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9 Attorneys for Petitioner
 10 Consumer Financial Protection Bureau

11
 12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14 CONSUMER FINANCIAL
 PROTECTION BUREAU,
 15
 16 Petitioner,
 17 v.
 18 GREAT PLAINS LENDING,
 LLC, MOBILOANS, LLC &
 19 PLAIN GREEN, LLC,
 20
 21 Respondents.

CV14-02090-MWF(PLA)
 Case No. _____

**DECLARATION OF MEREDITH B.
 OSBORN IN SUPPORT OF
 PETITION TO ENFORCE CIVIL
 INVESTIGATIVE DEMANDS**

22 Pursuant to 28 U.S.C. § 1746, I declare as follows:

23
 24 1. I am an attorney employed by the Consumer Financial Protection Bureau
 25 (Bureau) in San Francisco, California. I am the lead attorney on a Bureau investigation to
 26 determine whether small-dollar online lenders have violated Section 1036 of the Dodd-Frank
 27 Wall Street Reform and Consumer Protection Act (CFPA), 12 U.S.C. § 5536, the Truth in
 28

1 Lending Act (TILA), 15 U.S.C. § 1601 *et seq.*, the Electronic Funds Transfer Act (EFTA), 15
2 U.S.C. § 1693 *et seq.*, the Gramm-Leach-Bliley Act (GLBA), 15 U.S.C. § 6802 *et seq.*, or any
3 other Federal consumer financial law.

4 2. I am authorized to execute a declaration verifying the facts that are set forth in
5 the Petition of the Consumer Financial Protection Bureau for an Order to Enforce Civil
6 Investigative Demands (Bureau Petition) filed herewith. I have read the Bureau Petition and
7 exhibits thereto and verify that Exhibits A through C are true and correct copies of the
8 documents contained in the Bureau's official files. The facts set forth herein are based on my
9 personal knowledge or information made known to me in the course of my official duties.

10 3. On June 12, 2012, the Bureau issued a civil investigative demand (CID) to each
11 Respondent, requiring it to answer interrogatories and produce documents. A true and
12 correct copy of each CID is attached to this Declaration as Exhibit A.

13 4. Each of the CIDs was signed by Kent Markus, the Assistant Director of the
14 Office of Enforcement, and served upon the Respondent by certified mail, return receipt
15 requested, at its principal place of business.

16 5. Pursuant to a request by Respondents' counsel, the Bureau granted
17 Respondents a 14-day extension of the deadline for filing a petition to modify or set aside
18 the CIDs.

19 6. On July 17, 2012, Respondents jointly filed a timely petition to set aside the
20 CIDs. Respondents unintentionally omitted Exhibit G to the petition, an error which they
21 corrected by submitting the exhibit on July 31, 2012. A true and correct copy of the petition
22 and Exhibit G are attached to this declaration as Exhibit B.

23 7. On September 26, 2013, the Bureau's Director, Richard Cordray, issued a
24 decision and order denying the petition to set aside the CIDs. The order directed
25 Respondents to comply with the CIDs by October 17, 2013. A true and correct copy of this
26 order is attached to this declaration as Exhibit C.

1 8. Counsel for Respondents requested an extension of the compliance date, and
2 the Bureau authorized an extension until October 24, 2013.

3 9. Respondents have failed to comply with the Bureau's CIDs.

4 10. Based on Exhibit B, I understand that Respondent Great Plains Lending, LLC
5 is a limited liability company. Through its website, greatplainslending.com, it offers small-
6 dollar loans to consumers nationwide. That website lists the company's customer service
7 address as 1050 East 2nd Street, Box 500, Edmond, Oklahoma 73034; it directs consumers
8 to send payments to P.O. Box 42906, Philadelphia, Pennsylvania 19101. I last visited
9 greatplainslending.com on March 4, 2014.

10 11. Based on Exhibit B, I understand that Respondent MobiLoans, LLC is a
11 limited liability company. Through its website, mobiloans.com, it offers small-dollar loans to
12 consumers nationwide. That website lists the company's physical address as 151 Melacon
13 Drive, Marksville, Louisiana 71351; it directs consumers to send payments to P.O. Box
14 42917, Philadelphia, Pennsylvania 19101. I last visited mobiloans.com on March 4, 2014.

15 12. Based on Exhibit B, I understand that Respondent Plain Green, LLC is a
16 limited liability company. Through its website, plaingreen.com, it offers small-dollar loans to
17 consumers nationwide. That website lists the company's customer service address as 93
18 Mack Road, Suite 600, P.O. Box 270, Box Elder, Montana 59521; it directs consumers to
19 send payments to P.O. Box 204271, Dallas, Texas 75320-4271. I last visited plaingreen.com
20 on March 4, 2014.

21 13. I have reviewed consumer complaints in the Consumer Sentinel Network, at
22 consumersentinel.gov, relating to the three Respondents. Those complaints indicate that all
23 three Respondents have marketed, offered, and provided consumer financial products to
24 consumers residing in this district in the past two years. Specifically, 15 consumers listing
25 residential addresses in this district lodged complaints against Great Plains Lending, LLC,
26 and eight of those consumers made statements in their complaints indicating that they had
27 obtained loans from Great Plains Lending, LLC. Twenty-one consumers listing residential
28

1 addresses in this district lodged complaints against MobiLoans, LLC, and 15 of those
2 consumers made statements in their complaints indicating that they had obtained loans from
3 MobiLoans, LLC. Finally, 24 consumers listing residential addresses in this district lodged
4 complaints against Plain Green, LLC, and 16 of those consumers made statements in their
5 complaints indicating that they had obtained loans from Plain Green, LLC.

6 I declare under penalty of perjury that the foregoing is true and correct. Executed on
7 March 18, 2014.

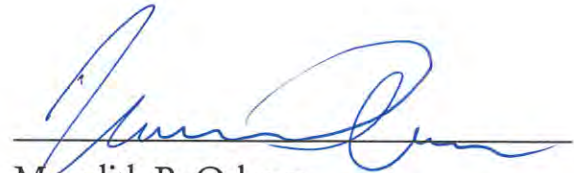
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11 Meredith B. Osborn
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Exhibit A



United States of America
Consumer Financial Protection Bureau

Civil Investigative Demand

To **Great Plains Lending, LLC**
2274 S. 1300 East, Suite G-15 #374
Salt Lake City, Utah 84106

This demand is issued pursuant to Section 1052 of the Consumer Financial Protection Act of 2010 and 12 C.F.R. Part 1080 to determine whether there is or has been a violation of any laws enforced by the Bureau of Consumer Financial Protection.

Action Required (choose all that apply)

Appear and Provide Oral Testimony

Location of Investigational Hearing	Date and Time of Investigational Hearing
Bureau Investigators	

Produce Documents and/or Tangible Things, as set forth in the attached document, by the following date 07/09/2012

Provide Written Reports and/or Answers to Questions, as set forth in the attached document, by the following date 07/09/2012

Notification of Purpose Pursuant to 12 C.F.R. § 1080.5

The purpose of this investigation is to determine whether small-dollar online lenders or other unnamed persons have engaged or are engaging in unlawful acts or practices relating to the advertising, marketing, provision, or collection of small-dollar loan products, in violation of Section 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5536, the Truth in Lending Act, 15 U.S.C. § 1601, the Electronic Funds Transfer Act, 15 U.S.C. § 1693, the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6802-6809, or any other Federal consumer financial law. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.

Custodian / Deputy Custodian

Deborah Morris / Britney Lewis
Consumer Financial Protection Bureau, Attention: Office of Enforcement
1700 G Street NW
Washington, D.C. 20552

Bureau Counsel

Meredith Osborn / Melanie Hirsch
Consumer Financial Protection Bureau, Attention: Office of Enforcement
1700 G Street NW
Washington, D.C. 20552

Date Issued

6/11/12

Signature

Name / Title Kent Markus / Chief of Enforcement

Service

The delivery of this demand to you by any method prescribed by Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562, is legal service and may subject you to a penalty imposed by law for failure to comply.

Travel Expenses

Request a travel voucher to claim compensation to which you are entitled as a witness before the Bureau pursuant to Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562.

Right to Regulatory Enforcement Fairness

The CFPB is committed to fair regulatory enforcement. If you are a small business under Small Business Administration standards, you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

Paperwork Reduction Act

This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

**CIVIL INVESTIGATIVE DEMAND FOR
ANSWERS TO INTERROGATORIES AND PRODUCTION OF DOCUMENTS**

I. Definitions.

As used in this Civil Investigative Demand, the following definitions shall apply:

- A. “**And**,” as well as “**or**,” shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any request in this Civil Investigative Demand all information that otherwise might be construed to be outside the scope of the request.
- B. “**Any**” shall be construed to include “**all**,” and “**all**” shall be construed to include the word “**any**.”
- C. “**CID**” shall mean the Civil Investigative Demand, including the Definitions, Instructions, and Requests.
- D. “**CFPB**” or “**Bureau**” shall mean the Consumer Financial Protection Bureau.
- E. “**Chief of Enforcement**” refers to the Assistant Director of the Division of Enforcement.
- F. “**Company**” or “**You**” or “**Your**” shall mean Great Plains Lending, LLC, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all principals, directors, officers, owners, employees, agents, representatives, consultants, attorneys, accountants, independent contractors, and other persons working for or on behalf of the foregoing.
- G. “**Credit**” shall mean the right granted to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment for such purpose.
- H. “**Document**” shall mean any written matter of every type and description, including any book, record, report, memorandum, paper, communication, tabulation, chart, log, electronic file, or other data or data compilation stored in any medium. “**Document**” shall also mean any non-identical copy (such as a draft or annotated copy) of the foregoing, however and by whomever prepared, produced, disseminated or made, regardless of origin or location. “**Document**” shall also include **Electronically Stored Information**.
- I. “**Each**” shall be construed to include “**every**,” and “**every**” shall be construed to include “**each**.”
- J. “**Electronically Stored Information**,” or “**ESI**,” shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any electronically created or stored information, including but not limited to electronic mail, instant messaging, videoconferencing, SMS, MMS, or other text messaging, and other electronic correspondence (whether active, archived, unsent, or in a deleted items folder), word processing files, spreadsheets, databases,

unorganized data, document metadata, presentation files, and sound recordings, whether stored on cards, magnetic or electronic tapes, disks, computer files, computer or other drives, cell phones, Blackberry, or other storage media, and such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

K. “**Identify**” or “**the identity of**” shall be construed to require identification of (a) natural persons by name, title or position, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable, and (c) documents by title, date, author(s), recipient(s), type of document or some other means of identifying the document, and its present or last known location or custodian.

L. “**Lead generation**” shall mean the identification, including through marketing, advertising, and soliciting, of consumers who are or may be interested in credit offered or provided by the Company.

M. “**Partner Company**” shall mean a person that provides to the Company or is provided by the Company, directly or indirectly, any goods, services, technology, or other material support related to the offering or provision of credit as that term is defined in this CID, including but not limited to debt collection, lead generation, sales, marketing, or account servicing.

N. “**Person**” shall mean an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

O. “**Referring to**” or “**relating to**” shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, comprising, showing, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

P. “**Underwriting activities**” shall mean any process, analysis, or due diligence conducted by the Company to determine whether a consumer is eligible to receive any credit product offered by the Company, including any analysis of the consumer’s ability to meet the terms of any credit contract entered into with the Company based on (i) information furnished by the consumer; (ii) the consumer’s credit or financial history; or (iii) an evaluation of the consumer’s ability to pay.

II. Instructions.

A. **Sharing of Information:** This CID relates to an official, nonpublic, law-enforcement investigation currently being conducted by the Consumer Financial Protection Bureau. The Bureau may make its files available to other civil and criminal federal, state, or local law enforcement agencies pursuant to 12 C.F.R. §§ 1070.43(b)(1) and 1070.45(a)(5). Information you provide may be used in any civil or criminal proceeding by the Bureau or other agencies. As stated in 12 C.F.R. § 1080.14, information you provide in response to this CID is subject to the requirements and procedures relating to the disclosure of records and information set forth in 12

C.F.R. part 1070.

B. **Meet and Confer:** You must contact Meredith Osborn at (202) 435-7159 as soon as possible to schedule a meeting (telephonic or in person) to be held within 10 calendar days after receipt of this CID in order to confer regarding your production of documents and/or information.

C. **Applicable Period for Responsive Materials:** Unless otherwise directed, the applicable period for the request shall be from January 1, 2011, until the date of full and complete compliance with this CID.

D. **Claims of Privilege:** If any material called for by this CID is withheld based on a claim of privilege, the claim must be asserted no later than the date set for the production of the material. Any such claim must include a schedule of the items withheld that states, as to each such item, the:

1. type, specific subject matter, and date of the withheld item;
2. names, addresses, positions, and organizations of all authors and recipients of the item;
3. specific grounds for claiming that the item is privileged; and
4. interrogatory or request to which the privileged document is responsive.

In addition, the person who submits the schedule and the attorney stating the grounds for a claim that any item is privileged must sign it. In accordance with 12 C.F.R. § 1080.8(b), a person withholding material solely based on a claim of privilege shall comply with these requirements (which are set forth in 12 C.F. R. § 1080.8) in lieu of filing a petition for an order modifying or setting aside a demand under 12 C.F.R. § 1080.6(d), as described below. If only portions of the responsive material are privileged, those portions may be redacted from the responsive material, which must be submitted in a way that makes clear where the redactions were made. If all of the content on a particular page is privileged, a blank, sequentially numbered page should be included in the production where the responsive material, had it not been privileged, would have been located.

E. **Document Retention:** You are required to retain all documentary materials and other tangible things that were relied upon or used in the preparation of the responses to this CID. In addition, during the pendency of this investigation and any related enforcement action, the Bureau may require the submission of additional documentary material or tangible things. Accordingly, during the pendency of this investigation and any related enforcement action, you must suspend any routine or non-routine procedures that may result in the destruction of documentary material or tangible things that are in any way potentially relevant to this investigation, as described in the CID's Notification of Purpose Pursuant to 12 C.F.R. § 1080.5. You are required to prevent the unlawful destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or

otherwise. *See* 18 U.S.C. §§ 1505, 1519.

F. **Modification of Requests:** If you believe that the scope of the search or response required by this CID can be narrowed consistent with the Bureau's need for documents or information, you are encouraged to discuss such possible modifications, including modifications of the requirements of these instructions, with Meredith Osborn at (202) 435-7159. Modifications must be agreed to in writing by the Chief of Enforcement or a Bureau employee to whom the Chief of Enforcement has delegated the authority to act under 12 C.F.R. § 1080.6(c).

G. **Petition for Order Modifying or Setting Aside Demand:** Consistent with 12 U.S.C. § 5562(f) and 12 C.F.R. § 1080.6(d), you may petition the Bureau for an order modifying or setting aside this CID. The petition must be filed with the Executive Secretary of the Bureau and a copy must be provided to the Chief of Enforcement within twenty calendar days after service of the CID or, if the return date is less than twenty calendar days after service, prior to the return date. The Chief of Enforcement or any employee to whom he has delegated authority to act under 12 C.F.R. § 1080.6(d) may rule upon a request for extensions of time to file a petition, but such requests are disfavored.

The petition shall set forth all factual and legal objections to the CID, including all appropriate arguments, affidavits, and other supporting documentation. The petition must also be accompanied by a signed statement representing that you have conferred with Meredith Osborn at (202) 435-7159 in a good-faith effort to resolve the issues raised by the petition and have been unable to do so. If some of the matters in controversy have been resolved by agreement, the statement shall specify the matters so resolved and the matters remaining unresolved. The statement shall recite the date, time, and place of each such conference, and the names of all parties participating in each such conference. The Director of the Bureau or a person authorized to perform the functions of the Director of the Bureau in accordance with the law will rule upon the petition.

H. **Certification:** The person to whom the CID is directed or, if not a natural person, any person having knowledge of the facts and circumstances relating to the production, shall certify that the response to this CID is complete. This certification shall be made on the form declaration included with this CID, or by a sworn affidavit.

I. **Scope of Search:** This CID covers materials and information in your possession, actual or constructive custody, or control.

J. **Document Production:** All responsive documents available in electronic format must be produced electronically in native-file format, including all metadata. We encourage the electronic production of all materials responsive to this CID. Please follow the enclosed Document Submission Standards for further instructions about the production of documents. As stated in the Document Submission Standards, all produced documents shall be clearly marked with unique, sequential numbers on each page, if imaged documents, or as part of the file name, if native documents.

K. **Document Identification:** Documents that may be responsive to more than one request

of this CID need not be submitted more than once; however, your response should indicate, for each document submitted, each request to which the document is responsive.

L. **Sensitive Personally Identifiable Information:** If any material called for by these requests contains sensitive personally identifiable information, or sensitive health information of any individual, or Suspicious Activities Reports, please contact Meredith Osborn at (202) 435-7159 before sending those materials to discuss ways to protect such information during production. You must encrypt electronic copies of such material with BitLocker encryption software. When submitting encrypted material, you must clearly designate the type of encryption software used and provide the encryption key, certificate, or passcode in a separate communication.

