptions and mischaracterizations of the fees resulted in causing the fees Softek requested, billed, and was paid for management and financing fees to be undisclosed and unreported on all the Plaintiffs' annual audited financial statements from 2014 through 2018.

78. Even worse and more deceptive, after October 1, 2014 SMS ceased issuing invoices to the Plaintiffs for its management and finance fees. Instead, Defendants issued email and cell phone instructions to Plaintiffs' accountants to transfer SMS's fees into Talon's account and, from Talon's account, to wire the fees to Softek's Wells Fargo accounts.

79. If worse can become worse, in early 2015 unbeknownst and concealed from Plaintiffs, Sharad used the 40%/49% fee formula in the Corporate Management Agreement to retroactively accrue an additional \$1.2 million of fees that Defendants fraudulently booked as due Softek for the management and financing of Plaintiffs from 2011 through September 30, 2014

when the Replacement Agreement with the Tribe was 40% of net profits for management and financing of Plaintiffs' businesses.

80. By the time Defendants and the Tribe executed the Corporate Management Agreement as of October 1, 2014, Defendants had already made a series of major changes so that Softek could charge the management and financing fees without providing management services and financing to the Plaintiffs as set forth in the Agreement:

- a. Defendants had shifted Rusty and all of SMS's management and personnel who had performed business development, management and accounting services from SMS's payroll over to Plaintiffs' payrolls;
- b. Rajesh and Sharad had ceased active participation in the management of the MTE's and their business development activities of the Plaintiffs, except to oversee and assure that SMS's monthly fees were calculated, requested and paid;
- c. Rajesh had become CEO of Talon at an annual salary of \$185,000; and Rusty had become a salaried employee of Red Cedar at an annual salary of \$100,000 (although remaining on SMS's payroll to share in its fees);
- d. Defendants had implemented the fund accounting method of financing the Plaintiffs that relieved SFS of the risk, burden and obligation of providing loans to and financing the working capital and funding the operations and projects of the Plaintiffs;
- e. Defendants had determined that no financial statements or reports would be required to be issued for Talon as a non-operating conduit and that the

Plaintiffs' financial statements would be issued so they did not disclose Defendants' loans and fees;

- f. Rajesh had become Talon's CEO so he could control and manipulate the accrual, payment, receipt and non-disclosure of SMS's fees; and
- g. Rusty participated in his former wife's audits of the Plaintiffs' annual financial statements so he could manipulate and control the audits and assure no information was disclosed regarding Softek's fees.

81. Notwithstanding Softek's management and financing changes which eliminated Softek's management and financing services, from October 1, 2014 through July 2019, Softek fraudulently charged Plaintiffs with monthly management fees of 40% of each Plaintiff's net profits for management and with monthly financing fees of 49% of each Plaintiff's adjusted net profit for providing working capital and loans to finance them and their projects. Plaintiffs relied upon the fraudulent charges and paid Defendants fees of not less than \$4.0 million which Plaintiffs wired to Defendants' Wells Fargo accounts from Plaintiffs' IBC accounts.

SMS'S NON-REPORTING AND NON-DISCLOSURE OF FEES AND PROFITS

82. As alleged above, Rajesh represented to the Tribe in 2010, which he confirmed in a provision in SMS's December 2010 Management Agreement with Red Cedar, that Defendants would be transparent and would provide the Plaintiffs with reports that would show "amounts of profit distributions" and "clearly show the calculation and payment of SMS's fees."

83. Rajesh's representations were false and were intended to induce Plaintiffs to enter into agreements with Softek to provide management and financing in return for fees.

84. Defendants never provided any such reports to the Tribe disclosing the calculation and amounts of profits and fees Defendants took out of the MTE's and transferred to and through Talon to themselves.

85. Defendants' fraud and non-disclosure of Softek's fees caused Plaintiffs annual financial statements to omit and not report or disclose to Plaintiffs the calculation, amount and payment of Softek's millions of dollars of fees taken out of Plaintiffs' profits.

86. From 2012 through 2019, Rajesh, Sharad and Rusty scheduled and held periodic meetings with Plaintiffs at the Tribe's Miami office to report on the Plaintiffs' businesses and their government and commercial contracting projects which Softek purported to manage and finance.

87. At these meetings, they would routinely provide the Tribe with summary reports, usually one page, which masked profitability of the businesses and government and commercial contracts. None of the reports disclosed SMS's fees paid directly to Softek, or transferred through Talon to Softek and then to Defendants, and Plaintiffs relied upon the reports and Defendants' misrepresentations to believe Defendants were not being paid millions of dollars of undisclosed fees concealed from Plaintiffs.

TRIBE'S DISCOVERY OF DEFENDANTS' FRAUD IN 2019

88. In 2015 Rusty requested that the Tribe secure, and the Tribe posted, a \$5.0 million Certificate of Deposit with IBC to secure a \$5.0 million line of credit (the "LOC") from IBC to Eagle that Eagle could use to procure a \$20.0 million FAA contract. Rusty represented that the sole purpose of the LOC was to secure Eagle's performance of and obtain the contract.

