

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

LULA WILLIAMS, GLORIA TURNAGE, GEORGE HENGLE, DOWIN COFFY, and FELIX GILLISON, JR., <i>on behalf of themselves</i> <i>and all individuals similarly situated,</i>	:	
	:	Civil Case No. 3:17cv461
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
BIG PICTURE LOANS, LLC, et al.,	:	
	:	
Defendants.	:	

**MATT MARTORELLO’S ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFFS’ COMPLAINT**

Defendant, Matt Martorello (“Martorello”), by and through his undersigned counsel, answers the allegations of Plaintiffs’ putative Class Action Complaint (“Complaint”) as follows:

1. Admitted in part and denied in part. The allegations of Paragraph 1 are admitted insofar as any decision from the Virginia courts speaks for itself. Any characterization of a decision by the Virginia courts is denied. The remaining allegations of Paragraph 1 are policy opinions and conclusions of law to which no response is required. To the extent a response is deemed necessary, the remaining allegations of Paragraph 1 are denied.

2. Denied. It is specifically denied that Martorello established a “rent-a-tribe” business model. The remaining allegations of Paragraph 2 are conclusions of law to which no response is required. To the extent that a response is deemed necessary, the allegations of Paragraph 2 are denied.

3. Denied. It is denied that Martorello facilitated illegal lending. Bellicose Capital, LLC (“Bellicose Capital”), engaged in lawful business activity with tribal lending entities which

were wholly owned and operated by the Lac Vieux Desert Band of Lake Superior Chippewa Indians (the “Tribe”). It is further specifically denied that Martorello approached the Lac Vieux Desert Band of Lake Superior Chippewa Indians for the purposes of establishing a rent-a-tribe scheme. It is specifically denied that Martorello has ever made a loan in the name of Big Picture Loans, LLC or any other entity owned and operated by the Lac Vieux Desert Band of Lake Superior Chippewa Indians. It is specifically denied that the Tribe had no control over the income or expenses of Big Picture Loans or any other tribal lending entity owned and operated by the Lac Vieux Desert Band of Lake Superior Chippewa Indians. The remaining allegations of Paragraph 3 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 3 are denied.

4. Denied. The allegations of Paragraph 4 are conclusions of law to which no response is required. To the extent a response is deemed necessary, the remaining allegations of Paragraph 4 are denied.

5. The allegations of Paragraph 5 are conclusions of law to which no response is required. To the extent a response is deemed necessary, the allegations of Paragraph 5 are denied.

JURISDICTION

6. The allegations of Paragraph 6 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 6 are denied.

7. Paragraph 7 constitutes a conclusion of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 7 are denied.

PARTIES

8. After a reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the allegations of Paragraph 8 as the paragraph concerns a party other than Martorello. Accordingly, the allegations of Paragraph 8 are denied.

9. After a reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the allegations of Paragraph 9 as the paragraph concerns a party other than Martorello and as such the allegations are denied.

10. After a reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the allegations of Paragraph 10 as the paragraph concerns a party other than Martorello and as such the allegations are denied.

11. After a reasonable investigation, Martorello is lacks the necessary knowledge or information to admit or deny the allegations of Paragraph 11 as the paragraph concerns a party other than Martorello and as such the allegations are denied.

12. After a reasonable investigation, Martorello is does not have sufficient knowledge or information to admit or deny the allegations of Paragraph 12 as the paragraph concerns a party other than Martorello and as such the allegations are denied.

13. Admitted in part and denied in part. It is admitted that Big Picture Loans is a limited liability company organized under the laws of the Lac Vieux Desert Band of Lake Superior Chippewa Indians. It is specifically denied that the Tribe permitted Martorello to use the name of Big Picture Loans. It is specifically denied that Martorello falsely claimed that Big Picture Loans was operated by the Tribe. After a reasonable investigation, Martorello is without information as to the business practices of Big Picture Loans, its day-to-day operations, its funding sources, its servicing practices, its collection practices, and as such cannot verify the truth of those statements within Paragraph 13 of the Complaint, and as such those allegations are

denied. The remaining allegations of Paragraph 13 of the Complaint constitute conclusions of law to which no responsive pleading is required. To the extent a response is deemed necessary, the remaining allegations of Paragraph 13 are denied.