For purposes of this CID, sensitive personally identifiable information includes an individual's Social Security number alone or an individual's name, address, or phone number *in combination with* one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

M. **Information Identification:** Each request for a written report or interrogatory in this CID shall be answered separately and fully in writing under oath. All information submitted shall clearly and precisely identify the request(s) to which it is responsive.

N. **Declaration Certifying Records of Regularly Conducted Business Activity:** Attached is a Declaration Certifying Records of Regularly Conducted Business Activity, which may limit the need to subpoena the Company to testify at future proceedings in order to establish the admissibility of documents produced in response to this CID. You are asked to execute this Declaration and provide it with your response.

III. Requests.

Interrogatories

1. Identify all persons who participated in responding to this CID and the specific tasks performed by each person.
2. State the Company's correct legal name and principal place of business; the date and state or tribe of incorporation; all trade names under which the Company has done business; and the names, titles, and dates of employment of all officers, directors, and principal stockholders or owners.
3. List each state in which the Company has done business and the period during which the Company has done business in each state.
4. Describe the complete organizational structure of the Company, identifying all parents, subsidiaries, unincorporated divisions, joint ventures, and affiliates, and for each such entity state the following:
 - a. the correct legal name and principal place of business;
 - b. the date and state or tribe where it is organized;
 - c. all other offices or locations;
 - d. the names and titles of all officers, directors, and principal stockholders or owners;
 - e. the type of business in which it engages; and
 - f. the date, if any, that it closed and the reason why the entity closed.
5. Identify all current employees of the Company, and state for each, all former titles or positions, the dates those positions were held, and the office or location where the employee works.
6. Identify all former employees of the Company, and state for each, all titles and positions held while with the Company, the dates each such title or position was held, the office or location where the employee worked, and the reason for termination of employment with the Company.
7. Identify every Partner Company from which you have received or solicited services, and for each such entity, describe the services provided and the dates they were provided.
8. Identify every Partner Company to which you have provided, marketed, offered, or sold services, and for each such entity, describe the services provided and the dates they were provided.

9. Identify all depository institutions at which the Company has held accounts or otherwise conducted business related to the provision of credit, including any institution that initiated electronic payments on the Company's behalf. For each depository institution identified, provide:
 - a. the number of accounts held at each institution;
 - b. the nature of each account and business conducted at each institution; and
 - c. the dates during which each account was held at each institution.
10. Describe all goods and services relating to credit marketed, offered, provided, or sold by the Company to consumers.
11. Identify the names and account numbers of all persons who became consumers of the Company's goods or services related to credit from January 1, 2011 through January 31, 2011. For each person, identify the amount of credit extended, the fees and interest charged, and the amounts paid.
12. Explain the manner in which you communicate with consumers and describe your records relating to such communications, including but not limited to recordings of telephone conversations, consumer inquiries through internet websites, letters or faxes, emails, text messages, and minutes of face-to-face meetings.
13. Identify the fees, charges, interest, or late-payment penalties consumers may incur in connection with any credit provided by the Company.
14. Identify all instances in which the Company has been investigated, sued, prosecuted, or had action taken against it for allegedly unfair or deceptive acts or practices, or for any alleged violation of state or federal law. Include the names of all parties, the jurisdiction involved, the case number, the claims asserted, and the current status or final resolution of the matter.
15. State the URLs, internet service provider, website designers, hosting services, and domain registration information of all websites owned, administered, operated, or controlled by the Company.
16. State:
 - a. The earliest date that you offered or provided credit to consumers;
 - b. The total number of consumers to whom you sold credit since the date given in response (a);
 - c. The total number of credit products you sold to consumers since the date given in

response (a);

- d. The total amount of principal lent since the date given in response to (a); and
 - e. The total amount collected from consumers since the date given in response to (a), separated into principal, interest, fees, and costs.
17. Identify all entities to which the Company sells consumer debt and describe the terms on which the debt was sold.
18. Describe how the Company, or any third party acting on behalf of the Company, initiates and processes electronic transfers to or from consumers' bank accounts. In particular, explain how transactions, pursuant to the rules of NACHA, the Electronic Payments Association, are coded and when each code is used by the Company. Identify any other methods by which consumers can obtain credit proceeds, including but not limited to paper check or wire transfer.
19. If for any of the following requests for documents there are documents that would have been responsive to this CID, but were destroyed, misplaced, transferred, deleted, altered, or over-written, identify the documents and explain why they cannot be produced.

Requests for Documents

1. All documents referred to or used to complete any of the Interrogatories set forth above.
2. All contracts and agreements, including notes and records of all oral contracts and agreements, entered into between the Company and any Partner Company.
3. All of the Company's periodic accounting statements reflecting transactions between the Company and any Partner Company.
4. All documents relating to policies and procedures for handling consumer inquiries and complaints, including scripts, talking points, and other documents used by the Company, or any person or entity on behalf of the Company, for or during any of its communications with consumers.
5. All written complaints, including complaints received via email and records of oral complaints, received from consumers to whom the Company provided or currently provides any credit product.
6. All documents relating to any actions taken in response to any complaint received from a consumer to whom the Company provided or currently provides any credit product.
7. A sample copy of all versions of any application, disclosure, contract, enrollment form, or sign-up agreement between the Company and consumers purchasing credit, including screen shots of each stage of application, approval, and disclosure for consumer credit.
8. All marketing or solicitation materials, including advertisements via television, print, mail, email, text message or internet; copies of telephone scripts; talking points; and other documents used by the Company or on behalf of the Company with respect to marketing or providing credit to consumers.
9. All documents relating to the relationships that exist between the Company and any Native American tribe recognized by the United States government.
10. All policies and procedures concerning cancellation and refund of consumer credit.
11. All policies, procedures, manuals, and training materials relating to underwriting activities.
12. All corporate filings for the Company, including all filings, registrations, and disclosures with any state, Federal, tribal, or foreign agency or regulator.
13. All statements, agreements, and contracts for any accounts held by the Company in any depository institution.

14. All policies and procedures for handling a consumer's revocation of ACH debit authorization.
15. All policies and procedures relating to how the Company, or any third party acting on behalf of the Company (including, without limitation, any agent with any depository institution), initiates and processes electronic transfers to consumers' bank accounts.
16. All policies and procedures regarding accepting payments from consumers by any particular method, including but not limited to personal check, money order, credit card, electronic funds transfer, demand draft, remotely created check, or prepaid debit card.
17. All policies and procedures relating to the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6802-6809, the Electronic Fund Transfer Act, 15 U.S.C. § 1693 *et seq.*, the Telemarketing Sales Rule, 16 C.F.R § 310, the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, and laws prohibiting unfair, deceptive, or abusive practices.
18. All press releases issued by the Company relating to the offering or provision of consumer credit.
19. All policies and procedures, training materials, telephone scripts, talking points, and lawsuits filed relating to the Company's collection of consumers' debts.
20. All policies and procedures or disclosures regarding the terms on which the Company transfers consumer information to Partner Companies.
21. All communications relating to the offering or provision of credit between the Company and Think Finance, Inc.



United States of America
 Consumer Financial Protection Bureau

Civil Investigative Demand

To Mobiloans, LLC
 151 Melacon Road
 Marksville, LA 71351

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Custodian / Deputy Custodian

Deborah Morris / Britney Lewis
 Consumer Financial Protection Bureau, Attention: Office of Enforcement
 1700 G Street NW
 Washington, D.C. 20552

Bureau Counsel

Meredith Osborn / Melanie Hirsch
 Consumer Financial Protection Bureau, Attention: Office of Enforcement
 1700 G Street NW
 Washington, D.C. 20552

Date Issued

6/11/12

Signature

Name / Title Kent Markus / Chief of Enforcement

Service

The delivery of this demand to you by any method prescribed by Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562, is legal service and may subject you to a penalty imposed by law for failure to comply.

Travel Expenses

Request a travel voucher to claim compensation to which you are entitled as a witness before the Bureau pursuant to Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562.

Right to Regulatory Enforcement Fairness

The CFPB is committed to fair regulatory enforcement. If you are a small business under Small Business Administration standards, you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

Paperwork Reduction Act

This demand does not require approval by OMB under the Paperwork Reduction Act of 1980.

**CIVIL INVESTIGATIVE DEMAND FOR
ANSWERS TO INTERROGATORIES AND PRODUCTION OF DOCUMENTS**

I. Definitions.

As used in this Civil Investigative Demand, the following definitions shall apply:

- A. “**And**,” as well as “**or**,” shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of any request in this Civil Investigative Demand all information that otherwise might be construed to be outside the scope of the request.
- B. “**Any**” shall be construed to include “**all**,” and “**all**” shall be construed to include the word “**any**.”
- C. “**CID**” shall mean the Civil Investigative Demand, including the Definitions, Instructions, and Requests.
- D. “**CFPB**” or “**Bureau**” shall mean the Consumer Financial Protection Bureau.
- E. “**Chief of Enforcement**” refers to the Assistant Director of the Division of Enforcement.
- F. “**Company**” or “**You**” or “**Your**” shall mean Mobiloans, LLC, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all principals, directors, officers, owners, employees, agents, representatives, consultants, attorneys, accountants, independent contractors, and other persons working for or on behalf of the foregoing.
- G. “**Credit**” shall mean the right granted to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment for such purpose.
- H. “**Document**” shall mean any written matter of every type and description, including any book, record, report, memorandum, paper, communication, tabulation, chart, log, electronic file, or other data or data compilation stored in any medium. “**Document**” shall also mean any non-identical copy (such as a draft or annotated copy) of the foregoing, however and by whomever prepared, produced, disseminated or made, regardless of origin or location. “**Document**” shall also include **Electronically Stored Information**.
- I. “**Each**” shall be construed to include “**every**,” and “**every**” shall be construed to include “**each**.”
- J. “**Electronically Stored Information**,” or “**ESI**,” shall mean the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any electronically created or stored information, including but not limited to electronic mail, instant messaging, videoconferencing, SMS, MMS, or other text messaging, and other electronic correspondence (whether active, archived, unsent, or in a deleted items folder), word processing files, spreadsheets, databases,

unorganized data, document metadata, presentation files, and sound recordings, whether stored on cards, magnetic or electronic tapes, disks, computer files, computer or other drives, cell phones, Blackberry, or other storage media, and such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

K. “**Identify**” or “**the identity of**” shall be construed to require identification of (a) natural persons by name, title or position, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable, and (c) documents by title, date, author(s), recipient(s), type of document or some other means of identifying the document, and its present or last known location or custodian.

L. “**Lead generation**” shall mean the identification, including through marketing, advertising, and soliciting, of consumers who are or may be interested in credit offered or provided by the Company.

M. “**Partner Company**” shall mean a person that provides to the Company or is provided by the Company, directly or indirectly, any goods, services, technology, or other material support related to the offering or provision of credit as that term is defined in this CID, including but not limited to debt collection, lead generation, sales, marketing, or account servicing.

N. “**Person**” shall mean an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

O. “**Referring to**” or “**relating to**” shall mean discussing, describing, reflecting, containing, analyzing, studying, reporting, commenting, evidencing, constituting, comprising, showing, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

P. “**Underwriting activities**” shall mean any process, analysis, or due diligence conducted by the Company to determine whether a consumer is eligible to receive any credit product offered by the Company, including any analysis of the consumer’s ability to meet the terms of any credit contract entered into with the Company based on (i) information furnished by the consumer; (ii) the consumer’s credit or financial history; or (iii) an evaluation of the consumer’s ability to pay.

II. Instructions.

A. **Sharing of Information:** This CID relates to an official, nonpublic, law-enforcement investigation currently being conducted by the Consumer Financial Protection Bureau. The Bureau may make its files available to other civil and criminal federal, state, or local law enforcement agencies pursuant to 12 C.F.R. §§ 1070.43(b)(1) and 1070.45(a)(5). Information you provide may be used in any civil or criminal proceeding by the Bureau or other agencies. As stated in 12 C.F.R. § 1080.14, information you provide in response to this CID is subject to the requirements and procedures relating to the disclosure of records and information set forth in 12

C.F.R. part 1070.

B. **Meet and Confer:** You must contact Meredith Osborn at (202) 435-7159 as soon as possible to schedule a meeting (telephonic or in person) to be held within 10 calendar days after receipt of this CID in order to confer regarding your production of documents and/or information.

C. **Applicable Period for Responsive Materials:** Unless otherwise directed, the applicable period for the request shall be from January 1, 2011, until the date of full and complete compliance with this CID.

D. **Claims of Privilege:** If any material called for by this CID is withheld based on a claim of privilege, the claim must be asserted no later than the date set for the production of the material. Any such claim must include a schedule of the items withheld that states, as to each such item, the:

1. type, specific subject matter, and date of the withheld item;
2. names, addresses, positions, and organizations of all authors and recipients of the item;
3. specific grounds for claiming that the item is privileged; and
4. interrogatory or request to which the privileged document is responsive.

In addition, the person who submits the schedule and the attorney stating the grounds for a claim that any item is privileged must sign it. In accordance with 12 C.F.R. § 1080.8(b), a person withholding material solely based on a claim of privilege shall comply with these requirements (which are set forth in 12 C.F. R. § 1080.8) in lieu of filing a petition for an order modifying or setting aside a demand under 12 C.F.R. § 1080.6(d), as described below. If only portions of the responsive material are privileged, those portions may be redacted from the responsive material, which must be submitted in a way that makes clear where the redactions were made. If all of the content on a particular page is privileged, a blank, sequentially numbered page should be included in the production where the responsive material, had it not been privileged, would have been located.

E. **Document Retention:** You are required to retain all documentary materials and other tangible things that were relied upon or used in the preparation of the responses to this CID. In addition, during the pendency of this investigation and any related enforcement action, the Bureau may require the submission of additional documentary material or tangible things. Accordingly, during the pendency of this investigation and any related enforcement action, you must suspend any routine or non-routine procedures that may result in the destruction of documentary material or tangible things that are in any way potentially relevant to this investigation, as described in the CID's Notification of Purpose Pursuant to 12 C.F.R. § 1080.5. You are required to prevent the unlawful destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or

otherwise. *See* 18 U.S.C. §§ 1505, 1519.

F. **Modification of Requests:** If you believe that the scope of the search or response required by this CID can be narrowed consistent with the Bureau's need for documents or information, you are encouraged to discuss such possible modifications, including modifications of the requirements of these instructions, with Meredith Osborn at (202) 435-7159. Modifications must be agreed to in writing by the Chief of Enforcement or a Bureau employee to whom the Chief of Enforcement has delegated the authority to act under 12 C.F.R. § 1080.6(c).

G. **Petition for Order Modifying or Setting Aside Demand:** Consistent with 12 U.S.C. § 5562(f) and 12 C.F.R. § 1080.6(d), you may petition the Bureau for an order modifying or setting aside this CID. The petition must be filed with the Executive Secretary of the Bureau and a copy must be provided to the Chief of Enforcement within twenty calendar days after service of the CID or, if the return date is less than twenty calendar days after service, prior to the return date. The Chief of Enforcement or any employee to whom he has delegated authority to act under 12 C.F.R. § 1080.6(d) may rule upon a request for extensions of time to file a petition, but such requests are disfavored.

The petition shall set forth all factual and legal objections to the CID, including all appropriate arguments, affidavits, and other supporting documentation. The petition must also be accompanied by a signed statement representing that you have conferred with Meredith Osborn at (202) 435-7159 in a good-faith effort to resolve the issues raised by the petition and have been unable to do so. If some of the matters in controversy have been resolved by agreement, the statement shall specify the matters so resolved and the matters remaining unresolved. The statement shall recite the date, time, and place of each such conference, and the names of all parties participating in each such conference. The Director of the Bureau or a person authorized to perform the functions of the Director of the Bureau in accordance with the law will rule upon the petition.

H. **Certification:** The person to whom the CID is directed or, if not a natural person, any person having knowledge of the facts and circumstances relating to the production, shall certify that the response to this CID is complete. This certification shall be made on the form declaration included with this CID, or by a sworn affidavit.

I. **Scope of Search:** This CID covers materials and information in your possession, actual or constructive custody, or control.

J. **Document Production:** All responsive documents available in electronic format must be produced electronically in native-file format, including all metadata. We encourage the electronic production of all materials responsive to this CID. Please follow the enclosed Document Submission Standards for further instructions about the production of documents. As stated in the Document Submission Standards, all produced documents shall be clearly marked with unique, sequential numbers on each page, if imaged documents, or as part of the file name, if native documents.

K. **Document Identification:** Documents that may be responsive to more than one request

of this CID need not be submitted more than once; however, your response should indicate, for each document submitted, each request to which the document is responsive.

L. **Sensitive Personally Identifiable Information:** If any material called for by these requests contains sensitive personally identifiable information, or sensitive health information of any individual, or Suspicious Activities Reports, please contact Meredith Osborn at (202) 435-7159 before sending those materials to discuss ways to protect such information during production. You must encrypt electronic copies of such material with BitLocker encryption software. When submitting encrypted material, you must clearly designate the type of encryption software used and provide the encryption key, certificate, or passcode in a separate communication.