89. Eagle was not awarded the FAA contract. Nevertheless, Defendants left the \$5.0 million LOC at IBC in place.

90. Even though Softek was contractually obligated to provide Plaintiffs with working capital as previously alleged, Softek ceased financing Plaintiffs and the MTE's in 2013. As a result, in early 2018 Defendants convinced the Tribe to approve their fraudulent requests to IBC to draw on the LOC, first, claiming funds were needed temporarily because of a government shutdown, and thereafter, claiming funds were needed because Plaintiffs were experiencing temporary short term cash flow difficulties caused by temporary disruptions in contracts and government payments on them.

91. Defendants falsely promised and reiterated that the approved requests to IBC for draws would be repaid upon cessation of the temporary disruptions and the LOC would be restored to and maintained at \$5.0 million.

92. Thereafter, and for the next 15 months, Rusty and Rusty's brother, Richie Bohl, who Rusty hired and who joined the conspiracy as a co-conspirator in 2015, with Rusty's directions and Rajesh's and Sharad's knowledge and encouragement, fraudulently requested Plaintiffs' approvals, and relying on the false requests, Plaintiffs approved the requests. Defendants then made the false requests for draws on the LOC to IBC. Some of the draws were repaid during 2018, but none were repaid during late 2018 and up to July 2019 even though Defendants falsely promised Plaintiffs they would be repaid. Eagle's bank granted the false requests and deposited the funds in Eagle's IBC bank account from which Eagle wired fees from its IBC account to Softek's Wells Fargo bank accounts.

93. In July 2019, the Tribe learned that the draws Defendants had falsely requested and obtained from IBC had not been repaid and Eagle's \$5.0 million LOC had been depleted.

94. As a result of Defendants' depletion of the \$5.0 million LOC, the Tribe had to apply the \$5.0 Certificate of Deposit posted as security at IBC to repay the LOC and, as a result, the Tribe incurred a \$5.0 million loss.

95. Upon discovery of the depleted LOC in July 2019, the Tribe terminated the Corporate Management Agreement, terminated the employments of Rusty, his brother Richie, and Rajesh and commenced an investigation into Softek's purported management and financing of the Plaintiffs and the fees and profits they charged Plaintiffs for management and financing.

96. The Modoc Tribe learned from the investigation that the Defendants had defrauded Plaintiffs of not less than \$8.6 million that Plaintiffs had wired from their IBC bank accounts to Defendants' Wells Fargo bank accounts for management and financing fees.

97. Plaintiffs bring this action against Defendants to recover not less than \$14.6 million, \$8.6 million of fraudulent fees, \$5.0 million of loan losses, \$1.0 million of salaries, and such other amounts as may be proved at trial as damages directly and proximately caused by Defendants' perpetration of the conspiracy, scheme and fraudulent course of conduct to defraud and deceive Plaintiffs.

**PLAINTIFFS' FIRST THROUGH THIRD RICO CLAIMS FOR RELIEF
AGAINST INDIVIDUAL DEFENDANTS RAJESH SHAH, SHARAD
DADBHAWALA AND RUSTY BOHL**

**FIRST RICO CLAIM FOR RELIEF AGAINST RAJESH, SHARAD AND RUSTY
(CONDUCTING THE AFFAIRS OF THE ENTERPRISE
IN VIOLATION OF 18 U.S.C. §1962 (c))**

98. Plaintiffs repeat the allegations in paragraphs 1 through 97.

A. Section 1962(c) violation.

99. Defendants Rajesh, Sharad and Rusty violated 18 U.S.C. §1962(c) which provides, in pertinent, “it shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate...commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity.”

B. Defendants’ Civil Rico Enterprise.

100. The association-in-fact “enterprise” for the First, Second and Third RICO Claims consisted of SS, SMS and SFS (hereinafter “Softek”), the Civil RICO Enterprise. At all times from January 2011 through July, 2019, Softek was engaged in and its activities affected interstate commerce.

101. From 2010 through July 2019, Rajesh was the CEO and owner of SS and managing member and owner of SMS and SFS; Sharad was CFO and/or Chief Accountant of SS, SMS and SFS; and Rusty was the managing director of SMS.

102. Defendant Rajesh was the mastermind and leader of Softek, and directly participated in the conduct, actual operation and management of the unlawful affairs of the corrupt Softek through a pattern of racketeering activities as alleged herein below.

103. Defendant Rajesh participated in the fraudulent scheme, as alleged herein, and also participated in the operation and/or management of Softek through a pattern of racketeering activities as alleged herein below.

104. Defendant Sharad was the CFO and Chief Accountant of Softek, and directly participated in the conduct, actual operation and management of the unlawful affairs of the corrupt Softek through a pattern of racketeering activities as alleged herein below.

105. Defendant Sharad participated in the fraudulent scheme, as alleged herein, and also participated in the operation and/or management of Softek through a pattern of racketeering activities as alleged herein below.

106. Defendant Rusty was the spokesman of Softek, and directly participated in the conduct, actual operation, and management of the unlawful affairs of the corrupt Softek through a pattern of racketeering activities as alleged herein below.

107. Defendant Rusty participated in the fraudulent scheme, as alleged herein, and also participated in the operation and/or management of Softek through a pattern of racketeering activities as alleged herein below.

C. Defendants' pattern of racketeering.

(1) Wire fraud in violation of 18 U.S.C. §1343.