14. Admitted in part and denied in part. It is admitted that Martorello is a natural person and is a resident of Puerto Rico. It is further admitted that Martorello was a founder of Bellicose Capital, LLC. It is specifically denied that Bellicose Capital, LLC was created to make or collect any loans. It is specifically denied that Martorello had direct personal involvement in the creation and day-to-day operations of any illegal enterprise. The remaining allegations of Paragraph 14 constitute conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 14 are denied.

15. Admitted in part and denied in part. It is admitted that Bellicose Capital, LLC was organized under the laws of Puerto Rico. The remaining allegations of Paragraph 15 are denied.

16. Admitted in part and denied in part. It is admitted that Defendant Gravel was the General Counsel of Bellicose Capital, LLC. The remaining allegations of Paragraph 16 are denied.

17. Admitted.

18. Denied. Upon information and belief, Defendant Martin is not the tribal Chairwoman of the Lac Vieux Desert Band of Lake Superior Chippewa Indians.

19. Admitted.

20. Admitted.

21. After a reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the allegations contained within Paragraph 21, and as such the allegations are denied.

22. Admitted in part and denied in part. The allegations of Paragraph 22 are admitted insomuch as any decision from the Virginia court speaks for itself. Any characterization of a decision made by the Virginia court cited in Paragraph 22 is denied.

23. Admitted in part and denied in part. The allegations of Paragraph 23 are admitted insomuch as any decision from the Virginia court speaks for itself. Any characterization of a decision made by the Virginia court cited in Paragraph 23 is denied. It is specifically denied that the Supreme Court of Virginia has repeatedly acknowledged public policy applicable to usury claims. To the contrary, the most recent case dealing with usurious loans decided by the Supreme Court of Virginia, *Settlement Funding, LLC v. Von Neumann-Lillie*, 274 Va. 76 (2007) expressed a holding contrary to the quotations cited in paragraph 23 of the Complaint.

24. Admitted insomuch as the statute cited speaks for itself. Any characterization of that statute is specifically denied. Paragraph 24 constitutes a conclusion of law to which no response is required. To the extent that a response is deemed necessary, the allegations of Paragraph 24 are denied.

25. Admitted insomuch as the statutes cited in Paragraph 25 speak for themselves. Any characterizations of those statutes are specifically denied. The remaining allegations of Paragraph 25 constitute conclusions of law to which no response is required. To the extent that a response is deemed necessary, the allegations of Paragraph 25 are denied.

26. Admitted in part and denied in part. Admitted inasmuch as the United States Supreme Court dissent speaks for itself. By way of further denial, the Complaint characterizes the dissent quoted as being authored by the late Justice Scalia, but was actually authored by Justice Thomas. Any characterization of the dissenting opinion cited in Paragraph 26, or the legal relevance of such a dissent, is denied. The remaining allegations of Paragraph 26 are denied.

27. Denied. It is expressly denied that Martorello engaged in any illegal lending activity. The remaining allegations of Paragraph 27 are denied.

28. Admitted in part and denied in part. It is admitted the Lac Vieux Desert Band of Lake Superior Chippewa Indians (the "Tribe") is a federally recognized tribe located in the Upper Peninsula of Michigan. It is expressly denied that Martorello established a rent-a-tribe business model for Bellicose Capital, LLC.

29. Admitted in part and denied in part. It is admitted that Big Picture Loans, LLC claims to be wholly owned and operated as an instrumentality of the Tribe. It is admitted that Red Rock Tribal Lending claimed to be wholly owned and operated as an instrumentality of the Tribe. Both Big Picture Loans, LLC and Red Rock Tribal Lending, LLC were, in fact, wholly owned by the Lac Vieux Desert Band of Lake Superior Chippewa Indians, who operated the business as an instrumentality of that Tribe. It is denied that Martorello and Bellicose Capital, LLC helped form Big Picture Loans, LLC or Red Rock Tribal Lending, LLC. The remaining allegations of Paragraph 29 are denied.