For purposes of this CID, sensitive personally identifiable information includes an individual's Social Security number alone or an individual's name, address, or phone number *in combination with* one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

M. **Information Identification:** Each request for a written report or interrogatory in this CID shall be answered separately and fully in writing under oath. All information submitted shall clearly and precisely identify the request(s) to which it is responsive.

N. **Declaration Certifying Records of Regularly Conducted Business Activity:** Attached is a Declaration Certifying Records of Regularly Conducted Business Activity, which may limit the need to subpoena the Company to testify at future proceedings in order to establish the admissibility of documents produced in response to this CID. You are asked to execute this Declaration and provide it with your response.

III. Requests.

Interrogatories

1. Identify all persons who participated in responding to this CID and the specific tasks performed by each person.
2. State the Company's correct legal name and principal place of business; the date and state or tribe of incorporation; all trade names under which the Company has done business; and the names, titles, and dates of employment of all officers, directors, and principal stockholders or owners.
3. List each state in which the Company has done business and the period during which the Company has done business in each state.
4. Describe the complete organizational structure of the Company, identifying all parents, subsidiaries, unincorporated divisions, joint ventures, and affiliates, and for each such entity state the following:
 - a. the correct legal name and principal place of business;
 - b. the date and state or tribe where it is organized;
 - c. all other offices or locations;
 - d. the names and titles of all officers, directors, and principal stockholders or owners;
 - e. the type of business in which it engages; and
 - f. the date, if any, that it closed and the reason why the entity closed.
5. Identify all current employees of the Company, and state for each, all former titles or positions, the dates those positions were held, and the office or location where the employee works.
6. Identify all former employees of the Company, and state for each, all titles and positions held while with the Company, the dates each such title or position was held, the office or location where the employee worked, and the reason for termination of employment with the Company.
7. Identify every Partner Company from which you have received or solicited services, and for each such entity, describe the services provided and the dates they were provided.
8. Identify every Partner Company to which you have provided, marketed, offered, or sold services, and for each such entity, describe the services provided and the dates they were provided.

9. Identify all depository institutions at which the Company has held accounts or otherwise conducted business related to the provision of credit, including any institution that initiated electronic payments on the Company's behalf. For each depository institution identified, provide:
 - a. the number of accounts held at each institution;
 - b. the nature of each account and business conducted at each institution; and
 - c. the dates during which each account was held at each institution.
10. Describe all goods and services relating to credit marketed, offered, provided, or sold by the Company to consumers.
11. Identify the names and account numbers of all persons who became consumers of the Company's goods or services related to credit from January 1, 2011 through January 31, 2011. For each person, identify the amount of credit extended, the fees and interest charged, and the amounts paid.
12. Explain the manner in which you communicate with consumers and describe your records relating to such communications, including but not limited to recordings of telephone conversations, consumer inquiries through internet websites, letters or faxes, emails, text messages, and minutes of face-to-face meetings.
13. Identify the fees, charges, interest, or late-payment penalties consumers may incur in connection with any credit provided by the Company.
14. Identify all instances in which the Company has been investigated, sued, prosecuted, or had action taken against it for allegedly unfair or deceptive acts or practices, or for any alleged violation of state or federal law. Include the names of all parties, the jurisdiction involved, the case number, the claims asserted, and the current status or final resolution of the matter.
15. State the URLs, internet service provider, website designers, hosting services, and domain registration information of all websites owned, administered, operated, or controlled by the Company.
16. State:
 - a. The earliest date that you offered or provided credit to consumers;
 - b. The total number of consumers to whom you sold credit since the date given in response (a);
 - c. The total number of credit products you sold to consumers since the date given in

response (a);

- d. The total amount of principal lent since the date given in response to (a); and
 - e. The total amount collected from consumers since the date given in response to (a), separated into principal, interest, fees, and costs.
17. Identify all entities to which the Company sells consumer debt and describe the terms on which the debt was sold.
18. Describe how the Company, or any third party acting on behalf of the Company, initiates and processes electronic transfers to or from consumers' bank accounts. In particular, explain how transactions, pursuant to the rules of NACHA, the Electronic Payments Association, are coded and when each code is used by the Company. Identify any other methods by which consumers can obtain credit proceeds, including but not limited to paper check or wire transfer.
19. If for any of the following requests for documents there are documents that would have been responsive to this CID, but were destroyed, misplaced, transferred, deleted, altered, or over-written, identify the documents and explain why they cannot be produced.

Requests for Documents

1. All documents referred to or used to complete any of the Interrogatories set forth above.
2. All contracts and agreements, including notes and records of all oral contracts and agreements, entered into between the Company and any Partner Company.
3. All of the Company's periodic accounting statements reflecting transactions between the Company and any Partner Company.
4. All documents relating to policies and procedures for handling consumer inquiries and complaints, including scripts, talking points, and other documents used by the Company, or any person or entity on behalf of the Company, for or during any of its communications with consumers.
5. All written complaints, including complaints received via email and records of oral complaints, received from consumers to whom the Company provided or currently provides any credit product.
6. All documents relating to any actions taken in response to any complaint received from a consumer to whom the Company provided or currently provides any credit product.
7. A sample copy of all versions of any application, disclosure, contract, enrollment form, or sign-up agreement between the Company and consumers purchasing credit, including screen shots of each stage of application, approval, and disclosure for consumer credit.
8. All marketing or solicitation materials, including advertisements via television, print, mail, email, text message or internet; copies of telephone scripts; talking points; and other documents used by the Company or on behalf of the Company with respect to marketing or providing credit to consumers.
9. All documents relating to the relationships that exist between the Company and any Native American tribe recognized by the United States government.
10. All policies and procedures concerning cancellation and refund of consumer credit.
11. All policies, procedures, manuals, and training materials relating to underwriting activities.
12. All corporate filings for the Company, including all filings, registrations, and disclosures with any state, Federal, tribal, or foreign agency or regulator.
13. All statements, agreements, and contracts for any accounts held by the Company in any depository institution.

14. All policies and procedures for handling a consumer's revocation of ACH debit authorization.
15. All policies and procedures relating to how the Company, or any third party acting on behalf of the Company (including, without limitation, any agent with any depository institution), initiates and processes electronic transfers to consumers' bank accounts.
16. All policies and procedures regarding accepting payments from consumers by any particular method, including but not limited to personal check, money order, credit card, electronic funds transfer, demand draft, remotely created check, or prepaid debit card.
17. All policies and procedures relating to the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6802-6809, the Electronic Fund Transfer Act, 15 U.S.C. § 1693 *et seq.*, the Telemarketing Sales Rule, 16 C.F.R § 310, the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, and laws prohibiting unfair, deceptive, or abusive practices.
18. All press releases issued by the Company relating to the offering or provision of consumer credit.
19. All policies and procedures, training materials, telephone scripts, talking points, and lawsuits filed relating to the Company's collection of consumers' debts.
20. All policies and procedures or disclosures regarding the terms on which the Company transfers consumer information to Partner Companies.
21. All communications relating to the offering or provision of credit between the Company and Think Finance, Inc.



United States of America
Consumer Financial Protection Bureau

Civil Investigative Demand

To **Plain Green, LLC**
93 Mack Road, Suite 600
PO Box 270
Box Elder, MT 59521

This demand is issued pursuant to Section 1052 of the Consumer Financial Protection Act of 2010 and 12 C.F.R. Part 1080 to determine whether there is or has been a violation of any laws enforced by the Bureau of Consumer Financial Protection.

Action Required (choose all that apply)

Appear and Provide Oral Testimony

Location of Investigational Hearing	Date and Time of Investigational Hearing
	Bureau Investigators

Produce Documents and/or Tangible Things, as set forth in the attached document, by the following date 07/09/2012

Provide Written Reports and/or Answers to Questions, as set forth in the attached document, by the following date 07/09/2012

Notification of Purpose Pursuant to 12 C.F.R. § 1080.5

The purpose of this investigation is to determine whether small-dollar online lenders or other unnamed persons have engaged or are engaging in unlawful acts or practices relating to the advertising, marketing, provision, or collection of small-dollar loan products, in violation of Section 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5536, the Truth in Lending Act, 15 U.S.C. § 1601, the Electronic Funds Transfer Act, 15 U.S.C. § 1693, the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6802-6809, or any other Federal consumer financial law. The purpose of this investigation is also to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.

Custodian / Deputy Custodian

Deborah Morris / Britney Lewis
Consumer Financial Protection Bureau, Attention: Office of Enforcement
1700 G Street NW
Washington, D.C. 20552

Bureau Counsel

Meredith Osborn / Melanie Hirsch
Consumer Financial Protection Bureau, Attention: Office of Enforcement
1700 G Street NW
Washington, D.C. 20552

Date Issued

6/11/12

Signature

Name / Title Kent Markus / Chief of Enforcement

Service

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Request a travel voucher to claim compensation to which you are entitled as a witness before the Bureau pursuant to Section 1052 of the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5562.

Right to Regulatory Enforcement Fairness

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- D. “**CFPB**” or “**Bureau**” shall mean the Consumer Financial Protection Bureau.
- E. “**Chief of Enforcement**” refers to the Assistant Director of the Division of Enforcement.
- F. “**Company**” or “**You**” or “**Your**” shall mean Plain Green, LLC, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all principals, directors, officers, owners, employees, agents, representatives, consultants, attorneys, accountants, independent contractors, and other persons working for or on behalf of the foregoing.
- G. “**Credit**” shall mean the right granted to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment for such purpose.
- H. “**Document**” shall mean any written matter of every type and description, including any book, record, report, memorandum, paper, communication, tabulation, chart, log, electronic file, or other data or data compilation stored in any medium. “**Document**” shall also mean any non-identical copy (such as a draft or annotated copy) of the foregoing, however and by whomever prepared, produced, disseminated or made, regardless of origin or location. “**Document**” shall also include **Electronically Stored Information**.
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unorganized data, document metadata, presentation files, and sound recordings, whether stored on cards, magnetic or electronic tapes, disks, computer files, computer or other drives, cell phones, Blackberry, or other storage media, and such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

K. **“Identify”** or **“the identity of”** shall be construed to require identification of (a) natural persons by name, title or position, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors or managers of the business or organization, and contact persons, where applicable, and (c) documents by title, date, author(s), recipient(s), type of document or some other means of identifying the document, and its present or last known location or custodian.

L. **“Lead generation”** shall mean the identification, including through marketing, advertising, and soliciting, of consumers who are or may be interested in credit offered or provided by the Company.

M. **“Partner Company”** shall mean a person that provides to the Company or is provided by the Company, directly or indirectly, any goods, services, technology, or other material support related to the offering or provision of credit as that term is defined in this CID, including but not limited to debt collection, lead generation, sales, marketing, or account servicing.

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2. names, addresses, positions, and organizations of all authors and recipients of the item;
3. specific grounds for claiming that the item is privileged; and
4. interrogatory or request to which the privileged document is responsive.

In addition, the person who submits the schedule and the attorney stating the grounds for a claim that any item is privileged must sign it. In accordance with 12 C.F.R. § 1080.8(b), a person withholding material solely based on a claim of privilege shall comply with these requirements (which are set forth in 12 C.F. R. § 1080.8) in lieu of filing a petition for an order modifying or setting aside a demand under 12 C.F.R. § 1080.6(d), as described below. If only portions of the responsive material are privileged, those portions may be redacted from the responsive material, which must be submitted in a way that makes clear where the redactions were made. If all of the content on a particular page is privileged, a blank, sequentially numbered page should be included in the production where the responsive material, had it not been privileged, would have been located.

E. **Document Retention:** You are required to retain all documentary materials and other tangible things that were relied upon or used in the preparation of the responses to this CID. In addition, during the pendency of this investigation and any related enforcement action, the Bureau may require the submission of additional documentary material or tangible things. Accordingly, during the pendency of this investigation and any related enforcement action, you must suspend any routine or non-routine procedures that may result in the destruction of documentary material or tangible things that are in any way potentially relevant to this investigation, as described in the CID's Notification of Purpose Pursuant to 12 C.F.R. § 1080.5. You are required to prevent the unlawful destruction of relevant material irrespective of whether you believe such material is protected from future disclosure or discovery by privilege or

otherwise. *See* 18 U.S.C. §§ 1505, 1519.

F. **Modification of Requests:** If you believe that the scope of the search or response required by this CID can be narrowed consistent with the Bureau's need for documents or information, you are encouraged to discuss such possible modifications, including modifications of the requirements of these instructions, with Meredith Osborn at (202) 435-7159. Modifications must be agreed to in writing by the Chief of Enforcement or a Bureau employee to whom the Chief of Enforcement has delegated the authority to act under 12 C.F.R. § 1080.6(c).

G. **Petition for Order Modifying or Setting Aside Demand:** Consistent with 12 U.S.C. § 5562(f) and 12 C.F.R. § 1080.6(d), you may petition the Bureau for an order modifying or setting aside this CID. The petition must be filed with the Executive Secretary of the Bureau and a copy must be provided to the Chief of Enforcement within twenty calendar days after service of the CID or, if the return date is less than twenty calendar days after service, prior to the return date. The Chief of Enforcement or any employee to whom he has delegated authority to act under 12 C.F.R. § 1080.6(d) may rule upon a request for extensions of time to file a petition, but such requests are disfavored.

The petition shall set forth all factual and legal objections to the CID, including all appropriate arguments, affidavits, and other supporting documentation. The petition must also be accompanied by a signed statement representing that you have conferred with Meredith Osborn at (202) 435-7159 in a good-faith effort to resolve the issues raised by the petition and have been unable to do so. If some of the matters in controversy have been resolved by agreement, the statement shall specify the matters so resolved and the matters remaining unresolved. The statement shall recite the date, time, and place of each such conference, and the names of all parties participating in each such conference. The Director of the Bureau or a person authorized to perform the functions of the Director of the Bureau in accordance with the law will rule upon the petition.

H. **Certification:** The person to whom the CID is directed or, if not a natural person, any person having knowledge of the facts and circumstances relating to the production, shall certify that the response to this CID is complete. This certification shall be made on the form declaration included with this CID, or by a sworn affidavit.

I. **Scope of Search:** This CID covers materials and information in your possession, actual or constructive custody, or control.

J. **Document Production:** All responsive documents available in electronic format must be produced electronically in native-file format, including all metadata. We encourage the electronic production of all materials responsive to this CID. Please follow the enclosed Document Submission Standards for further instructions about the production of documents. As stated in the Document Submission Standards, all produced documents shall be clearly marked with unique, sequential numbers on each page, if imaged documents, or as part of the file name, if native documents.

K. **Document Identification:** Documents that may be responsive to more than one request

of this CID need not be submitted more than once; however, your response should indicate, for each document submitted, each request to which the document is responsive.

L. **Sensitive Personally Identifiable Information:** If any material called for by these requests contains sensitive personally identifiable information, or sensitive health information of any individual, or Suspicious Activities Reports, please contact Meredith Osborn at (202) 435-7159 before sending those materials to discuss ways to protect such information during production. You must encrypt electronic copies of such material with BitLocker encryption software. When submitting encrypted material, you must clearly designate the type of encryption software used and provide the encryption key, certificate, or passcode in a separate communication.

For purposes of this CID, sensitive personally identifiable information includes an individual's Social Security number alone or an individual's name, address, or phone number *in combination with* one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

M. **Information Identification:** Each request for a written report or interrogatory in this CID shall be answered separately and fully in writing under oath. All information submitted shall clearly and precisely identify the request(s) to which it is responsive.

N. **Declaration Certifying Records of Regularly Conducted Business Activity:** Attached is a Declaration Certifying Records of Regularly Conducted Business Activity, which may limit the need to subpoena the Company to testify at future proceedings in order to establish the admissibility of documents produced in response to this CID. You are asked to execute this Declaration and provide it with your response.

III. Requests.

Interrogatories

1. Identify all persons who participated in responding to this CID and the specific tasks performed by each person.
2. State the Company's correct legal name and principal place of business; the date and state or tribe of incorporation; all trade names under which the Company has done business; and the names, titles, and dates of employment of all officers, directors, and principal stockholders or owners.
3. List each state in which the Company has done business and the period during which the Company has done business in each state.
4. Describe the complete organizational structure of the Company, identifying all parents, subsidiaries, unincorporated divisions, joint ventures, and affiliates, and for each such entity state the following:
 - a. the correct legal name and principal place of business;
 - b. the date and state or tribe where it is organized;
 - c. all other offices or locations;
 - d. the names and titles of all officers, directors, and principal stockholders or owners;
 - e. the type of business in which it engages; and
 - f. the date, if any, that it closed and the reason why the entity closed.
5. Identify all current employees of the Company, and state for each, all former titles or positions, the dates those positions were held, and the office or location where the employee works.
6. Identify all former employees of the Company, and state for each, all titles and positions held while with the Company, the dates each such title or position was held, the office or location where the employee worked, and the reason for termination of employment with the Company.
7. Identify every Partner Company from which you have received or solicited services, and for each such entity, describe the services provided and the dates they were provided.
8. Identify every Partner Company to which you have provided, marketed, offered, or sold services, and for each such entity, describe the services provided and the dates they were provided.