108. In conducting the affairs of Softek, Defendants Rajesh, Sharad and Rusty committed numerous related predicate acts of wire fraud that had the same or similar purpose to defraud Plaintiffs, the same or similar results of defrauding Plaintiffs, the same or similar participants, the same victims, and the same or similar methods of committing the predicate acts of wire fraud beginning in or about July 2010 and ending in or about July 2019, indictable under 18 U.S.C. §1343, each of which constituted "racketeering activity" within the meaning of 18 U.S.C. §1961(1) and all of which collectively constituted part of a "pattern of racketeering activity within the meaning of 18 U.S.C. §1961(5).

109. From July 2010 through July 2019, in conducting the affairs of Softek, Defendants Rajesh, Sharad and Rusty intentionally and knowingly intended to devise and did devise a scheme and artifice to defraud and fraudulently obtain payments of money from Plaintiffs for management

and financing fees by means of false and fraudulent pretenses, representations and promises which Defendants transmitted and caused to be transmitted by means of wire, email and cell phone communications in interstate commerce for the purposes of executing such scheme and upon which Plaintiffs relied to pay such fees as alleged below. Additionally, Defendants used other interstate wire, phone and email communications in interstate commerce that were incident to and an essential part of the fraudulent scheme. Defendants knew and could reasonably foresee that the scheme to defraud would be conducted and carried out by means of wire, cell phone and email communications in interstate commerce because they knew that Plaintiffs' bank accounts from which fees would be wired and paid to Softek were located at IBC in Oklahoma and that Softek's and Defendants' Wells Fargo bank accounts were located in Texas; that Plaintiffs' accountants to whom Defendants emailed invoices and fee requests were located in Utah and Defendants' offices were in California and Texas; that Defendants would and did email hundreds of invoices and requests to Plaintiffs' accountants in Utah upon which Plaintiffs relied to wire millions of dollars of fees from their IBC accounts in Oklahoma to Defendants' Wells Fargo accounts in Texas; and that Plaintiffs and Plaintiffs' members and representatives with whom Defendants communicated by email and cell phone from their California and Texas offices to conduct and carry out the schemes were in Oklahoma.

110. Defendants Rajesh, Sharad and Rusty's scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek by causing fraudulent requests for fees upon which Plaintiffs relied to issue checks to Softek for fees which Sharad deposited in Softek's Wells Fargo bank in California and through interstate wire communications were paid by IBC from Red Cedar's IBC bank account in Oklahoma. Such requests for which checks to Softek

for fees were issued to Softek, deposited by Sharad in Softek's California bank and paid by IBC from Red Cedar's account included:

- a. A Red Cedar check for \$17,500 issued to Softek for fees in March 2011;
- b. Red Cedar checks for \$3,000 and \$2,000 issued to Softek for fees in April 2011;
- c. A Red Cedar check for \$5,000 issued to Softek for fees in May 2011;
- d. A Red Cedar check for \$5,000 issued to Softek for fees in June 2011; and
- e. A Red Cedar check for \$80,000 issued to Softek for fees in December 2011.

111. Defendants Rajesh, Sharad and Rusty's scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek, by emailing monthly fraudulent requests and invoices for fees to Plaintiffs from 2012 through 2014 via interstate emails from computers and devices located in their offices in California and Texas to Plaintiffs' accountants in Utah which Plaintiffs relied upon to wire payments via ACH interstate transfers using interstate wire communications of millions of dollars of fees from Plaintiffs' IBC Oklahoma bank accounts to said Defendants' Wells Fargo bank accounts in Texas. Such fraudulent requests and invoices for which Defendants caused payments to be wired to and fraudulently received by Softek and Defendants included the following:

- a. SMS invoices for fees issued and emailed using interstate wire communications by Rajesh and Sharad from Softek's California offices to Red Cedar's accountant in Utah for \$300,000 on April 30, 2013, August 31, 2013, November 30, 2013, and February 28, 2014 upon which Red Cedar relied and wired payments using interstate wire communication to Softek's

and Defendants' Wells Fargo bank accounts in Texas from Red Cedar's IBC bank accounts in Oklahoma;

- b. SMS invoices issued and emailed using interstate wire communications by Rajesh and Sharad from Softek's California offices to Eagle's accountant in Utah for \$15,000 on October 31, 2012, January 31, 2013, June 30, 2013, and December 31, 2013 upon which Eagle relied and wired payments using interstate wire communication to Softek's Wells Fargo bank accounts in Texas from Eagle's IBC Oklahoma bank account;
- c. SMS invoices issued and emailed using interstate wire communications by Rajesh and Sharad from Softek's California offices to Buffalo's accountant in Utah for \$3,000 on July 31, 2013, September 30, 2013, and January 31, 2014 upon which Buffalo relied and wired payments using interstate wire communication to Softek's Wells Fargo bank accounts in Texas from Buffalo's IBC bank account in Oklahoma; and
- d. Invoices issued and emailed using interstate wire communications by Rusty from Rusty's Texas office to Red Cedar's accountant in Utah for \$15,000 on October 31, 2012, November 30, 2012, December 31, 2012, January 31, 2013 and March 31, 2013 upon which Red Cedar relied and wired payments to Rusty's Wells Fargo bank account in Texas from Red Cedar's Oklahoma IBC bank account.