30. Denied. It is expressly denied that the Tribe is a front for illegal lending activity. Rather, Bellicose Capital, LLC entered into lawful contractual business agreements with certain lending entities wholly owned and operated by the Tribe for the provision of certain services. It

is further denied that Martorello, Bellicose Capital, LLC, or any lending entity owned or operated by the Lac Vieux Desert Band of Lake Superior Chippewa Indians ever offered “internet payday loans” to consumers. The remaining allegations of Paragraph 30 are denied.

31. Denied.

32. Denied.

33. Denied. It is specifically denied that the Tribe’s members failed to participate in the day-to-day operations of the Tribe’s wholly owned lending entities. To the contrary, members of the Tribal Council were the co-managers of both Red Rock Tribal Lending, LLC and Big Picture Loans, LLC and those entities employed members of the Tribe on the Tribe’s reservation. Further, it is specifically denied that nearly all the activities associated with the Tribe’s wholly owned lending companies occurred off the Lac Vieux Reservation.

34. Denied. It is denied that Bellicose Capital, LLC was the *de facto* owner of Big Picture Loans, LLC and Red Rock Tribal Lending, LLC. It is also specifically denied that Bellicose Capital, LLC controlled the operations of Big Picture Loans, LLC and Red Rock Tribal Lending, LLC. The remaining allegations of Paragraph 34 are conclusions of law and as such no response is required.

35. Admitted in part and denied in part. It is admitted that Bellicose Capital, LLC’s employees provided contracted for services to the Tribe’s wholly owned lending entities pursuant to written contracts for such services between Bellicose Capital, LLC and/or its subsidiaries and the Tribe’s lending entities. It is further admitted that such services were provided from locations other than the Lac Vieux Desert Reservation, including the Virgin Islands and Puerto Rico. It is denied that Bellicose Capital, LLC ever had employees in the Philippines. After a reasonable investigation, Martorello is without sufficient knowledge or

information to admit or deny the remaining allegations of Paragraph 35, and as such the remaining allegations of Paragraph 35 are denied.

36. Denied.

37. Denied. It is specifically denied that the Tribe's wholly owned lending entities did not accept consumer payments. To the contrary, Plaintiffs' loan agreements required them to make repayments directly to the Tribe's wholly owned lending entities. The remaining allegations in Paragraph 37 are conclusions of law to which no response is required.

38. Admitted in part and denied in part. It is admitted that one of the contracted services Bellicose Capital, LLC and or/its predecessors and/or subsidiaries was the evaluation of potential lending leads on behalf of Red Rock Tribal Lending, LLC. It is denied that Bellicose Capital, LLC handled the lead generation used to identify and solicit potential customers. The remaining allegations of Paragraph 38 are denied.

39. Admitted in part and denied in part. It is admitted that one of the contracted services Bellicose Capital, LLC and or/its predecessors and/or subsidiaries was the evaluation of potential lending leads on behalf of Red Rock Tribal Lending, LLC. It is denied that Martorello or Bellicose Capital, LLC continues to take any action on behalf of the Tribe's lending entities, including procuring consumer reports from TransUnion.

40. Denied. Plaintiff's exhibit identified and referenced in Paragraph 40 of the Complaint makes clear that the solicitation originates from Big Picture Loans, LLC, which is disclosed to be "wholly owned and operated by the Lac Vieux Desert Band of Lake Superior Chippewa Indians, a federally recognized American Indian Tribe and sovereign government." Nowhere in the solicitation is Bellicose Capital, LLC identified, and, at least as of the February 27, 2017 date of the solicitation, Bellicose Capital, LLC had already been sold to the Lac Vieux

Desert Band of Lake Superior Chippewa Indians more than one year prior to the solicitation. The remaining allegations of Paragraph 40 of the Complaint are denied.