9. Identify all depository institutions at which the Company has held accounts or otherwise conducted business related to the provision of credit, including any institution that initiated electronic payments on the Company's behalf. For each depository institution identified, provide:
 - a. the number of accounts held at each institution;
 - b. the nature of each account and business conducted at each institution; and
 - c. the dates during which each account was held at each institution.
10. Describe all goods and services relating to credit marketed, offered, provided, or sold by the Company to consumers.
11. Identify the names and account numbers of all persons who became consumers of the Company's goods or services related to credit from January 1, 2011 through January 31, 2011. For each person, identify the amount of credit extended, the fees and interest charged, and the amounts paid.
12. Explain the manner in which you communicate with consumers and describe your records relating to such communications, including but not limited to recordings of telephone conversations, consumer inquiries through internet websites, letters or faxes, emails, text messages, and minutes of face-to-face meetings.
13. Identify the fees, charges, interest, or late-payment penalties consumers may incur in connection with any credit provided by the Company.
14. Identify all instances in which the Company has been investigated, sued, prosecuted, or had action taken against it for allegedly unfair or deceptive acts or practices, or for any alleged violation of state or federal law. Include the names of all parties, the jurisdiction involved, the case number, the claims asserted, and the current status or final resolution of the matter.
15. State the URLs, internet service provider, website designers, hosting services, and domain registration information of all websites owned, administered, operated, or controlled by the Company.
16. State:
 - a. The earliest date that you offered or provided credit to consumers;
 - b. The total number of consumers to whom you sold credit since the date given in response (a);
 - c. The total number of credit products you sold to consumers since the date given in

response (a);

- d. The total amount of principal lent since the date given in response to (a); and
 - e. The total amount collected from consumers since the date given in response to (a), separated into principal, interest, fees, and costs.
17. Identify all entities to which the Company sells consumer debt and describe the terms on which the debt was sold.
18. Describe how the Company, or any third party acting on behalf of the Company, initiates and processes electronic transfers to or from consumers' bank accounts. In particular, explain how transactions, pursuant to the rules of NACHA, the Electronic Payments Association, are coded and when each code is used by the Company. Identify any other methods by which consumers can obtain credit proceeds, including but not limited to paper check or wire transfer.
19. If for any of the following requests for documents there are documents that would have been responsive to this CID, but were destroyed, misplaced, transferred, deleted, altered, or over-written, identify the documents and explain why they cannot be produced.

Requests for Documents

1. All documents referred to or used to complete any of the Interrogatories set forth above.
2. All contracts and agreements, including notes and records of all oral contracts and agreements, entered into between the Company and any Partner Company.
3. All of the Company's periodic accounting statements reflecting transactions between the Company and any Partner Company.
4. All documents relating to policies and procedures for handling consumer inquiries and complaints, including scripts, talking points, and other documents used by the Company, or any person or entity on behalf of the Company, for or during any of its communications with consumers.
5. All written complaints, including complaints received via email and records of oral complaints, received from consumers to whom the Company provided or currently provides any credit product.
6. All documents relating to any actions taken in response to any complaint received from a consumer to whom the Company provided or currently provides any credit product.
7. A sample copy of all versions of any application, disclosure, contract, enrollment form, or sign-up agreement between the Company and consumers purchasing credit, including screen shots of each stage of application, approval, and disclosure for consumer credit.
8. All marketing or solicitation materials, including advertisements via television, print, mail, email, text message or internet; copies of telephone scripts; talking points; and other documents used by the Company or on behalf of the Company with respect to marketing or providing credit to consumers.
9. All documents relating to the relationships that exist between the Company and any Native American tribe recognized by the United States government.
10. All policies and procedures concerning cancellation and refund of consumer credit.
11. All policies, procedures, manuals, and training materials relating to underwriting activities.
12. All corporate filings for the Company, including all filings, registrations, and disclosures with any state, Federal, tribal, or foreign agency or regulator.
13. All statements, agreements, and contracts for any accounts held by the Company in any depository institution.

14. All policies and procedures for handling a consumer's revocation of ACH debit authorization.
15. All policies and procedures relating to how the Company, or any third party acting on behalf of the Company (including, without limitation, any agent with any depository institution), initiates and processes electronic transfers to consumers' bank accounts.
16. All policies and procedures regarding accepting payments from consumers by any particular method, including but not limited to personal check, money order, credit card, electronic funds transfer, demand draft, remotely created check, or prepaid debit card.
17. All policies and procedures relating to the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6802-6809, the Electronic Fund Transfer Act, 15 U.S.C. § 1693 *et seq.*, the Telemarketing Sales Rule, 16 C.F.R § 310, the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, and laws prohibiting unfair, deceptive, or abusive practices.
18. All press releases issued by the Company relating to the offering or provision of consumer credit.
19. All policies and procedures, training materials, telephone scripts, talking points, and lawsuits filed relating to the Company's collection of consumers' debts.
20. All policies and procedures or disclosures regarding the terms on which the Company transfers consumer information to Partner Companies.
21. All communications relating to the offering or provision of credit between the Company and Think Finance, Inc.

Exhibit B

**UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU**

IN THE MATTERS OF)
)
)
GREAT PLAINS LENDING, LLC,)
MOBILOANS, LLC, and)
PLAIN GREEN, LLC)
_____)

File No. _____

**JOINT PETITION OF GREAT PLAINS LENDING, LLC,
MOBILOANS, LLC, AND PLAIN GREEN, LLC
FOR AN ORDER SETTING ASIDE CIVIL INVESTIGATIVE DEMANDS**

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INTRODUCTION

Pursuant to § 1052(f) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5562(f) (“Dodd-Frank Act” or “Act”), and 12 C.F.R. § 1080.6(d), the Otoe-Missouria Tribe of Indians (Great Plains Lending, LLC), the Tunica-Biloxi Tribe of Louisiana (MobiLoans, LLC), and the Chippewa Cree of Rocky Boy Montana (Plain Green, LLC) (collectively “Petitioners”) hereby petition the Consumer Financial Protection Bureau (“Bureau”) to set aside the Civil Investigative Demands (“CIDs”) issued to each Petitioner on June 12, 2012.¹ Each lending entity to which a CID was issued is an arm of a federally recognized Indian Tribe, wholly owned and operated by its Tribe to generate revenue that supports governmental services for tribal members.

Petitioners strongly believe that their lending practices are in compliance with all existing applicable federal and tribal law. Petitioners also believe that the Bureau’s CIDs should be set aside as improperly issued and unenforceable. By its plain language, the Dodd-Frank Act does not empower the Bureau to subject federally recognized Indian Tribes to its regulatory authority; nor does it abrogate tribal sovereign immunity. Congress spoke clearly in the Act, recognizing that, as sovereigns, Tribes possess the capability to regulate themselves, and so the Act treats Tribes as co-regulators (just as it treats the States and U.S. Territorial governments). And as a matter of federal Indian law, each Petitioner is legally identical to its tribal owner, and enjoys the same sovereign rights and immunities. Two important legal consequences follow from these facts: *First*, the Bureau lacks jurisdiction to issue CIDs to Petitioners because the Dodd-Frank

¹ At Petitioners’ request, the Bureau extended the time to file this petition to July 17, 2012. Because each of the three CIDs concerns similar issues, for efficiency we have consolidated our arguments into a single Petition.

Act does not give the Bureau authority to direct such demands to Indian Tribes. And *second*, tribal immunity protects Petitioners from the CIDs.

Finally, even setting Indian law to the side, the CIDs are unenforceable because they do not comport with the statutory and regulatory provisions delimiting the Bureau's investigatory powers. The CIDs should be set aside for each of these three independent reasons.²

BACKGROUND

A. **Petitioners Are Wholly Owned And Operated By Federally Recognized Indian Tribes.**

All three Petitioners are limited liability companies organized and chartered under the laws and the inherent sovereign authority of federally recognized Indian Tribes with long-standing traditions of tribal independence.

The Otoe-Missouria Tribe and Great Plains. Great Plains Lending, LLC ("Great Plains") is wholly owned and operated by the Otoe-Missouria Tribe, descendants of the Otoe and Missouria people. Both the Otoe and Missouria originally lived in the Great Lakes region, but by 1804 had migrated to the region along the Missouri River bordering Missouri and Nebraska. There, just after the turn of the nineteenth century, both Tribes participated in the first formal meeting between representatives of the United States and western Indian Tribes. By the time the United States signed the first of many treaties stripping the Tribes of their land in 1830, the Otoe and Missouria Tribes had combined. In 1854, a treaty established a reservation for the Otoe-

² Petitioners incorporate, as if fully set forth herein, Sections I through V of Think Finance's petition to set aside the civil investigative demand issued to it. *See In the Matter of Think Finance, Inc.*, Petition to Set Aside or Modify Civil Investigative Demand (July 17, 2012). In limiting the instant Petition to the grounds raised herein and those incorporated by reference, Petitioners in no way waive or forfeit their rights to raise other legal or practical objections to the CIDs or the Bureau's authority.

At this stage, Petitioners do not join the arguments raised in Section VI of the Think Finance petition, though they reserve the right to do so in the future. *See Certification, infra* at 27.

Missouria Tribe on the Kansas-Nebraska border. By 1881, however, Congress had sold all of the Tribe's reservation land, forcing the Tribe to relocate to its present-day reservation site in northern Oklahoma, a state in which the majority of Otoe-Missouria members still live. The Curtis Act of 1898 disbanded the Otoe-Missouria's traditional tribal government, and it was not until 1984 that the Tribe's federally-recognized status finally was restored.

As with other sovereigns, the Tribe has governed itself according to internal regulations and norms since its inception. Under its sovereign authority, the Tribe created a Consumer Finance Services Regulatory Commission in 2010, which issues licenses to, and conducts regulatory oversight of, businesses that provide consumer financial services. The Commission's purpose is entirely regulatory, not managerial. Great Plains was created as "an arm of the [Otoe-Missouria] Tribe pursuant to the Otoe-Missouria Tribe of Indians Limited Liability Company Act." Ex. A (Resolution Creating Great Plains Lending 1). It is a "wholly-owned entity of the Tribe," possessing "a consumer lending license required under Section 104 of the Otoe-Missouria Tribe of Indians Consumer Finance Regulatory Commission Ordinance." *Id.* at 2. The Tribe's LLC Act provides that all companies wholly owned by the Tribe "shall be considered to be instrumentalities and arms of the Tribe, and their officers and employees considered officers and employees of the Tribe, created for the purpose of carrying out authorities and responsibilities of the Tribe for economic development of the Tribe and advancement of its citizens." Ex. B (Otoe-Missouria Tribe of Indians Limited Liability Company Act § 913); *see also* Resolution Creating Great Plains Lending 1 (creating Great Plains pursuant to § 913 of the Tribe's LLC Act). The Otoe-Missouria created Great Plains specifically "to advance tribal economic development to aid addressing issues of public safety, health and welfare." *Id.* at 1. To that end, the company's Operating Agreement provides that "[a]ll [c]ash

[f]low shall be distributed to the Tribe.” Ex. C (Great Plains Operating Agreement 4). The Tribe has full control over Great Plains’ operations: the directors, charged with managing the company, “may be removed at any time by the Tribal Council, with or without cause.” *Id.* Pursuant to tribal law, Great Plains is “entitled to all of the privileges and immunities enjoyed by the Tribe, including, but not limited to, immunities from suit in Federal, State, or Tribal courts and from Federal, State, and local taxation or regulation,” except to the extent that Great Plains has waived that immunity. Otoe-Missouria Tribe of Indians Limited Liability Company Act, § 913; *see also* Resolution Creating Great Plains Lending 1.

The Tunica-Biloxi Tribe and MobiLoans. MobiLoans, LLC (“MobiLoans”) is wholly owned and operated by the Tunica-Biloxi Tribe of Louisiana. The Tribe is composed of descendants of the Tunica, whom Hernando de Soto encountered in 1541 in the Central Mississippi River Valley, and the Biloxi, first encountered by Europeans along the Gulf of Mexico in 1699. The Tunica were forced to migrate south along the Mississippi River and then west along the Red River throughout the eighteenth century, and settled on their current reservation land in central Louisiana by the century’s end. They were joined on their reservation in central Louisiana by the Biloxi more than 200 years ago following a smallpox epidemic that decimated the Biloxi population. The Tunica-Biloxi achieved federally-recognized status in 1981.

In 2011, the Tribe enacted a Lending Code to govern lending activities on tribal lands, detailing the rules that apply to consumer loans. Its Lending Code applies with full force to MobiLoans, the tribal lending entity that the Tunica-Biloxi “organized and chartered under the laws and the inherent sovereign authority of the Tunica-Biloxi Tribe of Louisiana.” Ex. D (MobiLoans Operating Agreement 1); Ex. E (MobiLoans Charter 1). It is, and has always been,

wholly owned by the Tunica-Biloxi, with the Tunica-Biloxi as the sole member of the LLC. The company's "primary purpose" is to "engage in lending and related activities that will generate additional revenues for the Tribe." MobiLoans Operating Agreement 1. MobiLoans' revenue stream thus exists for the Tunica-Biloxi's benefit, and the Tribe controls MobiLoans completely. Indeed, MobiLoans must obtain the Tunica-Biloxi Tribal Council's approval to adopt a budget or business plan; appoint an executive director; sell or transfer any asset; waive its immunity; commit or burden any tribal resource; amend its Charter or Operating Agreement; and participate in any partnership, joint venture, or other business. *Id.* at 2-3. And the Tunica-Biloxi vested MobiLoans "with all of the privileges and immunities of the Tribe, including, without limitation, the immunity from suit by any person or entity in any forum; immunity from regulation by any sovereign other than the Tribe and the United States federal government, when applicable; and immunity from taxation by any sovereign other than the Tribe." MobiLoans Charter 2; *see also* MobiLoans Operating Agreement 4 ("As an entity wholly-owned by the Tribe and as a Tribally-chartered entity, the Company is clothed by tribal and federal law with all the privileges and immunities of the Tribe . . .").

The Chippewa Cree of Rocky Boy Montana and Plain Green. Plain Green, LLC ("Plain Green") is wholly owned and operated by the Chippewa Cree Tribe of Rocky Boy's Reservation, Montana. Like the Otoe-Missouria and Tunica-Biloxi, the Chippewa Cree are primarily descendants of two tribal lines: the Chippewa from the Great Lakes region and areas along the Canadian border; and the Cree, one of the largest Canadian aboriginal groups, known as traders and hunters in the North American fur trade. Both Tribes migrated throughout the eighteenth and nineteenth centuries, and by 1890, had settled on the land that is their current reservation in

northern Montana. The reservation was established by Congress in 1916, and the Tribe's government was thereafter organized in accordance with the Indian Reorganization Act of 1934.

The Chippewa Cree Tribe enacted a Tribal Credit Transaction Code in 2011, vesting the Office of the Tribal Secretary and Treasurer of the Tribe with regulatory oversight of, and licensing responsibility for, lenders engaged in the business of making deferred-deposit loans. The Tribe chartered Plain Green under the Law and Order Code of the Chippewa Cree Tribe, Title 14, Chippewa Cree Tribe Limited Liability Act and gave Plain Green the authority to make such loans. Ex. G (Plain Green Articles of Organization 1). Plain Green exists to fulfill four purposes: (1) "To serve the social, economic, education and health needs of the Tribe"; (2) "To increase tribal revenues"; (3) "To enhance the Tribe's economic self-sufficiency and self-determination"; and (4) "To provide positive, long-term social, environmental and economic benefits to tribal members by enhancing the Tribe's business undertakings and prospects." *Id.* Plain Green's Articles of Organization require that it "shall be at all times wholly owned by the Tribe" and that the "Tribe shall have the sole proprietary interest in, and shall have sole responsibility for the conduct of the activities of, the Company." *Id.* Like the other Petitioners, Plain Green possesses "all of the Tribe's rights, privileges and immunities concerning federal, state, and local taxes, regulation, and jurisdiction, to the same extent that the Tribe would have such rights, privileges, and immunities, if it engaged in the activities undertaken by the Company." *Id.* at 3. The Tribe also "confer[red] on the Company sovereign immunity from suit to the same extent that the Tribe would have such sovereign immunity." *Id.*

B. The Three Indian Tribes At Issue Here Are Sovereign Nations.

Petitioners' status as tribal bodies is crucial here because Indian Tribes like the Otoe-Missouria, Tunica-Biloxi, and Chippewa Cree possess the "'inherent powers of a limited sovereignty which has never been extinguished.'" *United States v. Wheeler*, 435 U.S. 313, 322

(1978) (quoting F. Cohen, *Handbook of Federal Indian Law* 122 (1945)). The United States Constitution affirms the inherent sovereignty and governmental status of Indian nations. The Framers understood Indian Tribes to be sovereign and treated them as such. *See* U.S. Const. art. I, § 8, cl. 3 (“The Congress shall have the power to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes”); *see also Cherokee Nation v. Georgia*, 30 U.S. 1, 18-19 (1831). For nearly two centuries, the Supreme Court has consistently recognized that Indian Tribes are sovereign, and that the United States has dealt with them accordingly. *See* Felix Cohen, *The Spanish Origin of Indian Rights in the Law of the United States*, 31 *Geo. L.J.* 1 (1942); Robert A. Williams, Jr., *The American Indian In Western Legal Thought: The Discourses of Conquest* 96-97 (Oxford Univ. Press 1990).