112. Defendants' scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek from 2015 to July 2019 falsely requesting transfers of millions

of dollars of fees by means of phone calls and emails from Sharad via interstate commerce from computers and devices in Softek's California offices to Plaintiffs' accountants' office in Utah upon which Plaintiffs relied to wire fees to Softek's Wells Fargo accounts in Texas from Plaintiffs' IBC accounts in Oklahoma. Such false requests emailed from Sharad to Plaintiffs' accountants and relied upon by Plaintiffs to wire fees to Softek included the following:

- a. Sharad's email request for \$75,000 of fees in May 2015;
- b. Sharad's email request for \$75,000 of fees in June 2015; and
- c. Sharad's email request for \$150,000, \$80,000 of which as payment on Eagle's loan and \$70,000 of which as payment of fees, in July 2016.

113. Defendants' scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek by preparing and emailing, using interstate wire communications from computers and devices in Softek's California and Rusty's Texas offices to computers and devices located in the Tribe's and Plaintiffs' Oklahoma offices, management, profit-sharing, loan and employment agreements by which Defendants, by means of wire transmissions, derived fraudulent fees, salaries and interest payments. Such agreements included the following:

- a. SS's Letter of Intent emailed using interstate wire communication by Rajesh in California to the Tribe in Oklahoma in August, 2010;
- b. SMS's Management Services Agreement emailed using interstate wire communications by Rajesh in California to Red Cedar in Oklahoma on or about December 20, 2010, and drafts of which Agreement were emailed

using interstate wire communications by Rusty in Texas to Red Cedar in Oklahoma in November and December, 2010;

- c. SFS's Loan Agreement with Red Cedar emailed using interstate wire communications by Sharad in Softek's California offices to Red Cedar's Oklahoma office on or about February 16, 2012;
- d. SFS's Loan Agreement with Eagle emailed using interstate wire communications by Sharad in Softek's California offices to Eagle's Oklahoma office on or about March 1, 2013;
- e. Rajesh's Employment Agreement with Red Cedar emailed using interstate wire communications by Rajesh in Softek's office to Red Cedar's Oklahoma office in June 2011; and
- f. Rusty's Employment Agreement with Red Cedar emailed using interstate wire communications by Rusty in his Texas office to Red Cedar's Oklahoma office on or about October 14, 2014.

114. Defendants Rajesh, Sharad and Rusty's scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek by issuing through emails and cell phones located on computers and devices in Softek's California offices monthly fraudulent instructions to Plaintiffs' accountants in Utah upon which they relied from 2014 to July 2019 to transfer and pay fraudulent fees to Softek using interstate wire communications from Plaintiffs' Oklahoma bank accounts to said Defendants and Softek's Wells Fargo bank accounts in Texas. Such false instructions to transfer and wire fees to Softek and Defendants included the following:

- a. Sharad's instructions to wire \$150,000 to Softek on October 8, 2015;

- b. Sharad's instructions to wire \$150,000 to Softek on September 13, 2016;
- c. Sharad's instructions to wire \$75,000 to Softek on February 28, 2017; and
- d. Sharad's instructions to wire \$30,000 to Softek on August 31, 2018.

115. Defendants Rajesh, Sharad and Rusty's scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek by establishing a \$5.0 million letter of credit for Eagle ("LOC") for which said Defendants, by emails and cell phone calls using interstate wire communications from Texas and Oklahoma, fraudulently made and caused to be made, false requests to Eagle's IBC Oklahoma bank to draw on the LOC and deposit millions of dollars into Eagles' IBC Oklahoma bank account from which Softek was wired fraudulent fees via ACH transfers to Softek's Wells Fargo bank accounts in Texas. Such false requests included the following:

- a. Said Defendants' request for a \$500,000 draw on January 26, 2018;
- b. Said Defendants' request for a \$350,000 draw on April 17, 2018;
- c. Said Defendants' request for a \$350,000 draw on October 18, 2018;
- d. Said Defendants' request for a \$350,000 draw on December 4, 2018; and
- e. Said Defendants' request for a \$200,000 draw on May 1, 2019.

(2) Money laundering in violation of 18 U.S.C. §§1956 and 1957.

116. Defendants Rajesh, Sharad and Rusty's scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek from 2012 to July 2019 by intentionally and knowingly engaging and attempting to engage in dozens of monetary transactions involving criminally derived money and property taken by fraud from Plaintiffs in violation and indictable under 18 U.S.C. §1957, by depositing payments taken by fraud from Plaintiffs, each in

excess of \$10,000, and depositing such payments in said Defendants' bank accounts in Softek's Wells Fargo bank accounts, knowing the payments were derived from the unlawful acts of wire fraud, and which payments were in fact derived from unlawful acts of wire fraud as alleged in paragraphs 108 through 115.