41. After a reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the allegations in Paragraph 41, and as such, the allegations are denied. By way of further response, the exhibit referenced in paragraph 41 of the Complaint is dated February 27, 2017, and as of that date Bellicose Capital, LLC and its subsidiaries had already been sold to LVD Tribal Acquisition Company, LLC, a wholly owned entity operated by the Lac Vieux Desert Band of Lake Superior Chippewa Indians, more than one year prior. The remaining allegations of Paragraph 41 of the Complaint are denied.

42. Admitted in part and denied in part. It is admitted that as part of the services Bellicose Capital, LLC and/or its predecessors and/or subsidiaries were required to provide to Red Rock Tribal Lending, LLC consulting services, including assisting the Tribe's lending entities in the evaluation and refinement of lead generation procedures, as part of the contract between those entities. The remaining allegations in Paragraph 42 are denied.

43. Denied.

44. Admitted in part and denied in part. Admitted inasmuch as the indictments of Scott Tucker and Timothy Muir speak for themselves. Any characterization of the indictments or reasoning by analogy to indictments by Plaintiffs is specifically denied. It is denied that Scott Tucker and Timothy Muir were competitors of Martorello. It is also expressly denied that Martorello engaged in unlawful-lending "rent a tribe" and collection practices.

45. Admitted in part and denied in part. It is admitted inasmuch as the "Tucker indictment" speaks for itself and does not represent any finding of a court or conclusion as to the accuracy of the allegations contained therein. It is expressly denied that the "Tucker indictment"

sets out a similar set of facts. After reasonable investigation, Martorello is unable to confirm or deny the remaining allegations of Paragraph 45, and as such they are denied.

46. Admitted inasmuch as the indictment speaks for itself, and does not represent any finding of a court or conclusion as to the accuracy of the allegations contained therein. Any characterization of the indictments or reasoning by analogy to indictments by Plaintiffs is specifically denied.

47. Denied. It is denied that Martorello's business relationship with the Tribe was an attempt to mislead customers and regulators. Martorello and the Tribe engaged in lawful business relationships. It is specifically denied that Martorello misled any consumer. The remaining allegations are conclusions of law to which no response is required. To the extent a response is required, the allegations in Paragraph 47 are denied.

48. Admitted in part and denied in part. It is admitted that an entity in which Martorello has an interest sold Bellicose Capital, LLC, along with its subsidiaries, to the Tribe on or about January 26, 2016 in a seller-financed transaction. It is specifically denied that Martorello or any other entity sold Bellicose Capital, LLC to the Lac Vieux Desert Band of Lake Superior Chippewa Indians to "further insulate the scheme from liability." After reasonable investigation, Martorello does not have sufficient knowledge or information to affirm or deny the remaining allegations in Paragraph 48, and as such the allegations are denied.

49. Admitted in part and denied in part. It is admitted that the Lac Vieux Desert Band of Lake Superior Chippewa Indians purchased Bellicose Capital, LLC along with its subsidiaries in a seller-financed transaction. Martorello denies the allegations in Paragraph 49 characterizing the business relationship as the Tribe accepting a nominal fee in return for the use of its name. It is specifically denied that the Tribe paid Martorello \$1.3 million dollars for Bellicose Capital,

LLC. It is specifically denied that the Martorello is entitled to receive as much as \$300 million in future payments from the Tribe.

50. Admitted in part and denied in part. It is admitted that Ascension Technologies is organized under the laws of the Lac Vieux Desert Band of Lake Superior Chippewa Indians. The remaining allegations of Paragraph 50 are denied.

51. After reasonable investigation, Martorello does not have sufficient knowledge or information to affirm or deny the allegations in Paragraph 51, and as such the allegations are denied.

52. After reasonable investigation, Martorello does not have sufficient knowledge or information to affirm or deny the allegations in Paragraph 52, and as such, the allegations are denied.