“Although no longer ‘possessed of the full attributes of sovereignty,’ [Tribes] remain a separate people, with the power of regulating their internal and social relations.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 55 (1978) (citation omitted). The Supreme Court has “repeatedly recognized the Federal Government’s longstanding policy of encouraging tribal self-government.” *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 14 (1987). Indeed, the executive branch has committed itself to interacting with Tribes on a “government-to-government basis,” “recogniz[ing] the right of Indian tribes to self-government and support[ing] tribal sovereignty and self-determination” by mandating “regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications.” Exec. Order 13175, 65 *Fed. Reg.* 67249 (Nov. 6, 2000). President Obama recently highlighted again the “unique legal and political relationship [between] Indian tribal governments” and the United States, and reaffirmed his administration’s commitment to tribal sovereignty. *Memorandum on Tribal Consultation*, 74 *Fed. Reg.* 57881 (Nov. 5, 2009).

To be sure, “Congress has plenary authority to limit, modify or eliminate” the sovereign control Tribes otherwise retain. *Santa Clara*, 436 U.S. at 56; *see also* U.S. Const. Art. I, § 8. But that maxim carries an important corollary: Neither the executive branch as a whole, nor the Bureau specifically, can restrict tribal sovereignty to a greater degree than permitted by Congress. That is so because given Congress’s “plenary power over Indian affairs,” the executive branch can impinge upon Indian sovereign authority only when “acting under delegated authority” from Congress. *Alaska v. Native Village of Venetie Tribal Gov’t*, 522 U.S. 520, 531 n.6 (1998); *accord Penobscot Nation v. Fellecker*, 164 F.3d 706, 709 (1st Cir. 1999) (“Congress’ authority to legislate over Indian affairs is plenary and only Congress can abrogate or limit an Indian tribe’s sovereignty.”); F. Cohen, *Handbook of Federal Indian Law* § 2.01[1], at 116 (2005) (“Congress’s constitutionally prescribed primacy in Indian affairs with respect to assertions of power by the *executive* branch is reflected in countless court decisions requiring federal agencies . . . to conform to congressionally determined Indian policy.”) (emphasis added).

C. Petitioners Are “Arms” Of Their Respective Tribes.

The Tribes’ sovereign powers and protections extend to Petitioners because Petitioners are “arms” of their respective Tribes.

“When [a] tribe establishes an entity to conduct certain activities,” the entity shares in the Tribe’s immunity and other sovereign rights “if it functions as an arm of the tribe.” *Allen v. Gold Country Casino*, 464 F.3d 1044, 1046 (9th Cir. 2006). This arm-of-the-tribe concept “extends to business activities of the tribe, not merely to governmental activities.” *Id.*; *accord Inyo County v. Paiute-Shoshone Indians of Bishop Cmty. of Bishop Colony*, 538 U.S. 701, 705 n.1 (2003) (confirming that a corporation engaged in economic activity can be an arm of a tribe). And it extends to activities that occur “both on and off [tribal] reservation[s].” *Kiowa Tribe of Okla. v. Mfg. Techs, Inc.*, 523 U.S. 751, 754 (1998) (quotation marks omitted); *accord High*

Desert Recreation, Inc. v. Pyramid Lake Paiute Tribe of Indians, 341 F. App'x 325, 327 (9th Cir. 2009) (“[B]oth Supreme Court precedent and that of this court hold that Indian tribes enjoy sovereign immunity from suits on commercial contracts, whether made on or off a reservation, so long as the subject business activity functions as an arm of the tribe.”). “The question is not whether the activity may be characterized as a business, which is irrelevant under [the Supreme Court’s decision in] *Kiowa*, but whether the entity acts as an arm of the tribe so that its activities are properly deemed to be those of the tribe.” *Allen*, 464 F.3d at 1046.³ The basic question, in arm-of-the-tribe analysis, is whether an entity is sufficiently close to a Tribe to share in the Tribe’s sovereign rights. If it is, then the entity is treated as the Tribe, and its business activities are treated as the Tribe acting through a sub-entity. See, e.g., *Smith v. Salish Kootenai Col.*, 434 F.3d 1127, 1134-35 (9th Cir. 2006), *cert. denied*, 547 U.S. 1209 (2006).⁴

Drawing on factors frequently used by federal and state courts, the Tenth Circuit in *Breakthrough Management Group, Inc. v. Chukchansi Gold Casino & Resort*, 629 F.3d 1173 (10th Cir. 2010), distilled the following factors to assess whether an entity is an arm of the Tribe: “(1) the method of creation of the economic entities; (2) their purpose; (3) their structure, ownership, and management, including the amount of control the tribe has over the entities;

³ As one commentator explained: “Tribal governments directly control or participate in commercial activities more frequently than other governments[,] [and] the tribal organization may be part of the tribal government and protected by tribal immunity, even though it may have a separate corporate structure.” W. Vetter, *Doing Business with Indians and the Three “S”es: Secretarial Approval, Sovereign Immunity, and Subject Matter Jurisdiction*, 36 Ariz. L. Rev. 169, 174 (1994).

⁴ Courts have utilized different turns of phrase to describe a Tribe’s economic entities. If the entity is held to be sufficiently close to a Tribe so as to share in its sovereignty, courts have labeled the entity, *inter alia*, “an arm of the tribe,” *Allen*, 464 F.3d at 1046; “a division of the Tribe,” *Native Am. Distrib. v. Seneca-Cayuga Tobacco Co.*, 546 F.3d 1288, 1293 (10th Cir. 2008); “a tribal agency,” *Dillon v. Yankton Sioux Tribe Hous. Auth.*, 144 F.3d 581, 583 (8th Cir. 1998); and “a sub-entity of the Tribe,” *Ramey Constr. Co. v. Apache Tribe of Mescalero Reservation*, 673 F.2d 315, 320 (10th Cir. 1982).

(4) the tribe's intent with respect to the sharing of its sovereign immunity; and (5) the financial relationship between the tribe and the entities." *Id.* at 1187.⁵

Consideration of the *Breakthrough Management* factors demonstrates that each of the three Petitioners is an arm of its respective Tribe.

First, each was created by a tribal government. Resolution Creating Great Plains Lending 1; MobiLoans Charter 1; Plain Green Articles of Organization 1.

Second, each was designed by the Tribe to support tribal governmental purposes, including "advance[ing] tribal economic development to aid addressing issues of public safety, health and welfare," Resolution Creating Great Plains Lending 1; "generat[ing] additional revenues for the Tribe," MobiLoans Operating Agreement 1; and "enhanc[ing] the Tribe's economic self-sufficiency and self-determination," Plain Green Articles of Organization 1.

Third, each is wholly owned and controlled by the Tribe, and the Tribe retains control over all company activities. Great Plains Operating Agreement 4; MobiLoans Operating Agreement 2-3; Plain Green Articles of Organization 1.

Fourth, in each case the Tribe "confer[red] on the Company sovereign immunity from suit to the same extent that the Tribe would have such sovereign immunity." Plain Green Articles of Organization 3; *see also* Resolution Creating Great Plains Lending 1; MobiLoans Charter 2.

Finally, in each case the businesses generate revenue for the Tribe. Great Plains Operating Agreement 4; MobiLoans Operating Agreement 1; Plain Green Articles of Organization 1. All five *Breakthrough Management* factors therefore support the conclusion that

⁵ Other courts have adopted even less stringent arm-of-the-tribe tests, and have done so in the tribal lending context. *See, e.g., Cash Advance & Preferred Cash Loans v. State*, 242 P.3d 1099, 1110 (Colo. 2010).

Petitioners are Tribes acting through the corporate form, and should be treated as such. *See* 629 F.3d at 1187.

Breakthrough Management also suggests that when conducting arm-of-the-tribe analysis, courts frequently are guided by an additional consideration: whether “the policies underlying tribal sovereign immunity and its connection to tribal economic development”—for example, protecting the Tribe’s money, preserving self-determination, and promoting commerce with non-Indians—are served by treating an entity as an arm of the Tribe. *Id.* at 1187-88. That consideration, too, supports the conclusion that Petitioners are arms of their Tribes. Petitioners have improved economic prospects for the three Tribes, functioned successfully and lawfully without federal or state government intervention, and broadened the scope of commercial dealings that each Tribe has with non-tribal members. Petitioners are entitled to their Tribes’ sovereign rights and privileges.⁶

ARGUMENT

The Bureau should set aside the CIDs for at least three reasons. First, the Dodd-Frank Act by its terms does not authorize the Bureau to issue CIDs to Tribes (or to arms of Tribes, as is the case here). Second, Tribes (and arms of Tribes) are protected from CIDs under the doctrine of tribal sovereign immunity. Finally, the CIDs are improper and unenforceable because they violate the Dodd-Frank Act by, among other things, failing to provide adequate notice of the purpose and scope of the Bureau’s investigation and leveling vague and unduly burdensome demands. We address each point in turn.

⁶ Because Petitioners are arms of their respective Tribes, they need not and do not take a position on whether the Bureau has the authority to issue CIDs to entities that do not qualify as arms of the tribe..

I. THE DODD-FRANK ACT DOES NOT AUTHORIZE THE BUREAU TO ISSUE CIDS TO TRIBES AND ARMS OF TRIBES.

In order for the Bureau to directly regulate Petitioners by issuing CIDs, Congress must have vested the Bureau with that authority. *Louisiana Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986) (“[A]n agency literally has no power to act . . . unless and until Congress confers power upon it.”). Congress did nothing of the sort in the Dodd-Frank Act. Quite the contrary: It directed the Bureau to interact with Tribes and tribal entities on a government-to-government basis, and it affirmatively distinguished between the “covered persons” over whom the Bureau would exercise regulatory control, on the one hand, and fellow regulators, including Tribes and States, on the other. Because the Bureau lacks the power to issue the CIDs to tribal entities, it must set them aside.

A. Congress Was Explicit: Tribes Are Included Among Financial Regulators, Not The Regulated.

1. There is only one mention of Tribes in the Dodd-Frank Act, and that occurs in the definition of “State”:

The term “State” means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or *any federally recognized Indian tribe*, as defined by the Secretary of the Interior under section 479a–1 (a) of title 25.

Dodd-Frank Act § 1002(27), 12 U.S.C. § 5481(27) (emphasis added). Thus, each time the word “State” appears in the Act, Congress intended for those provisions to cover Indian Tribes like the Otoe-Missouria, Tunica-Biloxi, and Chippewa Cree and to treat those Tribes in an equivalent way to States such as Colorado, Mississippi, and California. Treating Tribes as States squares with the “general federal policy of encouraging tribes ‘to revitalize their self-government’ and to assume control over their ‘business and economic affairs.’” *White Mountain Apache Tribe v.*

Bracker, 448 U.S. 136, 149 (1980) (quoting *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 151 (1973)).

All of the references to States throughout Title X of the Act highlight the cooperation Congress envisioned between the federal government and States. For example:

- The Act requires the Bureau to coordinate “fair lending efforts of the Bureau with other Federal agencies and State regulators, as appropriate, to promote consistent, efficient, and effective enforcement of Federal fair lending laws,” Dodd-Frank Act § 1013(c)(2)(B), 12 U.S.C. § 5493(c)(2)(B); and “coordinate with . . . Federal agencies and State regulators, as appropriate, to promote consistent regulatory treatment of consumer financial and investment products and services,” Dodd-Frank Act § 1015, 12 U.S.C. § 5495.
- The Act gives States a significant role in collecting and tracking consumer complaints, Dodd-Frank Act § 1013(b)(3)(B), 12 U.S.C. § 5493(b)(3)(B); mandates that the Bureau share the data it collects with State agencies, Dodd-Frank Act § 1013(b)(3)(D), 12 U.S.C. § 5493(b)(3)(D); and requires the Bureau to give State regulators “any report of examination made by the Bureau with respect to [a] person” over which the state has jurisdiction, Dodd-Frank Act § 1022(c)(6)(C)(i), 12 U.S.C. § 5512(c)(6)(C)(i).
- The Act requires that, “[i]n developing and implementing registration requirements [for covered persons],” the Bureau must “consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.” Dodd-Frank Act § 1022(c)(7)(C), 12 U.S.C. § 5512(c)(7)(C).

Further reinforcing that Congress intended States (and thus Tribes) to be co-regulators, the Act promotes enforcement of State consumer protection laws and State power to directly enforce State and federal law. For example:

- The Act provides that, but for a few exceptions, Title X “may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this subchapter from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title, and then only to the extent of the inconsistency.” Dodd-Frank Act § 1041(a)(1), 12 U.S.C. § 5551(a)(1).
- The Act provides that “[n]o provision of this title, except as provided in section 1083, shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law.” Dodd-Frank Act § 1041(b), 12 U.S.C. § 5551(b).

- The Act provides that “the attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State” in federal or state court to enforce the Act and associated regulations. Dodd-Frank Act § 1042(a)(1), 12 U.S.C. § 5552(a)(1).

In short, Congress intended Tribes to be the Bureau’s partners in regulation. Indeed, the Department of the Treasury itself has said as much. In a public statement regarding how the Bureau will interact with Indian Tribes, it explained that the Act “[e]mpower[s] tribal government . . . to enforce the [Bureau]’s rules in areas under their jurisdiction, the same way that states will be permitted to enforce those rules.” U.S. Treasury Dep’t, *The Dodd-Frank Wall Street Reform and Consumer Protection Act Benefits Native Americans*.⁷ This co-regulation is further evidenced by the fact that the Tribes have their own laws authorizing lending activities within the jurisdiction of their respective tribal lands and have established regulatory agencies to oversee, require compliance from, and regulate Petitioners.

2. Just as importantly, the Act nowhere suggests that Tribes (or States) are subject to Bureau oversight or to Bureau-issued CIDs. Instead, it merely charges the Bureau with supervising “covered persons” for “compliance with Federal consumer financial law,” Dodd-Frank Act § 1021(c)(4), 12 U.S.C. § 5511(c)(4), and it defines “person” as “an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity,” Dodd-Frank Act § 1002(19), 12 U.S.C. § 5481(19). That generalized language does not suffice to give the Bureau CID authority over sovereigns such as Tribes or States. As the Supreme Court has made clear, if Congress wants to include a sovereign within the reach of a CID provision, it must say so clearly and specifically; the word “person” does not suffice. *See Vermont Agency of Nat’l Res. v. United States ex rel. Stevens*, 529 U.S. 765 (2000).

⁷ Available at <http://www.treasury.gov/initiatives/wsr/Pages/Native-Americans.aspx>.

In *Stevens*, respondent argued that provisions of the False Claims Act applicable to “persons” also covered States. *Id.* at 782. The Supreme Court rejected that proposition in part. The Court relied on a “longstanding interpretive presumption that ‘person’ does not include the sovereign.” *Id.* at 780 (emphasis added). Analyzing the statute in light of that presumption, the Court concluded that (i) a provision making “persons” liable under the False Claims Act did not apply to States because it made no specific mention of States, while (ii) another provision—the one authorizing the Attorney General to issue CIDs to “persons”—*did* apply to States precisely because it “*expressly defin[ed] person . . . to include States.*” *Id.* at 783-84 (quotation marks omitted; emphasis added).

Stevens establishes that the Bureau lacks the authority to issue CIDs to Petitioners, who stand in the shoes of their Tribes. The Dodd-Frank Act authorizes the Bureau to issue CIDs to “persons.” That obviously does not suffice to reach States; the Bureau could not, for example, issue a CID to the State of California. *See Stevens*, 529 U.S. at 782-84. Neither does it suffice to reach Tribes, which are “sovereign,” *id.* at 780, just as States are, and which are explicitly treated as States by the Act itself.⁸ If Congress wants States or Tribes to be subject to CIDs issued by the executive, it knows how to say so, as *Stevens* demonstrates. It chose not to say so here.

Congress, in sum, has plenary power over Indian affairs. *Rice v. Rehner*, 463 U.S. 713, 719 (1983). And where, as here, Congress has spoken clearly—including Tribes within the Act’s purview as regulators, but declining to include them within the definition of “covered persons”—courts and the executive branch are bound to follow its mandate. *See Demarest v.*

⁸ That the statutory definition of “person” includes an array of corporate entities does not alter the analysis. Petitioners are, for purposes of federal law, the Tribe itself; the fact that the Tribe has chosen to act through a defined sub-entity does not change that fact. *See Allen*, 464 F.3d at 1046 (When a commercial entity acts as an arm of the tribe, “its activities are properly deemed those of the tribe.”). In any event, any ambiguity about whether Petitioners should be deemed a Tribe or a “company” for purposes of the Dodd-Frank Act must be resolved in Petitioners’ favor. *See infra* at 16.