117. Defendants Rajesh, Sharad and Rusty's scheme to defraud was perpetrated and carried out by said Defendants in conducting the affairs of Softek from 2014 to July 2019. Defendants Rajesh, Sharad and Rusty, by intentionally and knowingly conducting dozens of financial transactions involving criminally derived money taken by wire fraud as payments by fraud from Plaintiffs and, which in fact involved criminally derived money taken by wire fraud from Plaintiffs with the intent of promoting and carrying out Defendants' scheme to defraud, and knowing that the dozens of transactions were designed in whole or in part to conceal and disguise the nature, source and control of the criminally derived money and payments taken by wire fraud from Plaintiffs in violation and indictable under 18 U.S.C. §1956(a)(1), caused payments of Softek's fees Defendants requested by emails from Softek's California office to Plaintiffs' accountants in Utah to be withdrawn and transferred from Red Cedar's, Eagle's, Buffalo's, Walga's and Modoc MTE's IBC accounts and deposited in Talon's IBC account, and then caused such payments of fees to be withdrawn from Talon's IBC account and wired via interstate wire communications to Softek's account in Wells Fargo in Texas, all payments of which in fact were derived from Defendants' unlawful acts of wire fraud as alleged in paragraphs 108 through 115.

(3) Transferring and receiving money taken by fraud in violation of 18 U.S.C. §§ 2314-15.

118. In conducting the affairs of Softek from 2012 through July 2019, Defendants Rajesh, Sharad and Rusty in perpetuation of the scheme to defraud Plaintiffs knowingly and intentionally caused multiple transfers in interstate commerce of money and payments of fees, each amount in excess of \$5,000, taken by fraud from Plaintiffs' and Talon's IBC bank accounts in Oklahoma, with knowledge that such money and payments had been taken by fraud from its rightful owner, and transferred and caused the transfer of such moneys and payments in interstate commerce to said Defendants' Wells Fargo bank account in Texas, is indictable under 18 U.S.C. §2314, as alleged in paragraphs 108 through 115.

119. In conducting the affairs of Softek from 2012 through July 2019 said Defendants knowingly and intentionally received multiple transfers of money and payments, each amount in excess of \$5,000, taken by fraud from Talon's and Plaintiffs' IBC Oklahoma bank accounts, with knowledge that such money transfers had been taken by fraud from its rightful owner, and received in said Defendants' Wells Fargo bank accounts in Texas taken by fraud from Plaintiffs' IBC bank accounts in Oklahoma, is indictable under 18 U.S.C. §2315, as alleged above in paragraphs 108 through 115.

(4) Bank fraud in violation of 18 U.S.C. §1344.

120. In conducting the affairs of Softek, Defendants Rajesh, Sharad and Rusty in perpetuation of the scheme to defraud intentionally and knowingly executed a scheme, in violation and indictable under 18 U.S.C. §1344, from September 2018 through May 2019 to obtain money and funds under the custody of Eagle's IBC Oklahoma bank, a financial institution, by means of false and fraudulent pretenses, representations and promises in making and causing to made

through false requests to Eagle's IBC bank for draws on Eagle's LOC in order to obtain funds deposited into Eagle's IBC account and wired to Softek's Wells Fargo bank account to pay the fees fraudulently taken by Defendants from Eagle as alleged above in paragraph 115.

(5) Obstruction of justice.

121. In conducting the affairs of Softek, Defendant Rusty Bohl, in perpetuation of the scheme to defraud Plaintiffs, in July, 2019 corruptly, knowingly and intentionally endeavored to influence, obstruct and impede the due administration of justice, indictable under 18 U.S.C. §1503, by removing from his computer all electronic data relevant to Softek, individual Defendants Rajesh, Sharad and Rusty's schemes to defraud and Rusty's participation in the schemes and individual Defendants' racketeering activities in conducting the affairs of Softek.

D. Defendant's harm, injury and damages.

122. Defendants Rajesh, Sharad and Rusty's unlawful actions alleged above constituted a pattern of racketeering activities affecting interstate commerce and designed to harm multiple parties, including each of Plaintiffs, and they harmed Plaintiffs and were effectuated by Defendants Rajesh, Sharad and Rusty in violation of 18 U.S.C. §1962 (c).

123. As a result of Defendants Rajesh, Sharad and Rusty's RICO violations, Plaintiffs have suffered outrage and severe economic damages in the form of fraudulently paid fees, lost profits, loan losses and fraudulent interest paid on loans in an amount to be determined at trial but not less than \$13.6 million, plus attorneys' fees. Said damages were proximately caused by the RICO violations as herein alleged and would not have been suffered and incurred but for the RICO violations as herein alleged.

124. Plaintiffs are “persons” injured in their property by reason of Defendants Rajesh, Sharad and Rusty’s violations of 18 U.S.C. §1962 and may sue therefor in this court and recover threefold the damages sustained by them, plus costs of the suit and reasonable attorneys’ fees pursuant to 18 U.S.C. §1964(c).

125. The racketeering activity of Defendants Rajesh, Sharad and Rusty presents the potential to injure other potential persons or entities. Plaintiffs are only several of many victims in a continuing string of racketeering activity, a course of conduct which threatens to injure future victims.

**SECOND CLAIM FOR RELIEF
(CONSPIRACY IN VIOLATION OF 1962(d))**

126. Plaintiffs repeat the allegations in paragraphs 1 through 125.

127. Defendants Rajesh, Sharad and Rusty violated 18 U.S.C. §1962(d) which provides, in pertinent part, “it shall be unlawful for any person to conspire to violate any provisions of subsections (a), (b), or (c) of this section.