53. Denied. Martorello believes, and therefore avers, Ascension Technologies is wholly owned by the Lac Vieux Desert Band of Lake Superior Chippewa Indians, and is run by co-managers who are both members of the Tribal Council. After reasonable investigation, Martorello does not have sufficient knowledge or information to admit or deny the remaining allegations in Paragraph 52, and as such, the allegations are denied.

54. Denied. It is specifically denied that Martorello marketed, initiated, or collected any loans in Virginia. It is further specifically denied that Martorello chose Virginia as a place where loans and collection efforts would ensue. It is further specifically denied that Martorello participated in any actions of Red Rock Tribal Lending, LLC, Big Picture Loans, LLC, or Bellicose Capital, LLC in Virginia. The remaining allegations in Paragraph 54 are conclusions of law to which no response is required. To the extent a response is required, such allegations are denied.

55. Denied. The allegations of Paragraph 55 are conclusions of law to which no response is required. To the extent a response is required, such allegations are denied .

56. Admitted in part and denied in part. It is admitted that to qualify for a loan product at issue in this case, a consumer was to electronically sign a loan agreement. Any characterization of this form by Plaintiff is expressly denied. It is denied that the Tribe's wholly owned lending entities were not involved in the creation of the loan contract.

57. Admitted inasmuch as each individual loan agreement speaks for itself. Any characterization of the loan agreements by Plaintiff is expressly denied.

58. After reasonable investigation, Martorello lacks sufficient knowledge or information to admit or deny the allegations of Paragraph 58, and as such the allegations are denied.

59. After reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the allegations of Paragraph 59, and as such the allegations are denied.

60. Admitted in part and denied in part. Admitted inasmuch as the statute speaks for itself. It is admitted that Martorello does not have a Virginia consumer finance license. It is denied that Martorello ever made loans to Virginia consumers or was required to have a Virginia consumer finance license. The remaining allegations in Paragraph 60 are either conclusions of law or relate to other Defendants, and as such are denied.

61. It is specifically denied that Martorello ever made any loan, collected or received any principal, interest, or charges on such loans, including any amount paid by Plaintiffs. The remaining allegations in Paragraph 61 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 61 are denied.

62. It is specifically denied that Martorello received any money from Plaintiff Williams or made any loan to Plaintiff Williams. After reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 62, and as such the allegations are denied.

63. It is specifically denied that Martorello received any money from Plaintiff Turnage or made any loan to Plaintiff Turnage. After reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 63, and as such the allegations are denied.

64. It is specifically denied that Martorello received any money from Plaintiff Hengle or made any loan to Plaintiff Hengle. After reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 64, and as such the allegations are denied.

65. It is specifically denied that Martorello received any money from Plaintiff Coffy or made any loan to Plaintiff Coffy. After reasonable investigation, Martorello is without sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 65, and as such the allegations are denied.

66. The allegations in Paragraph 66 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 61 are denied.

67. It is specifically denied that Martorello participated in any undefined Enterprise. The remaining allegations in Paragraph 67 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 67 are denied.

68. The allegations in Paragraph 68 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 68 are denied.

69. The allegations in Paragraph 69 are conclusions of law to which no response is required. To the extent that a response is required, such allegations in Paragraph 69 are denied.

70. Admitted in part and denied in part. Admitted inasmuch as the document speaks for itself. Any characterization of the document quoted in Paragraph 70 by Plaintiff is denied.

71. After reasonable investigation, Martorello lacks sufficient knowledge or information to admit or deny the allegations of Paragraph 71, and as such the allegations are denied.

72. After reasonable investigation, Martorello does not have sufficient knowledge or information to admit or deny the allegations of Paragraph 72, and as such the allegations are denied. The remaining allegations are conclusions of law which do not require a response. To the extent the allegations of Paragraph 72 require a response, the allegations are denied.

73. The allegations in Paragraph 73 are conclusions of law to which no response is required. To the extent that the allegations do require a response, the allegations are denied.