Manspeaker, 498 U.S. 184, 190 (1991). *Ramah Navajo Chapter v. Salazar*, 644 F.3d 1054, 1062 (10th Cir. 2011) (same), *aff'd*, 132 S. Ct. 2181 (2012). The Bureau lacks statutory authority to issue the CIDs to Petitioners.

B. Binding Supreme Court Precedent Requires Any Statutory Ambiguities To Be Resolved In Favor Of Petitioners.

To the extent there exist any ambiguities in the statutory scheme, the Dodd-Frank Act must be construed in Petitioners' favor. When courts "are faced with . . . two possible constructions [of a statute], [their] choice between them must be dictated by a principle deeply rooted in th[e] [Supreme] Court's Indian jurisprudence: '[S]tatutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit.'" *County of Yakima v. Confederated Tribes & Bands of the Yakima Indian Nation*, 502 U.S. 251, 269 (1992) (quoting *Montana v. Blackfeet Tribe*, 471 U.S. 759, 767-68 (1985)). "Ambiguities in federal law have been construed generously in order to comport with . . . traditional notions of [tribal] sovereignty and with the federal policy of encouraging tribal independence." *White Mountain Apache Tribe*, 448 U.S. at 143-44. Thus, to the extent that the Dodd-Frank Act does not make abundantly clear that Tribes are among the regulators, not the regulated, Petitioners' interpretation should nonetheless prevail.

C. Even If "Covered Persons" Could Plausibly Encompass Petitioners, The Dodd-Frank Act Would Still Not Apply Because Its Application Would Interfere With Tribal Sovereignty.

Finally, even if the statutory term "covered persons" could *plausibly* encompass Petitioners, that would not be enough to justify the Bureau's actions. Neither the Dodd-Frank Act, nor any other federal statute, can be interpreted to "interfere[] with tribal autonomy and self-government . . . in the absence of clear indications of legislative intent." *Santa Clara*, 436 U.S. at 59-60. Here the Otoe-Missouria, Tunica-Biloxi, and Chippewa Cree Tribes exercise powers

of “self-government,” *id.*, and inherent sovereign authority to regulate Petitioners’ activities. A clear statement of congressional intent thus would be required to override that exercise of sovereign power. That clear statement is conspicuously absent.

Indian Tribes have the right to regulate their internal relations, to make their own substantive law in internal matters, and to enforce that law in their own forum. *Santa Clara*, 436 U.S. at 55-56. Even when federal statutes can be read to encompass Tribes, when the statute would affect a specific right reserved to Tribes—such as the right to regulate entities within tribal control—the statute only applies to Tribes if Congress clearly evinces its intent to abrogate tribal rights. *United States v. Winnebago Tribe of Nebraska*, 542 F.2d 1002, 1005 (8th Cir.1976). Courts “do not lightly construe federal laws as working a divestment of tribal sovereignty and will do so only when Congress has made its intent clear.” *NLRB v. Pueblo of San Juan*, 276 F.3d 1186, 1195 (10th Cir. 2002).

In *EEOC v. Fond du Lac Heavy Equipment & Construction Co.*, 986 F.2d 246 (8th Cir. 1993), for example, the Eighth Circuit faced a challenge to the applicability of the Age Discrimination in Employment Act (ADEA) to an entity wholly owned and operated by the Band of Lake Superior Chippewa. The EEOC contended that the ADEA was a general act of Congress that did not mention Tribes, and thus applied to them. *Id.* at 250; *see Federal Power Commission v. Tuscarora Indian Nation*, 362 U.S. 99, 120 (1960) (“[G]eneral acts of Congress apply to Indians as well as to all others in the absence of a clear expression to the contrary.”). The Eighth Circuit disagreed. It held that the so-called *Tuscarora* rule “does not apply when the interest sought to be affected is a specific right reserved to the Indians.” *Fond du Lac*, 986 F.2d at 248. And because disputes regarding a tribal employer’s consideration of age in determining whether to hire a member of the Tribe to work at a tribal business would affect “the tribe’s

specific right of self-government . . . the general rule of applicability does not apply.” *Id.* at 249; *accord EEOC v. Cherokee Nation*, 871 F.2d 937, 938 (10th Cir. 1989) (“ADEA is not applicable because its enforcement would directly interfere with the Cherokee Nation’s treaty-protected right of self-government”); *Nero v. Cherokee Nation of Okla.*, 892 F.2d 1457, 1463 (10th Cir. 1989) (plaintiffs could not assert claims under 42 U.S.C. §§ 1981 and 2000d because they would affect the Tribe’s right to self-governance in a purely internal matter); *Donovan v. Navajo Forest Prods. Indus.*, 692 F.2d 709, 712 (10th Cir. 1982) (OSHA held inapplicable to Tribe in part because enforcement “would dilute the principles of tribal sovereignty and self-government recognized in the treaty”).

The *Fond du Lac* court thus asked whether a clear and plain statement of congressional intent existed that would override the Tribe’s right to self-governance. Guided by *United States v. Dion*, 476 U.S. 734 (1986), the court explained that, to overcome tribal sovereignty, the EEOC must set forth “evidence that Congress actually considered the conflict between its intended action on the one hand and Indian . . . rights on the other, and chose to resolve that conflict by abrogating [the tribal rights].” *Fond du Lac*, 986 F.2d at 250 (quoting *Dion*, 476 U.S. at 740). “[S]ome affirmative evidence of congressional intent, either in the language of the statute or its legislative history, is required to find the requisite ‘clear and plain’ intent to apply the statute to Indian tribes.” *Id.* None existed, and so the court held that the ADEA, a statute that on its face appeared to cover employers owned by Indian Tribes, just as it covered all other employers, nonetheless did not apply to the manufacturing company owned by the Band of Lake Superior Chippewa.

This case is on all fours with *Fond du Lac*. The Tribes at issue here, like the Tribe in *Fond du Lac*, have the right to regulate themselves with respect to lending law, and in fact do so.

See supra at 3-6. None of the three Tribes has signed any treaty with the United States abrogating its inherent right to govern itself, its entities, and its members. *United States v. Wilbur*, 674 F.3d 1160, 1180 (9th Cir. 2012) (“[R]ights not explicitly abrogated in a treaty are presumed to have been reserved by the tribe.”) (citing *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 195-96 (1999)). The Bureau’s issuance of CIDs to tribal entities thus interferes with the Tribes’ privileges of sovereignty, affecting “the tribe[s]’ specific right of self-government.” *Fond du Lac*, 986 F.2d at 249. The CIDs accordingly pass muster only if the Bureau can point to “‘clear and plain’ ” Congressional intent “to apply the statute to Indian tribes.” *Id.* at 250. The Bureau cannot meet that requirement. Indeed, this is an easier case than *Fond du Lac*. Unlike in *Fond du Lac*, where the statute was silent, Congress in Dodd-Frank spoke directly to the role that Indian Tribes are intended to play in the enforcement scheme: they are co-regulators, working with the federal government to ensure that entities under their control comply with all federal lending standards. Nothing in the legislative history suggests otherwise. Thus, even if “covered person” could be read broadly enough to encompass tribal lenders, the Bureau lacks the power to interfere with the tribal sovereignty that the Otoe-Missouria, Tunica-Biloxi, and Chippewa Cree inherently possess and that Congress did not expressly abolish.

In sum, the Bureau lacks the power to issue the CIDs to Petitioners. The CIDs must be set aside.⁹

⁹ The Bureau may not remedy its lack of supervisory and enforcement authority over Tribes simply by seeking information from entities that provide services to Tribes. Doing so would amount to an impermissible end-run around the tribal sovereignty that Congress explicitly endorsed by making Tribes co-regulators under the Dodd-Frank Act. *See Lewis v. Norton*, 424 F.3d 959, 963 (9th Cir. 2005) (holding that Plaintiffs’ could not do an end run around tribal immunity by suing the United States).

II. SOVEREIGN IMMUNITY PROTECTS PETITIONERS FROM THE CIDs.

The CIDs also should be set aside for a second, independent reason: Petitioners are entitled to sovereign immunity from suit, and that immunity extends to protect them from investigatory demands like the CIDs.

A. Tribes, And Arms Of Tribes, Are Immune From Suit Absent Congressional Abrogation.

“Indian tribes have long been recognized as possessing the common-law immunity from suit traditionally enjoyed by sovereign powers.” *Santa Clara*, 436 U.S. at 58 (collecting cases). Tribal immunity is broad, extending to suits against Tribes in state and federal court, *see Kiowa Tribe*, 523 U.S. at 756, to off-reservation tribal activities, *see id.*, and even “to suits on off-reservation commercial contracts” entered into by Tribes. *C & L Enters., Inc. v. Citizen Band Potawatomi Indian Tribe of Okla.*, 532 U.S. 411, 418 (2001). And it extends to subpoenas and similar investigatory documents, such as CIDs. Many courts have held that subpoenas and similar documents are, in effect, judicial processes, and therefore can only be enforced through a formal court process. *See United States v. James*, 980 F.2d 1314, 1319 (9th Cir. 1992); *Catskill Development, L.L.C. v. Park Place Entm’t Corp.*, 206 F.R.D. 78, 86 (S.D.N.Y. 2002). Tribal immunity thus “appl[ies] automatically to defeat subpoenas,” just as it would to defeat other attempts to hale the Tribe into court. *Catskill Development*, 206 F.R.D. at 86; *accord James*, 980 F.2d at 1319; W. Canby, Jr., *American Indian Law* 102 (5th ed. 1998) (“Sovereign immunity has been held to protect a tribes against enforcement of a federal court subpoenas.”).

Tribal immunity, like other manifestations of tribal sovereignty, is not absolute. It may be waived by the Tribe, so long as that waiver is explicit. And “[t]his aspect of tribal sovereignty, like all others, is subject to the superior and plenary control of Congress”; Congress accordingly may override tribal immunity where it chooses to do so. *Santa Clara*, 436 U.S. at 58. But

Congress' override power is the only external limit the Supreme Court has ever recognized on tribal immunity. The Court has explained that “‘without congressional authorization,’ the ‘Indian Nations are exempt from suit.’” *Id.* (quoting *United States v. U.S. Fidelity & Guaranty Co.*, 309 U.S. 506, 512 (1940)). It has made clear that “[t]o abrogate tribal immunity, Congress must unequivocally express that purpose.” *C&L Enters.*, 532 U.S. at 418 (quotation marks omitted); *see also Santa Clara*, 436 U.S. at 58-59 (explaining that because preserving tribal autonomy and tribal resources are matters of vital importance, a waiver of such immunity “cannot be implied but must be unequivocally expressed”). And it has emphasized that only Congress possesses the authority to abrogate the Tribes' otherwise comprehensive exemption from suit: “As a matter of federal law, an Indian tribe is subject to suit *only* where Congress has authorized the suit or the tribe has waived its immunity.” *Kiowa Tribe*, 523 U.S. at 754 (emphasis added). *Accord Inyo County*, 538 U.S. at 708; *C&L Enters.*, 532 U.S. at 418; *U.S. Fidelity*, 309 U.S. at 512 (“These Indian Nations are exempt from suit without Congressional authorization.”). That is so because “until Congress acts, the tribes retain their existing sovereign powers.” *Wheeler*, 435 U.S. at 323. Tribes, in short, cannot be sued—and subpoenas and other investigatory documents cannot be enforced against them—absent an express Congressional abrogation of tribal immunity in a particular context.

Applying this framework, the Bureau cannot issue the CIDs to Petitioners here. Nothing in the Dodd-Frank Act mentions tribal immunity, let alone explicitly abrogates it. To the contrary, the Act treats Tribes as States, thus reinforcing their sovereign immunity instead of diminishing it. None of the Tribes has waived its sovereign immunity with respect to the unauthorized enforcement actions of the Bureau. Thus the CIDs cannot be issued to, or enforced against, Petitioners. As the Supreme Court has explained, “Congress, subject to constitutional

limitations, can alter [tribal immunity] limits through explicit legislation.” *Kiowa Tribe*, 523 U.S. at 759. “Congress is in a position to weigh and accommodate the competing policy concerns and reliance interests,” *id.*, and under longstanding precedent *only* Congress is empowered to do so. The Bureau cannot purport to exercise that uniquely legislative power in the face of silence from Congress.

B. Lower Courts Rejecting Tribal Immunity Have Misapplied The Law.

Some courts of appeals have suggested that while tribal immunity is broad, it categorically does not apply to suits brought by the United States. *See, e.g., United States v. Red Lake Band of Chippewa Indians*, 827 F.2d 380, 382 (8th Cir. 1987); *United States v. Yakima Tribal Court*, 806 F.2d 853, 861 (9th Cir. 1986). But they have reached that conclusion by analogizing Tribes to U.S. States and reasoning that since States cannot assert immunity against the federal government, Tribes must not be able to do so either. *See Yakima Tribal*, 806 F.3d at 561 (holding that “[l]ike each of the fifty states, the Yakima Nation is not immune from suits brought by the United States” and relying on authority relating to state immunity).

That reasoning cannot withstand examination. While Dodd-Frank recognizes an equivalence between States and Tribes when it comes to each sovereign’s participation as regulators, nothing in the Act takes back the general notion that tribal sovereign immunity stands on a different, and in this context more powerful, footing than that of the States. As the Supreme Court has explained, States do not enjoy immunity against the United States because “[i]n ratifying the Constitution, the States consented to suits brought by . . . the Federal Government.” *Alden v. Maine*, 527 U.S. 706, 755 (1999); *accord Blatchford v. Native Village of Noatak*, 501 U.S. 775, 782 (1991) (holding that the States engaged in a “surrender of immunity” as against the new federal government at the Constitutional Convention). Indeed, the Court has made clear that but for that voluntary surrender, the States still would enjoy immunity as against the federal

government. *See Principality of Monaco v. Mississippi*, 292 U.S. 313, 322-23 (1934) (explaining that the principle underlying the Eleventh Amendment is that “States of the Union, still possessing attributes of sovereignty, shall be immune from suits, *save where there has been ‘a surrender of this immunity in the plan of the convention’*”) (quoting *The Federalist*, No. 81) (emphasis added).

Indian Tribes, of course, engaged in no such voluntary surrender of their sovereign immunity; they did not participate in the Constitutional Convention. Recognizing as much, the Supreme Court has explained that “it would be absurd to suggest that the tribes surrendered immunity in a convention to which they were not even parties.” *Blatchford*, 501 U.S. at 782. It accordingly has “distinguished state sovereign immunity from tribal sovereign immunity, as tribes were not at the Constitutional Convention.” *Kiowa Tribe*, 523 U.S. at 756.

In the face of this precedent, it makes no sense to equate Tribes with States and assert on that basis that Tribes cannot assert immunity against the United States. The usual rule accordingly applies: “‘[W]ithout *congressional* authorization,’ the ‘Indian Nations are exempt from suit.’” *Santa Clara*, 436 U.S. at 58 (citation omitted; emphasis added). There has been no such congressional authorization here, as already explained. Petitioners are therefore immune from the CIDs.

III. THE CIDS ARE UNENFORCEABLE BECAUSE THEY DO NOT COMPORT WITH THE ACT’S PROVISIONS THAT RESTRICT THE BUREAU’S INVESTIGATORY POWERS.

The CIDs are also improper and unenforceable because they do not comport with the statutory and regulatory provisions that restrict the Bureau’s investigatory powers. *See United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950) (explaining that an administrative subpoena is enforceable only when the relevant investigation is within the agency’s authority, the demand

is sufficiently definite, and the information sought is reasonably relevant); *In re Sealed Case (Admin. Subpoena)*, 42 F.3d 1412, 1415 (D.C. Cir. 1994).

Most importantly, the CIDs as written do not provide adequate notice of the purpose and scope of the Bureau's investigation. The Dodd-Frank Act explicitly states that "[e]ach civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation." Dodd-Frank Act § 1052(c), 12 U.S.C. § 5562(c)(2); *see also* 12 C.F.R. § 1080.5 (same). Generally, notice requirements of this sort are not particularly stringent. *See F.T.C. v. O'Connell Assocs., Inc.*, 828 F. Supp. 165, 171 (E.D.N.Y. 1993). At the very least, however, they must avoid using language so broad and vague that it becomes impossible for a reviewing court "to determine whether the information demanded is 'reasonably relevant' and 'not too indefinite.'" *In re Sealed Case (Admin. Subpoena)*, 42 F.3d at 1418.

The portions of the CIDs intended to satisfy the notice requirement plainly fail the test. They refer to so many statutes and regulations and use such open-ended language that they essentially amount to no notice whatsoever. And they purport to seek information in furtherance of an investigation under four broad statutory schemes and "*any other* Federal consumer financial law"¹⁰— an approach that courts have rejected as an improper attempt to conduct a "fishing expedition" into a petitioner's affairs. *Id.* at 1418-19 (rejecting as improper an administrative subpoena's purported purpose to "uncover 'other wrongdoing, as yet unknown,' " and explaining that the "broad language used to describe this purpose makes it impossible to apply the other prongs of the *Morton Salt* test"). By issuing these CIDs, in short, the Bureau seek to exercise "unfettered authority to cast about for potential wrongdoing," and they do so in language that has been rejected by the courts. To the extent they do so, they are unenforceable.