128. Defendants Rajesh, Sharad and Rusty conspired to violate the provisions of 18 U.S.C. §1962(c) by engaging in, agreeing and conspiring with each other and other individuals, including Richie Bohl, Jesse McCarty, Burnell White, Manish Vyas, Pami Shah and others currently unknown to Plaintiffs, to participate in the pattern of racketeering and overt and predicate acts alleged in paragraphs 1 through 125.

129. As a result of Defendants Rajesh, Sharad and Rusty’s violation of 18 U.S.C. §162(d), Plaintiffs have suffered outrage and severe economic damages in the form of fraudulently paid fees, profits and fraudulent interest on loans in an amount to be determined at trial, but not less than \$13.6 million, plus attorneys’ fees. Said damages were proximately caused by the RICO

violations as herein alleged and would not have been suffered and incurred but for the RICO violations as herein alleged.

130. Plaintiffs are “persons” injured in their property by reason of Defendants Rajesh, Sharad and Rusty’s violations of 18 U.S.C. §1962(d) and may sue therefor in this Court and recover threefold the damages sustained by them, plus costs of the suit and reasonable attorneys’ fees pursuant to 18 U.S.C. §1964(c).

**THIRD CLAIM FOR RELIEF
(MAINTAINING AND CONTROLLING AN ENTERPRISE IN VIOLATION OF
18 U.S.C. §1962(b))**

131. Plaintiffs repeat their allegations in paragraphs 1 through 130.

132. Defendants Rajesh, Sharad and Rusty violated 18 U.S.C. §1962(b) which provides, in pertinent part, “it shall be unlawful for any person through a pattern of racketeering activity...to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate commerce.

133. Defendants Rajesh, Sharad and Rusty violated 18 U.S.C. §1962(b) by receiving fees and profits derived from a pattern of racketeering activity and used the fees and profits to maintain directly and indirectly an interest in and control of Softek, as alleged in paragraphs 1 through 130.

134. As a result of Defendants Rajesh, Sharad and Rusty’s violations of 18 U.S.C. §1962(b), Plaintiffs have suffered outrage and severe economic damages in the form of fess, profits and interest on loans in an amount to be determined at trial but not less than \$13.6 million, plus attorneys’ fees. Said damages were proximately caused by the RICO violations as herein alleged and would not have been suffered and incurred but for the RICO violations as herein alleged.

135. Plaintiffs are “persons” injured in their property by reason of Defendants Rajesh, Sharad and Rusty’s violations of 18 U.S.C. §1962(b) and may sue therefor in this Court and recover threefold the damages sustained by them, plus costs of the suit and reasonable attorneys’ fees pursuant to 18 U.S.C. §1964(c).

**PRAYER AS TO CIVIL RICO COUNTS
FIRST THROUGH THIRD CLAIMS FOR RELIEF**

WHEREFORE, Plaintiffs individually pray for entry of judgment in their favor and against Defendants Rajesh, Sharad and Rusty to include the following relief:

A. An injunction to enjoin Defendants Rajesh, Sharad and Rusty from any further racketeering acts;

B. Ordering Defendants Rajesh, Sharad and Rusty to divest themselves of any interest (direct or indirect) in Softek; imposing reasonable restrictions on the future activities of Defendants Rajesh, Sharad and Rusty, including but not limited to, prohibiting Defendants Rajesh, Sharad and Rusty from engaging in the same type of endeavor as Softek engaged in, the activities of which affect interstate commerce; or ordering a dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons;

C. Awarding Plaintiffs Modoc Nation, Red Cedar, Eagle, Buffalo, Talon, Modoc MTE and Walga, collectively, economic loss in the form of fraudulent fees paid by Plaintiffs, lost profits, loan losses and fraudulent interest paid on Plaintiffs’ loans in an amount to be determined at trial, but not less than \$13.6 million, plus attorneys’ fees.

D. Awarding Plaintiffs Modoc Nation, Red Cedar, Eagle, Buffalo, and Talon, collectively, treble damages for the loss of property to be proven and determined at trial, but not less than \$40.8 million, exclusive of interest and costs pursuant to 18 U.S.C. §1964(c);

E. Costs pursuant to 18 U.S.C. §1964(c), and compound interest as permitted by law;

F. Pre-judgment and post-judgment interest;

G. An assessment of attorneys' fees pursuant to 18 U.S.C. §1964(c); and

H. Such other and further relief, whether legal or equitable, to which Plaintiffs are entitled.

PLAINTIFFS' FOURTH THROUGH TENTH STATE LAW CLAIMS FOR RELIEF

FOURTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS (CONSPIRACY TO DEFRAUD)

136. Plaintiffs repeat their allegations in Paragraphs 1 through 135.

137. Defendants combined, conspired and agreed with each other to defraud and deceive Plaintiffs by entering into fraudulent agreements by which, through Softek, they fraudulently promised and agreed that they would provide management, business development and financing services in return for management and financing fees.