74. The allegations in Paragraph 74 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 74 are denied.

75. Admitted in part and denied in part. It is admitted that Bellicose Capital, LLC provided services to the Tribe's lending entities. It is expressly denied that Bellicose Capital, LLC owned, operated, or funded any loan originated by the Tribe's lending entities. Any characterizations of the services provided to the Tribe by Bellicose by Plaintiff are denied. The remaining allegations in Paragraph 75 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 75 are denied.

76. The allegations in Paragraph 76 are conclusions of law to which no response is required. To the extent that the allegations do require a response, the allegations are denied.

77. Admitted in part and denied in part. Admitted inasmuch as the Tribal Dispute Resolution Procedure speaks for itself. Any characterization of the procedure by Plaintiff is expressly denied.

78. Admitted in part and denied in part. Admitted inasmuch as the Tribal Dispute Resolution Procedure speaks for itself. Any characterization of the procedure by Plaintiff is expressly denied.

79. Admitted in part and denied in part. Admitted inasmuch as the Tribal Financial Services Regulatory Authority jurisdiction speaks for itself. It is expressly denied that the Formal Dispute Resolution is a “sham.” Any characterization of the procedure by Plaintiff is expressly denied.

80. Admitted inasmuch as the regulation speaks for itself. Any characterization of the regulation by Plaintiff is expressly denied.

81. Admitted inasmuch as the regulation’s language speaks for itself. Any characterization of the regulation by Plaintiff is expressly denied.

82. The allegations of Paragraph 82 are conclusions of law to which no response is required. To the extent a response is required, the allegations are denied.

83. The allegations in Paragraph 83 are conclusions of law and as such a response is not required. To the extent a response is required for the allegations in Paragraph 83, the allegations are denied.

COUNT ONE:
DECLARATORY JUDGMENT
(CLASS CLAIM AGAINST ALL DEFENDANTS)

84. Martorello realleges and incorporates by reference all prior paragraphs of this Answer to Plaintiffs’ Complaint.

85. Admitted in part and denied in part. Admitted inasmuch as the Federal Rules of Civil Procedure speak for themselves. The allegation that Plaintiffs are members of the Declaratory Judgment Class and Subclass are conclusions of law to which no response is required. Any characterization of the rule by Plaintiff is expressly denied.

86. The allegations in Paragraph 86 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 86 are denied.

87. The allegations of Paragraph 87 are conclusions of law that do not require a response. To the extent a response is required, the allegations are denied.

88. The allegations in Paragraph 88 are conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 88 are denied.

89. The allegations of Paragraph 89 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 89 are denied.

90. The allegations of Paragraph 90 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 90 are denied. Any characterizations of the rule made by Plaintiff in Paragraph 90 are expressly denied.

91. The allegations of Paragraph 91 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 91 are denied.

92. The allegations of Paragraph 92 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 92 are denied.

93. Admitted in part and denied in part. Admitted insomuch as the statute speaks for itself. The remaining allegations in Paragraph 93 are conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 93 are denied.

94. Denied. The allegations of Paragraph 94 are conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 94 are denied. Any characterizations of the statute made by Plaintiffs in Paragraph 94 are also expressly denied.

COUNT TWO:
VIOLATIONS OF RICO, 18 U.S.C. § 1962(c)
(CLASS CLAIM AGAINST ALL DEFENDANTS)

95. Martorello realleges and incorporates by reference all prior paragraphs of this Answer to Plaintiffs' Complaint.

96. The allegations of Paragraph 96 are conclusions of law to which no response is required. To the extent that a response is required, the allegations of Paragraph 96 are denied.

97. The allegations of Paragraph 97 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 97 are denied.

98. The allegations of Paragraph 98 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 98 are denied.

99. The allegations of Paragraph 99 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 99 are denied.

100. The allegations of Paragraph 100 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 100 are denied.

101. The allegations of Paragraph 101 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 101 are denied.

102. The allegations in Paragraph 102 are conclusions of law to which no response is required. To the extent a response is required, the allegations of Paragraph 102 are denied.