¹⁰ *E.g.*, Plain Green CID at 1 (emphasis added).

See id. at 1419 (“In the absence of an investigatory purpose based on identifiable statutory authority, we decline to enforce this purpose.”).

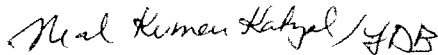
Finally, Petitioners’ note that the interrogatories and requests included in the CID are, even if properly served upon the Tribes, and accompanied by adequate notice of purpose and scope, simply vague, over expansive and unduly burdensome. They seek information that can serve no purpose other than as a fishing expedition against the tribal entities upon which they are served. In Petitioners’ discussions with counsel for the Bureau, the Bureau agreed that, given the Constitutional issues Petitioners intended to raise, attempts to negotiate regarding the scope and nature of the individual requests was premature. Given this, Petitioners simply highlight that the CIDs as drafted are objectionable based on these grounds and reserve their rights to address these issues with the staff at a later date.

CONCLUSION

For the foregoing reasons, the Bureau should set aside the CIDs issued to Petitioners Great Plains Lending, LLC, MobiLoans, LLC, and Plain Green, LLC.

Dated: July 17, 2012

Respectfully submitted,



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CERTIFICATION

Consistent with 12 C.F.R. § 1080.6(d)(1), counsel for Petitioners hereby certifies that they have twice conferred with counsel for the Bureau in a good-faith effort to resolve by agreement the issues raised by this Petition. Counsel reached an agreement regarding one issue: At a meeting between counsel that occurred on July 16, 2012, Petitioners' counsel asserted that constitutional arguments challenging the Bureau's authority generally are not waived, and may still be raised in the future, even if not raised before the agency. Bureau counsel responded: "In terms of these kinds of legal argument, right, it's not going to be an issue." Petitioners have made the choice not to join Section VI of Think Finance's petition, *see supra* at 2, n.2, in reliance on this representation made by Bureau counsel. On all remaining issues, counsel for Petitioners and counsel for the Bureau have been unable to reach an agreement.

Neal Kumar Katyal / YDB

Neal Kumar Katyal

Counsel for Petitioners

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 17 day of July, 2012, I caused a copy of the foregoing Joint Petition to Set Aside Civil Investigative Demands to be sent by electronic mail to the following:

Executive Secretary
Consumer Financial Protection Bureau
ExecSec@cfpb.gov

Assistant Director of the Division of Enforcement
Consumer Financial Protection Bureau
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Maxwell (Max) Peltz
Meredith Osborn
Melanie Hirsch
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Neal Kumar Katyal / JDS

Neal Kumar Katyal

Exhibit A



OTOE-MISSOURIA TRIBE OF INDIANS

8151 HIGHWAY 177
RED ROCK, OK 74651-0348

RESOLUTION

OMTC# 54293 FY2011

A RESOLUTION CREATING GREAT PLAINS LENDING, LLC

NOW, THEREFORE, BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE OTOE-MISSOURIA TRIBE OF INDIANS, AND

WHEREAS, the Otoe-Missouria Tribal Council, the governing body of the Otoe-Missouria Tribe of Indians, in accordance with the Tribal Constitution, Article VIII-Powers, Section I, duly convened to discuss, review, and approve tribal business; and

WHEREAS, the Constitution and By-Laws of the Otoe-Missouria Tribe of Indians provides that the Otoe-Missouria Tribal Council shall have the power to act on behalf of the Tribe in all matters on which the Tribe is empowered to act; and

WHEREAS, the Otoe-Missouria Tribal Council is the supreme governing body of the Otoe-Missouria Tribe of Oklahoma with the authority to enact laws and ordinances; and

WHEREAS, the Otoe-Missouria Tribal Council has determined that it is in the best interests of the Otoe-Missouria people to organize an arm of the Tribe pursuant to the Otoe-Missouria Tribe of Indians Limited Liability Company Act to advance tribal economic development to aid addressing issues of public safety, health and welfare, and therefore, desires to create the tribal lending entity, Great Plains Lending, LLC; and

WHEREAS, the Otoe-Missouria Tribal Council has determined that the best interest of the Otoe-Missouria Tribe of Indians is best served by the creation of Great Plains Lending, LLC.

THEREFORE, BE IT RESOLVED, that the Otoe-Missouria Tribal Council does hereby form Great Plains Lending, LLC as a limited liability company wholly-owned by the Tribal government pursuant to Part 9 of Otoe-Missouria Limited Liability Company Act with all the powers and attributes associated therewith including, but not limited to, sovereign immunity. The Articles of Formation for Great Plains, LLC are attached to this resolution and are hereby adopted and accepted.

BE IT FURTHER RESOLVED, that the Board of Directors of Great Plains Lending, LLC shall consist of five (5) members including the President of the Development Authority and the Tribal Vice-Chairman. The remaining Board members shall be appointed by the Tribal Council and shall serve three (3) year terms. All Board members of Great Plains Lending, LLC or any Great Plains Lending, LLC subsidiary must be at least eighteen (18) years old. No Board member of Great Plains Lending, LLC or any Great Plains Lending, LLC subsidiary may have ever been: (i) convicted of any misdemeanor involving fraud or violation of law governing the consumer finance business or any business of a similar nature or any felony, or (ii) permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of a consumer finance service or any business of a similar nature.

BE IT FURTHER RESOLVED, that pursuant to Part 9 of the Otoe-Missouria Limited Liability Company Act, the Board of Directors of Great Plains Lending, LLC shall have the authority to create subsidiary LLCs which are wholly owned by the Tribe.

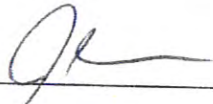
BE IT FURTHER RESOLVED, that, the Otoe-Missouria Tribal Council grants to Great Plains Lending, LLC formed under Part 9 of the Otoe-Missouria Tribe of Indians Limited Liability Company, as a wholly-owned entity of the Tribe, a consumer lending license required under Section 104 of the Otoe-Missouria Tribe of Indians Consumer Finance Regulatory Commission Ordinance hereby waiving the fees, application and renewal requirements of Sections 105, 106, 107, 108 and 109 of such Ordinance.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Otoe-Missouria Tribal Council, do hereby certify by signature, that the above foregoing Resolution was given due consideration on this 4th day of May, 2011 with a quorum present and a vote of:

6 FOR, 0 AGAINST, 0 ABSENT, and 1 ABSTAINING

(SEAL)



Chairman

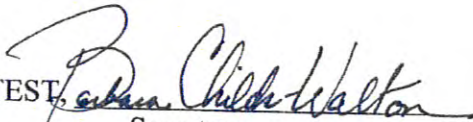
ATTEST, 
Secretary

Exhibit B

SECTION 913. PRIVILEGES AND IMMUNITIES

The LLCs established under Sections 911 and 912 shall be considered to be instrumentalities and arms of the Tribe, and their officers and employees considered officers and employees of the Tribe, created for the purpose of carrying out authorities and responsibilities of the Tribe for economic development of the Tribe and the advancement of its citizens. Such LLCs, their directors, officers, and

employees shall, therefore, be entitled to all of the privileges and immunities enjoyed by the Tribe, including, but not limited to, immunities from suit in Federal, State and Tribal courts and from Federal, State, and local taxation or regulation, except that:

1. The LLC may specifically grant limited waivers of its immunity from suit and consent to be sued in Tribal Court or another court of competent jurisdiction; provided, however, that:
 - a. any such waiver or consent to suit granted pursuant to the LLC's shall in no way extend to any action against the Tribe, nor shall it in any way be deemed a waiver of any of the rights, privileges and immunities of the Tribe;
 - b. any recovery against the LLC shall be limited to the assets of the LLC (or such portion of the LLC's assets as further limited by the waiver or consent), and the Tribe shall not be liable for the payment or performance of any of the obligations of the LLC, and no recourse shall be had against any assets or revenues of the Tribe in order to satisfy the obligations of the LLC; including assets of the Tribe leased, loaned, or assigned to the LLC for its use, without transfer of title, and
 - c. any waiver of the LLC's immunities granted pursuant to the LLC's Operating Agreement shall be further limited or conditioned by the terms of such waiver.
2. The sovereign immunity of the LLC shall not extend to actions against the LLC by the Tribe acting as its sole Member, or, in the case of a subsidiary LLC created pursuant to this Part, by the parent LLC acting as its Member, pursuant to Section 912.
3. The special privileges and immunities described in this Section shall only apply to an LLC wholly owned, directly or indirectly, by the Tribe.

Exhibit C

OPERATING AGREEMENT
of
GREAT PLAINS LENDING, LLC

An Otoe-Missouria Tribe of Indians Limited Liability Company

THIS OPERATING AGREEMENT for GREAT PLAINS LENDING, LLC, an Otoe-Missouria Tribe of Indians company (the “Company”), is made and entered into and effective as of _____ 20__.

RECITALS

The Member(s) acknowledge the following:

The Otoe-Missouria Tribe of Indians desires to form a limited liability company for the purpose of carrying on a for-profit business and to further the economic goals and initiatives of the Tribe.

The Company acting for the Tribe desires to set forth in writing the terms by which the Company will be organized and operated.

ARTICLE I
DEFINITIONS, NAME AND TERM

1.1. Definitions. In addition to the terms defined elsewhere in this Operating Agreement the following definitions shall apply:

a. “Act” means the Otoe-Missouria Tribe of Indians Limited Liability Company Act, as amended from time to time, and any successor to such statute.

b. “Operating Agreement” means the operating agreement of Great Plains Lending, LLC, as amended from time to time.

c. “Articles of Organization” mean the Articles of Organization of the Company filed with the Tribal Secretary, as amended from time to time.

d. “Board” means the Board of Directors or Directors of the Company acting pursuant to the authority conferred upon them by this Operating Agreement.

e. “Cash Flow” means all cash receipts of the Company during any year, other than capital contributions of the Tribe, less the sum payments of principal and interest on indebtedness of the Company (including working capital loans), all cash expenditures made in connection with the Company’s business including, without limitation, capital expenditures, and all payments to Reserves to the extent such payments and expenditures are made from such cash receipts. Cash Flow shall be determined separately for each fiscal year.

f. “Company” means Great Plains Lending, LLC, an Otoe-Missouria Tribe of Indians

limited liability company.

g. "Fiscal Year" means the Company's fiscal year.

h. "Tribal Council" means the Tribal Council of the Otoe-Missouria Tribe of Indians.

i. "Director(s)" means one or more of the persons appointed to manage the Company under Article III.

j. "Member" means the Tribe as the sole Member of the Company.

k. "Chairman" means the Chairman of the Tribe.

l. "Profits and Losses" mean the income or loss of the Company determined in accordance with Generally Accepted Accounting Principles ("GAAP").

m. "Reserves" mean, with respect to any fiscal year, any funds set aside or amount allocated during such year to reserves for Company expenses, both ordinary and capital, liabilities and operations, subject to the approval of the Board.

n. "Tribe" means the Otoe-Missouria Tribe of Indians.

1.2. Formation. The Company was organized by executing and filing the Articles of Organization with the Tribal Secretary pursuant to the Act.

1.3. Name and Principal Place of Business. The name of the Company is Great Plains Lending, LLC. The principal place of business of the Company is the principal office as listed below or such other place as the Board designates from time to time.

1.4. Registered Office and Registered Agent. The Company's principal office is located at 8151 Highway 177, Red Rock, OK 74651, and its registered agent at such address is a Company Director. The Company may change its registered office and/or registered agent from time to time as provided under the Act.

1.5. Term. The term of the Company shall be perpetual, or until the Company is dissolved or merged in accordance with the provisions of this Operating Agreement and/or the Act.

ARTICLE II BUSINESS OF THE COMPANY

2.1. The business of the Company shall be:

a. To accomplish any lawful purpose which shall at any time appear conducive or expedient for the protection or benefit of the Company and its assets;

b. To exercise all the powers necessary to or reasonably connected with the Company's

business, which may be legally exercised by limited liability companies under the Act; and

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

ARTICLE III DIRECTORS

3.1. Authority of Director. Except as otherwise provided in this Operating Agreement, and subject to the consent or approval of the Tribal Council with respect to those matters requiring such consent or approval under the terms of this Operating Agreement, the management of the Company shall be vested in the Board of Directors appointed in accordance with Section 3.5. The Directors shall exercise their management authority over the Company as provided in this Operating Agreement.

3.2. Roles of Individual Directors.

a. In addition to their collective management responsibility, which shall be exercised as described in Section 3.3 of this Operating Agreement, each Director shall possess the particular authority and discharge the specific responsibilities as the Board may delegate to the individual Director.

b. The authority and responsibility delegated among the Directors may include:

(i) developing strategic plans; (ii) developing business plans and projections; (iii) formulating marketing programs; (iv) scheduling and supervision of the Company's work crews; (v) purchasing materials and supplies required to perform the Company's contracts; (vi) bidding individual work projects for the Company; (vii) keeping all financial and business records of the Company; (viii) making any and all filings and registrations required by jurisdictions outside of the Tribe in which the Company operates; (ix) preparing reports and other communications with the Tribe; and (x) taking such other administrative action as shall be required to operate the Company.

c. The Board shall choose a Chairperson and Chief Executive from among the Directors. The Chairperson shall have voting authority over all matters coming before the Board.

d. The Directors may delegate their responsibilities to officers or other personnel of the Company, but shall continue to be responsible for the discharge of the delegated authority. A Director may serve as an officer in addition to their position as a Director.

3.3. Director Meetings. The Directors shall meet at least monthly, or at the request of any of them, to (i) discuss their individual activities and responsibilities; (ii) by majority vote, to authorize major business actions, subject to Legislative consent or approval where specifically required by this Operating Agreement; (iii) by majority vote, adopt projections and business plans; and (iv) review and monitor achievement of goals and objectives described in the Company's business plans and projections.

3.5. Appointment and Replacement of Directors. The Directors of the Company shall be appointed by the Tribal Council. Any Director may be removed at any time by the Tribal Council, with or without cause, provided that a successor to such Director is appointed in accordance with this Section. Directors shall not serve for a specified term, and shall remain in office until they resign or are replaced. The initial number of Directors of the Company shall be five (5). Only such persons who have the experience and background to effectively manage the business and the affairs of the Company shall be appointed to the Board.

ARTICLE IV CAPITAL

4.1. Initial Contributions to Capital by Members. On the date hereof, the Tribe has contributed sufficient capital and resources to allow for the ongoing business of the Company.

4.2. No Further Liability. The Tribe shall not be required to make any additional capital contributions, and the Tribe shall have no liability to creditors of the Company.

4.3. Working Capital Contributions and Loans. It is intended that the Company will operate separately from the Tribe and will not require continuing financial support from the Tribe. However, it may be necessary to obtain funding for working capital and/or capital acquisitions by the Company. If independent financing facilities are not available to the Company, the Tribe may provide such funding through loans or capital contributions on such terms and conditions as shall be agreed between the Directors on behalf of the Company and Tribal Council on behalf of the Tribe.

ARTICLE V PROFITS AND LOSSES, DISTRIBUTIONS, CAPITAL ACCOUNTS

5.1. Profits and Losses. All Profits and Losses shall be allocated to the Tribe as the sole Member.

5.2. Distributions Prior to Dissolution. All Cash Flow shall be distributed to the Tribe, at least quarterly unless otherwise approved by the Tribal Council.

5.3. Distribution Upon Dissolution and Winding Up. Upon dissolution and winding up of the Company, the assets of the Company after payment of the debts and obligations of the Company and the funding of any Reserves shall be distributed to the Tribe.

ARTICLE VI COMPENSATION TO DIRECTORS, EMPLOYMENT POLICIES AND BENEFITS

6.1. Generally. Directors shall be entitled to reasonable and competitive compensation for services rendered to the Company, but only to the extent approved in advance by the Board.

6.2. Reimbursement of Expenses. The Company shall reimburse the Directors and other employees for all out-of-pocket expenses they incur or have incurred on behalf of the Company

or in connection with the business of the Company pursuant to policies approved in advance by the Board.

6.3. Employment Policies and Benefits. The Company shall operate in accordance with such personnel policies and procedures and employee compensation and benefit plans as may be formulated by the Directors and approved by the Board, as the same may be amended from time to time.