138. Defendants performed the following overt acts to further their conspiracy and accomplish their unlawful and fraudulent objective of defrauding and deceiving Plaintiffs:

- a. In August 2010, Softek signed a Letter of Intent that falsely represented that Defendants had a consortium of companies that could provide the Tribe's MTE's with management and business development services and finance the MTE's working capital and operations;

- b. In December 2010, Softek signed a Management Agreement with Red Cedar that falsely represented the management, business development and other services that Defendants would provide to Red Cedar and the MTE's;
- c. In 2011, Rajesh drafted and Sharad implemented an incentive plan effective October 1, 2011 which Defendants used to fraudulently pay 32% of Plaintiffs' net profits to SMS;
- d. During 2012 through 2014, Defendants issued false monthly invoices to Red Cedar, Eagle, and Buffalo for fees;
- e. In October 2014, Softek signed a Corporate Management Services Agreement with the Tribe that falsely represented that Softek would continue providing management and financing services;
- f. In October 2014, Defendants caused transfers of Softek's fraudulent management and financing fees to Talon that were falsely described as support and outside services;
- g. In early 2015, Sharad fraudulently retired Red Cedar's, Eagle's and Buffalo's notes payable to Softek by backdating and creating notes payable as of October 1, 2014 on Talon's books for the loans;
- h. During 2014 to July 2019, Defendants issued false instructions to make transfers by wire to Softek for fees; and
- i. From 2011 to July 2019, Defendants provided periodic reports that concealed from the Tribe the description, calculation and amount of

management and financing fees and profits Softek was receiving from Plaintiffs' net profits.

139. Defendants accomplished the object of their conspiracy and defrauded and deceived Plaintiffs by fraudulently paying themselves more than \$8.6 million of fees.

**FIFTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(FRAUD AND MISREPRESENTATION)**

140. Plaintiffs repeat their allegations in Paragraphs 1 through 139.

141. Defendants made false and misleading statements, omissions and misrepresentations of material facts to Plaintiffs in 2010 upon which they relied to enter into the 2010 Management Agreement, the Replacement Agreement and the 2014 Management Services Agreement that they had a consortium of companies through which they could and would provide the MTE's with management and business development services and with loans to finance the working capital and operating needs of the MTE's on an ongoing basis.

142. Defendants drafted and executed an agreement in October 2014 in which they made false and misleading statements, misrepresentations and omissions of material facts to the Tribe that Softek was providing and would continue to provide Plaintiffs with management and business development services and loans and financing for the Plaintiffs' working capital and operating needs. Plaintiffs relied upon the materially false and misleading statements and omissions to execute the October 2014 Management Services Agreement.

143. Defendants issued monthly materially false invoices during 2012 through 2014 that fabricated fees upon which Plaintiffs relied to accrue and pay fees to Softek.

144. Defendants issued fraudulent instructions during 2015 through July 2019 of fees due upon which Plaintiffs relied to transfer and wire millions of dollars of funds to Softek.

145. Defendants made false requests for approvals of draws on Eagle's LOC upon which Eagle relied to approve and IBC relied to deposit \$5.0 million into Eagle's account from which Defendants were wired and paid fees.

146. Defendants issued periodic reports and met with Plaintiffs where they falsely represented and omitted material facts about the profitability of the MTE's businesses and projects and falsely concealed material facts about the fees that SMS was paying itself for managing and financing the MTE's. Defendants' representations were discovered in July 2019 to be false and material to the very purpose and goal of the Plaintiffs' agreements with Defendants.

147. Defendants' false statements, misstatements, misrepresentations and omissions of material facts were fraudulent and Defendants fraudulently withheld, concealed, omitted and did not disclose material facts and information that would have revealed that Defendants' statements and representations were fraudulent, false and misleading.

148. Defendants knew their statements and representations were fraudulent, false and misleading and made them knowingly, intentionally and recklessly and with utter disregard for the truth as manifest from the duration and number of false statements made and fraudulent actions perpetrated by the Defendants and Defendants' cover up and concealment of the truth which they were obligated by law and contract to disclose to Plaintiffs.

149. Defendants made the fraudulent, false and misleading representations and omissions with the intention that the Plaintiffs would reasonably rely and act upon said representations.

150. Plaintiffs reasonably and detrimentally relied and acted in reliance upon Defendants' fraudulent, false and misleading statements and omissions.

151. Defendants' fraudulent, false and misleading statements and omissions have caused Plaintiffs to suffer injury, damages and losses of not less than \$13.6 million.

**SIXTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(DECEIT)**

152. Plaintiffs repeat their allegations in Paragraphs 1 through 151.

153. Defendants made deceitful and deceptive suggestions and statements of material facts which were not true.

154. Defendants knew their deceitful and deceptive suggestions and statements of material fact were not true and they had no reasonable grounds for believing that such deceitful and deceptive suggestions and statements were true.

155. Plaintiffs reasonably and justifiably relied upon and trusted Defendants to be honest and truthful and to provide Plaintiffs with honest and truthful facts.

156. Defendants knew that Plaintiffs trusted them and were reasonably and justifiably relying upon Defendants to make honest and truthful statements.