103. The allegations of Paragraph 103 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 103 are denied.

104. Admitted inasmuch as the RICO definition speaks for itself.

105. Denied. It is specifically denied that Martorello made any loan to, or collected any loan from a Virginia consumer. The remaining allegations of Paragraph 105 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 105 are denied.

106. The allegations of Paragraph 106 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 106 are denied.

107. The allegations of Paragraph 107 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 107 are denied.

108. The allegations of Paragraph 108 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 108 are denied.

109. The allegations of Paragraph 109 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 109 are denied.

COUNT THREE:
VIOLATIONS OF RICO, 18 U.S.C. § 1962(d)
(CLASS CLAIM AGAINST ALL DEFENDANTS)

110. Martorello realleges and incorporates by reference all prior paragraphs of this Answer to Plaintiffs' Complaint.

111. The allegations of Paragraph 111 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 111 are denied.

112. The allegations of Paragraph 112 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of are denied.

113. The allegations in Paragraph 113 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations in Paragraph 113 are denied.

114. The allegations of Paragraph 114 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 114 are denied.

115. The allegations of Paragraph 115 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 115 are denied.

116. Denied. It is expressly denied that Martorello received racketeering profits. The remaining allegations of Paragraph 116 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 116 are denied. Any characterization of the federal rule and business relationships made by Plaintiff in Paragraph 116 is denied.

117. The allegations of Paragraph 117 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 117 are denied.

118. The allegations of Paragraph 118 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 118 are denied.

COUNT FOUR:
VIOLATIONS OF VIRGINIA USURY LAWS
(CLASS CLAIM AGAINST BIG PICTURE LOANS, MATT MARTORELLO,
ASCENSION TECHNOLOGIES, DANIEL GRAVEL)

119. Martorello realleges and incorporates by reference all prior paragraphs of this Answer to Plaintiffs' Complaint.

120. Admitted inasmuch as Rule 23 of the Federal Rules of Civil Procedure and the alleged Virginia class and subclass definitions speaks for themselves.

121. The allegations of Paragraph 121 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 121 are denied.

122. The allegations of Paragraph 122 are conclusions of law to which no responses are required. To the extent that a response is necessary, the allegations of Paragraph 122 are denied.

123. The allegations of Paragraph 123 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 123 are denied.

124. The allegations of Paragraph 124 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 124 are denied.

125. The allegations of Paragraph 125 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 125 are denied.

126. The allegations of Paragraph 126 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 126 are denied.

127. Denied. It is specifically denied that Defendant Martorello has ever made a loan to any Virginia consumer. The remaining allegations of Paragraph 127 are conclusions of law to

which no response is required. To the extent a response is necessary, the allegations of Paragraph 127 of the Complaint are denied.

128. The asserted in Paragraph 128 are conclusions of law to which no response is required. To the extent a response is necessary, the allegations of Paragraph 128 of the Complaint are denied.

COUNT FIVE:
UNJUST ENRICHMENT
(CLASS CLAIM AGAINST BIG PICTURE LOANS, RED ROCK, MATT
MARTORELLO, ASCENSION TECHNOLOGIES, DANIEL GRAVEL)

129. Martorello realleges and incorporates by reference all prior paragraphs of this Answer to Plaintiffs' Complaint.

130. Admitted insomuch as Rule 23 of the Federal Rules of Civil Procedure and the alleged Virginia Unjust Enrichment Class definition speak for themselves.

131. The allegations of Paragraph 131 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 131 are denied.

132. The allegations of Paragraph 132 are conclusions of law to which no responses are required. To the extent that a response is necessary, the allegations of Paragraph 132 are denied.

133. The allegations of Paragraph 133 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 133 are denied.

134. The allegations of Paragraph 134 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 134 are denied.

135. The allegations of Paragraph 135 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 135 are denied.

136. The allegations of Paragraph 136 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 136 are denied.

137. Denied. It is specifically denied that Defendant Martorello has ever made a loan to any Virginia consumer. The remaining allegations of Paragraph 137 are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 137 are denied.

138. Denied. It is specifically denied that Plaintiffs conferred any benefit on Martorello. It is further denied that Martorello knew of any benefit conferred upon him by any Virginia consumers. The remaining allegations of Paragraph 138 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 138 are denied.

139. The allegations of Paragraph 139 of the Complaint are conclusions of law to which no response is required. To the extent that a response is necessary, the allegations of Paragraph 139 are denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Counts One through Five of Plaintiffs' Complaint fail to state a claim on which relief can be granted as to Matt Martorello.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' causes of action fail to join an indispensable party.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' causes of action based upon lending by Native American tribal entities are barred by the operation of Tribal Immunity.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' prayer for relief inappropriately seeks to "Invalidat[e] any beneficial interest in existing consumer debt purported to be owed by Virginia consumers," without joining all parties with a beneficial interest in the debts, should they exist.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs are unable to meet the legal requirements for the entry of declaratory and/or injunctive relief.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs are precluded from seeking equitable remedies, including restitution and refunding of monies, on behalf of Virginia consumers where those consumers have an adequate remedy at law and have previously or are currently pursuing such claims in other forums on an individual or class-wide basis.

SEVENTH AFFIRMATIVE DEFENSE

Defendant, Matt Martorello, at all times relevant acted in good faith and in a lawful manner towards consumers and in conformity with all applicable laws and regulations.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to exhaust their remedies by failing to resolve their dispute through the tribal dispute resolution procedure required by their contract with their lender.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs, as private individuals, may not obtain injunctive relief under the claims alleged in the Complaint.

TENTH AFFIRMATIVE DEFENSE

This action may not properly proceed as a class action under Federal Rule of Civil Procedure 23 to the extent that, among other reasons, Plaintiffs' claims are not typical of the claims of each putative class member; questions of law and fact allegedly common to the putative class do not predominate over the numerous questions affecting only putative class members; a class action is not superior to other available methods for the fair and efficient adjudication of Plaintiffs' claims and any claims of putative class members; Plaintiffs and their counsel are unable to fairly and adequately protect the interests of the putative class members; and there are insurmountable difficulties that would be encountered in any attempt to proceed as a class action

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiffs and the putative class members cannot recover as a class action to the extent to which such class recovery would deprive of Martorello of his process rights to assert individualized defenses to claims of class members.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs cannot recover from Martorello individually or as a class action for punitive or statutory damages to the extent any award of punitive or statutory damages would be impermissible under the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Excessive Fines Clause of the Eighth Amendment to the United States

Constitution, due to the lack of any actual damages suffered by Plaintiff and the gross disparity between the allegations of harm and the size of the claim.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because the alleged injuries or damage alleged in the Complaint, if any, were caused wholly or in part by the conduct, acts, omissions, and/or fault of third parties other than Martorello.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because of the applicable statute of limitations and/or statute of repose.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because of the doctrine of unclean hands.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of laches.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' are estopped from asserting claims against Martorello.

EIGHTEENTH AFFIRMATIVE DEFENSE

Martorello hereby incorporates by reference and realleges, as if set forth in full, all other affirmative defenses raised by other defendants.

NINETEENTH AFFIRMATIVE DEFENSE

Consistent with Federal Rule of Civil Procedure 15, Martorello reserves the right to amend this answer in order to assert any additional affirmative defenses that may be uncovered or made known during the pendency of this litigation.

WHEREFORE, Defendant Matt Martorello respectfully requests that this Court enter judgment in his favor on all of Plaintiffs' causes of action, award Martorello the fees and costs, including reasonable attorney's fees, incurred in defending against Plaintiffs' causes of action, and grant all other relief as this Court deems just.

MATT MARTORELLO

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of September, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will then send a notification of such filing (NEF) to the following:

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