157. Defendants' deceit has caused Plaintiffs to suffer injury, damages and losses of not less than \$13.6 million.

**SEVENTH CLAIM FOR RELIEF AGAINST SMS
(BREACH OF CONTRACT)**

158. Plaintiffs repeat their allegations in Paragraphs 1 through 157.

159. SMS entered into a Management Agreement with Red Cedar on December 10, 2010 and a Corporate Management Agreement with the Modoc Tribe as of October 1, 2014.

160. SMS breached the agreements by paying itself fraudulent fees and excessively reimbursing itself for overhead, payroll and other expenses in violation of the terms of the agreements.

161. Plaintiffs have suffered injury, loss and damages as a proximate cause of the breaches of the agreements of not less than \$8.6 million.

**EIGHTH CLAIM FOR RELIEF AGAINST RAJESH AND RUSTY
(BREACH OF FIDUCIARY DUTY)**

162. Plaintiffs repeat their allegations in Paragraphs 1 through 161.

163. Defendant Rajesh was appointed to become CEO of Red Cedar in June 2011 and served in that capacity until November 2012; and Rajesh was appointed as the CEO of Talon from 2015 until he was terminated in July 2019. During his tenure with Red Cedar and Talon Rajesh's annual salary was \$185,000.

164. Defendant Rusty Bohl was employed by Red Cedar from early 2014 until he was terminated in July 2019. Rusty's annual salary was \$100,000.

165. During his tenure as CEO of Red Cedar, Rajesh adopted an incentive plan in November 2011 to have Red Cedar pay Softek not less than \$1.2 million from 2012 through 2014.

166. Rajesh's adoption of the incentive plan was self-serving and violated his fiduciary duties of candor, care and loyalty to Red Cedar.

167. Rajesh's and Rusty's fraud and deceit as employees of Red Cedar and Talon violated their fiduciary duties of candor, care and loyalty to Red Cedar and Talon.

168. Plaintiffs, in particular Red Cedar and Talon, were injured and suffered damages of not less than \$2.0 million in payment of incentives and salaries as a result of Rajesh's and Rusty's breaches of fiduciary duties.

**NINTH CLAIM FOR RELIEF AGAINST ALL DEFENDANTS
(ACCOUNTING)**

169. Plaintiffs repeat their allegations in Paragraphs 1 through 168.

170. Upon information and belief, from 2011 through July 2019, Defendants charged Plaintiffs Red Cedar, Eagle, Buffalo, Walga and Modoc MTE and accrued and noted in Defendants' and Softek's books and records, personal accounts, and bank statements payments they claimed were due to them and/or were paid to them for salaries, fees, incentives, profits and interest pursuant to Softek's 2010 and 2014 Management Services Agreement, SFS's Non-Recourse Notes issued to Red Cedar, Eagle and Buffalo, and Rajesh's and Rusty's employment agreements with Red Cedar and Talon.

171. Defendants' accounting entries accruals and payments of fees, incentives, profits and interest reflected on their books were false and fraudulent and were used by Defendants to defraud and deceive Plaintiffs and fraudulently take money from them.

172. Rajesh's and Rusty's salary payments are forfeitable to Red Cedar and Talon as a result of their breaches of fiduciary duty.

173. Plaintiffs are entitled to and demand an accounting from Defendants of all payments, fees, incentives, profits, loan repayments and interest they fraudulently invoiced, requested and accounted for on their books pursuant to the aforementioned 2010 Management Agreement, the Replacement Agreement, the Red Cedar Incentive Plan, the 2014 Management Services Agreement, and SFS's Non-Recourse Notes; and they further demand an accounting from Rajesh and Rusty of all salary and payment and Rajesh and Rusty received pursuant to their employment agreements and in violation of their fiduciary duties.

174. Plaintiffs have no adequate remedy at law to obtain such relief and hereby demand an equitable remedy of accounting against Defendants.

**TENTH CLAIM FOR RELIEF
(PUNITIVE DAMAGES)**

175. Plaintiffs repeat their allegation in Paragraphs 1 through 174.

176. Defendants' fraudulent and deceitful conduct was carried out for a period of nine years, profited them with more than \$14.6 million, was malicious, knowing and intentional and in reckless disregard of Plaintiffs' rights.

177. As a result of Defendants' conduct as alleged herein, Plaintiffs should be awarded punitive damages pursuant to Section 23-9.1 of twice the amount of actual damages, or \$29.2 million.

**PRAYER FOR RELIEF ON PLAINTIFFS' FOURTH
THROUGH TENTH STATE LAW CLAIMS FOR RELIEF**

WHEREFORE, Plaintiffs pray for a judgment against Defendants on their Fourth through Tenth Claims for Relief, jointly and severally, for damages in the following amounts or such other amounts as may be proved at trial:

- A. Compensatory and Actual Damages of not less than \$14.6 million;
- B. Punitive Damages of \$29.2 million;
- C. Rescission of the 2010 Management Agreement, the Replacement Agreement and 2014 Corporate Management Agreement and restitution of all fees paid to Softek and Defendants from 2011 through July 2019 pursuant to such agreements;
- D. Costs, pre-and post-judgment interest and attorneys' fees; and
- E. Such other further equitable and legal relief which may be just and appropriate

Dated December 6, 2019.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that on the 6th day of December, 2019, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

D. Michael McBride III
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/s/Charles D. Neal, Jr._____