ARTICLE VII MANAGEMENT

7.1. Management.

a. The business and affairs of the Company shall be managed by its Directors acting as set forth in this Article and in Article III subject to approval and consent of the Board on those matters specified herein. Decisions relating to the business and affairs of the Company, other than those that are clearly routine or incidental to the day-to-day conduct of the Company's business, shall be made by majority vote of the Directors. The Directors are hereby authorized to take any action and make any decision within their areas of authority and delegated to them by the Board pursuant to Section 3.2 that is clearly routine or incidental to the day-to-day conduct of the Company's business. The following types of actions and decisions are not incidental to the day-to-day conduct of the Company's business and require the consent or approval of the Member(s): (i) selling, disposing of, or leasing the non-inventory assets of the Company having an aggregate value in excess of \$50,000; (ii) acquiring any real or personal property with a value in excess of \$50,000 other than building materials and supplies obtained in the ordinary course of the Company's business; (iii) incurring debt in excess of \$100,000; (iv) making any distributions other than ordinary quarterly distributions to the Tribe; (v) mortgaging, pledging, or otherwise encumbering any assets of the Company; (vi) amending the Articles of Organization or Operating Agreement; (vii) taking or authorizing any act on behalf of the Company that contravenes these Articles; (viii) taking or authorizing any such act which would make it impossible to carry on the ordinary business of the Company; or (ix) taking or authorizing any other action or making any other decision requiring the consent or approval of the Tribal Council as may be set forth in this Operating Agreement.

b. The Directors shall manage and control the business of the Company in accordance with generally accepted business standards and the provisions of Article III, and shall devote such time to the Company's business as shall be reasonably necessary.

c. The Directors shall not be liable, responsible, or accountable in damages or otherwise to the Company for any acts performed or omitted by them in good faith except for acts or omissions which constitute gross negligence or willful misconduct. The Directors shall be indemnified and held harmless by the Company, to the extent of the Company's assets, against obligations and liabilities arising or resulting from or incidental to the management of the Company's affairs, provided that no Director shall be entitled to indemnification hereunder for acts or omissions constituting gross negligence or willful misconduct. Any such indemnification shall only be from the assets of the Company.

7.2. Restrictions on Powers of Directors. No Director, attorney-in-fact, employee, or agent of the Company shall have any power or authority to bind the Company in any way, to pledge its credit, to make distributions, or to render it pecuniary liable for any purpose unless authorized to act with respect to such matter in accordance with this Article and Article III.

7.3. Meetings. No annual meeting of the Member(s) is required. Special meetings of the Member(s), for any purpose or purposes, unless otherwise prescribed by the Act, may be called at any time by the Tribal Council.

7.4. Informal Action. The Directors may take any and all actions which they are required or permitted to take concerning the conduct of the business of the Company without a meeting if the action is evidenced by one or more written consents describing the action take and signed by all of the Directors.

7.5. Administrative and Professional Services. As an entity separate from the Tribe, the Company shall either contract with independent professionals for accounting, legal, and other services which the Company may require; or may contract with the Tribe to obtain such services from the Tribe's internal operating departments on such terms as shall be agreed between the Directors on behalf of the Company and Tribal Council on behalf of the Tribe.

ARTICLE VIII ACCOUNTING AND BANK ACCOUNTS

8.1. Books. The Company shall maintain books and records which shall be kept at the principal office of the Company or such other place designated by the Legislature. The Tribe as sole Member shall have access to and the right to inspect and copy such books and records at any time.

8.2. Accounting and Reports. Within sixty (60) days after the end of each fiscal year, the Directors shall deliver to the Tribe, (i) an audited balance sheet as of the end of such fiscal year and (ii) an audited GAAP.

8.3. Bank Accounts. The Company shall open and maintain bank accounts in which only funds of the Company shall be deposited. The funds in such accounts shall be disbursed solely for the business of the Company. Withdrawals from any Company bank account shall be made only upon the signature of such person or persons as the Directors may designate from time to time.

8.4. Method of Accounting. The books and records of the Company shall be maintained on the accrual method of accounting in accordance with GAAP.

ARTICLE IX DISSOLUTION AND WINDING UP

9.1. Dissolution. The Company shall dissolve on the happening of any of the following events:

- a. Written direction of the Tribal Council to dissolve the Company; or
- b. By decree of judicial dissolution of the Tribe's Tribal Court pursuant to the Act.

9.2. Procedure for Dissolution and Winding Up. Upon the dissolution of the Company, a balance sheet shall be prepared by the Company's accountant and furnished to the Tribe within a reasonable time after dissolution. The Directors shall proceed with reasonable promptness to wind up the business of the Company. If the Directors are directed by the Tribal Council to sell Company assets, they shall not be required to do so promptly but shall have discretion to determine the time and manner in which the sale shall be made, giving due regard to general financial and economic conditions.

9.3. Articles of Dissolution. Upon completion of winding up, liquidation, and distribution of assets, the Directors shall file Articles of Dissolution and thereafter the Company shall cease to exist.

ARTICLE X MISCELLANEOUS

10.1. Notices. All notices shall be in writing and deemed given when deposited in the United States Mail, first class postage paid, addressed to the party at his/her then recorded address reflected in the records of the Company.

10.2. Entire Operating Document. These Articles contain the entire statement of the terms and conditions upon which the Company shall be organized and operated and supersedes any prior acts or statements with respect thereto.

10.3. Variations and Pronouns. Each pronoun shall include any gender or number thereof as the identity of its antecedent may require.

10.4. Successors in Interest. Except as otherwise provided, all provisions of this Operating Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the respective heirs, executors, administrators, personal representatives, successors, and assigns of any of the parties affected.

10.5. Execution of Additional Documents. The Directors are authorized to execute and deliver such instruments necessary to comply with any laws, rules, or regulations relating to the formation of the Company or the conduct of business by the Company in any jurisdiction outside of the Tribe.

10.6. Jurisdiction. The Tribal Court shall possess exclusive jurisdiction over all matters and controversies regarding the interpretation and implementation of this Operating Agreement which may arise.

10.7. Counterparts. This Operating Agreement may be executed in several counterparts by the Chairman or Vice-Chairman of the Tribe and each executed counterpart shall be considered an original.

10.8. Captions. The captions at the beginning of the several articles, sections, and subsections of these Articles are not part of the context, but are merely labels to assist in the locating and reading of those sections and subsections and shall be ignored in construing this Operating Agreement.

10.9. Governing Law. This Operating Agreement shall be governed exclusively by its terms and by the laws of the Otoe-Missouria Tribe of Indians, including specifically the Act.

10.10. Severability. If any provision of this Operating Agreement shall be invalid, illegal, or unenforceable, the remainder of this Operating Agreement shall be enforceable to the fullest extent permitted by law. In addition, any provision of this Operating Agreement, which is construed to cause the Company to be taxed as a corporation under the federal tax law shall be repealed, limited, or construed in a manner which will allow the Company to qualify as an entity which is not treated as separate from its owner, the Tribe, for federal tax purposes.

10.11. Creditors. None of the provisions of this Operating Agreement shall be for the benefit of or enforceable by any creditors of the Company.

ARTICLE XI AMENDMENTS

11.1. Amendment. These Articles may be amended only by the written action of the Board or Tribal Council.

APPROVED BY: _____



Otoe-Missouria Tribe of Indians,
Member, by Chairman of the Tribal
Council

Exhibit D

**LIMITED LIABILITY COMPANY
OPERATING AGREEMENT
OF
MOBILOANS, LLC**

This Limited Liability Company Operating Agreement (“Agreement”) relating to MobiLoans, LLC (the “Company”), a limited liability company organized and chartered under the laws and the inherent sovereign authority of the Tunica-Biloxi Tribe of Louisiana (the “Tribe”) as a limited liability company on the 26th day of July, 2011 (the “Organization Date”) pursuant to Resolution #24-11 of the Tribal Council of the Tribe (the “Tribal Council”), is effective as of the Organization Date, by and between the Tribe, in its capacity as the sole member of the Company (the “Member”) and the Tunica-Biloxi Economic Development Corporation, in its capacity as the manager of the Company (the “Manager”).

ARTICLE I

Organization; Name and Principal Place of Business

Section 1.1 Organization. The Member hereby ratifies and approves the organization of the Company.

Section 1.2 Name and Principal Place of Business. Unless the Member shall determine otherwise, the name of the Company shall be MobiLoans, LLC, and the Company’s principal place of business shall be located at 150 Melacon Road, Marksville, Louisiana 71351.

ARTICLE II

Business, Purposes, Activities and Term of Company

Section 2.1 Business, Purposes and Activities. The Company is created by the Tribal Council as an entity separate and distinct from the Tribe. The Company’s primary purpose is to engage in lending and related activities that will generate additional revenues for the Tribe. The Company may engage in any lawful business activity. More specifically, the Tribal Council authorizes and directs the Company to pursue the following:

- (a) Development of a lending program(s) based and operated on the Reservation in accordance with Tribal and applicable federal law;
- (b) Pursuit of related business opportunities that are viable, economically feasible, administratively efficient and profitable;
- (c) Generation of revenues that will support the operations of the Company and provide additional income for the Tribe;
- (d) Establishment of accounts in the name of the Company for the benefit of the Company and/or as necessary to accomplish the above purposes; and

(3) Taking all action necessary to accomplish the above purposes and any other lawful purpose incidental thereto, and such other activities as directed by the Tribal Council.

Section 2.2 Conduct of Business. The Manager at any time may establish other business offices or conduct its meetings at sites other than the principal place of business of the Company, as the Manager deems necessary for the efficient operation of the business of the Company.

Section 2.3 Term. The term shall continue perpetually unless the Company is dissolved pursuant to Section 5.1.

ARTICLE III

Member; Manager; Authority of Manager and Member

Section 3.1 Members. The Member shall be the sole member of the Company and shall hold one hundred percent (100%) of the interests in the Company.

Section 3.2 Manager. The Manager shall be responsible for the management of the Company and subject to the terms of this Agreement, including without limitation, Section 3.5, shall have the right, power and authority to manage, direct and control all of the business and affairs of the Company, to transact business on its behalf, to sign for it or on its behalf or otherwise to bind the Company. The Manager of the Company shall serve in such capacity until it resigns or is replaced by a vote of the Member.

Section 3.3 Member. The Member shall have the right, power and authority to appoint one or more officers of the Company, having such titles and responsibilities as the Member may determine, and to delegate to such officer to serve at the pleasure of the Member.

Section 3.4 Tribal Action. The Tribe is and shall at all times be the sole owner and sole member of the Company. All action and power exercised by the Tribe shall be by action officially taken by the Tribal Council during a duly convened meeting.

Section 3.5 Powers of Tribal Council. Notwithstanding anything contained herein to the contrary, the following actions of the Manager and of the Company may be taken only with the prior written approval of the Tribal Council:

- (a) Adoption of Annual Budget and Business Plan;
- (b) Appointment of Executive Director;
- (c) Sale or transfer of any asset of the Company outside the Annual Budget and Business Plan;

- (d) Execution of any contract waiving the immunities, including the immunity from lawsuits, of the Company;
- (e) The commitment of any resource, financial or otherwise, of the Tribe;
- (f) The creation of any obligation that burdens the Tribe or its resources;
- (g) Amendment of the Charter or this Agreement; and
- (h) Approval of any written agreement whereby the Company participates with any other person or entity in any partnership, joint venture, limited liability company or other business form or entity.

Section 3.6 Insider Contracts. An officer of the Company as well as an officer or director of the Manager shall be disqualified from conducting business or contracting with the Company for any purpose other than employment or compensation in accordance with this Agreement.

Section 3.7 Indemnification. Each person who was or is a party or is threatened to be made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that such person or a person for whom such person is the legal representative is or was a manager, member, director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, member, manager, employee or agent of another corporation or of a partnership, limited liability company, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such Proceeding is alleged action or inaction in an official capacity or in any other capacity while service as a director, officer, manager, member, employee or agent of the Company, shall be indemnified and held harmless by the Company to the fullest extent permitted by the laws of the Tribe as the same exist or may hereafter be amended, against all costs, charges, expenses, liabilities and losses (including attorneys' fees, judgments, fines, or penalties and amounts paid or to be paid in settlement and amounts expended in seeking indemnification granted to such person under applicable law, this Article III or any agreement with the Company) reasonably incurred or suffered by such person in connection therewith, and such indemnification shall continue as to a person who has ceased to be a director, officer, manager, employee or agent of the Company, or who served in any other capacity on behalf of the Company, and shall inure to the benefit of such person's heirs, executors and administrators. The right to indemnification conferred in this Article III shall be a contract right and shall include the right to be paid by the Company the expenses incurred in defending any Proceeding in advance of its final disposition. In no event shall anything herein contained be so construed as to permit the Manager to authorize payment of, or the Company to pay, any amount for any purpose where a director, manager or officer was engaged in any action or activity known by such person while so engaged to be unlawful or in any action or activity constituting willful misfeasance, bad faith, gross negligence or reckless disregard of such person's duties and obligations to the Company and the Tribe. The rights set forth herein shall not be exclusive of other rights to which the Manager, the Member or any officer may be entitled as a matter of law. The Company may, by action of the Manager, provide indemnification to employees and agents of the Company with the same scope and effect as provided to the

Manager, Member and officers of the Company pursuant to the foregoing provisions of this Agreement.

ARTICLE IV

Amendment of Agreement; Governing Law

Section 4.1 Amendments. This Agreement may be amended only by a writing adopted by Resolution of the Tribal Council.

Section 4.2 Governing Law. The LLC shall be governed by the laws of the Tribe and applicable federal law.

ARTICLE V

Dissolution

Section 5.1 Dissolution. The LLC may be dissolved only by action of the Tribal Council. Upon dissolution, all assets of the LLC shall be distributed at the direction of the Tribal Council; otherwise, the Company shall have a perpetual existence.

ARTICLE VI

Sovereign Immunity and Waiver

Section 6.1 Status of Tribal Entity. As an entity wholly-owned by the Tribe and as a Tribally-chartered entity, the Company is clothed by tribal and federal law with all the privileges and immunities of the Tribe, except as may be specifically limited by the Charter, including sovereign immunity from suit in any state, federal or tribal court. Nothing in the Charter or this Agreement shall be deemed or construed to be a waiver of sovereign immunity of the Company from suit, consent to suit, or consent of the Company or the Tribe, to the jurisdiction of the United States or of any state with regard to the business or affairs of the Company or to any cause of action, case or controversy, except as provided herein.

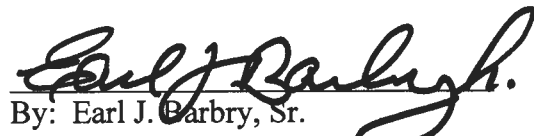
Section 6.2 Sovereign Immunity of Company; Waiver. The sovereign immunity of the Company may be waived only by express resolutions of the Company and of the Tribal Council. The Manager may grant and may request from the Tribal Council such a waiver, but only when necessary to secure a substantial advantage or benefit to the Company. Any waiver of sovereign immunity shall not be general but shall be specific and limited as to scope, duration, grantee, transaction, property or funds, if any, of the Company subject thereto. Neither the power to waive sovereign immunity as provided in the Charter, nor any express waiver of sovereign immunity by resolution of the Tribal Council shall be deemed a consent to the levy of any judgment, lien or attachment upon any property of the Company other than property specifically pledged or assigned, or any property of the Tribe.

Section 6.3 Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a federally-recognized Indian tribe are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court. Nothing in the Charter, this Agreement or any resolution of the Company shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe or to be a consent of the Tribe to the jurisdiction of the United States or of any state with regard to the business affairs of the Company or the Tribe or of any cause of action, case or controversy, except as provided herein.

Section 6.4 Credit of the Tribe and Assets of Company. Nothing in the Charter or this Agreement, nor any activity of the Company, shall implicate or in any way involve the credit of the Tribe. The Company shall have only those assets formally assigned to it by the Tribal Council, together with those assets it may acquire or generate from other sources and business activities. No activity of the Company nor any indebtedness incurred by it shall implicate or in any way involve any assets of the Tribe not expressly assigned to the Company in writing.

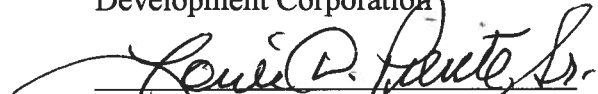
MEMBER:

Tunica-Biloxi Tribe of Louisiana


By: Earl J. Barbry, Sr.
Chairman

MANAGER:

Tunica-Biloxi Economic
Development Corporation


By: Louis D. Pierite, Sr.
President

[Certification Follows]

**CERTIFICATE OF SECRETARY/TREASURER
OF
THE TRIBAL COUNCIL**

This Limited Liability Company Operating Agreement of MobiLoans, LLC was adopted and approved by executive action of the Tunica-Biloxi Tribal Council on July 26th, 2011, by Resolution # 24-11 and by executive action of the Board of Directors of the Tunica-Biloxi Economic Development Corporation on July __, 2011, by EDC Resolution # __-__.

TUNICA-BILOXI TRIBE OF LOUISIANA

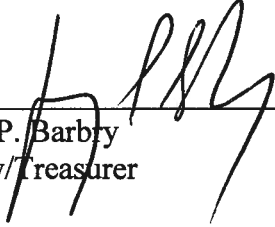
By: 
Name: Joey P. Barbry
Its: Secretary/Treasurer

Exhibit E

Adopted July 26th, 2011

**CHARTER
OF
MOBILOANS, LLC**

PREAMBLE

This Charter (this “Charter”) of MobiLoans, LLC (the “LLC”) is authorized and adopted by the Tribal Council (the “Tribal Council”) of the Tunica-Biloxi Tribe of Louisiana (the “Tribe”) on this 26th day of July, 2011 (the “Organization Date”) pursuant to Resolution # 24-11 of the Tribal Council. 24-11 4B

**ARTICLE I
AUTHORITY**

MobiLoans, LLC is organized and chartered under the laws and the inherent sovereign authority of the Tribe as a limited liability company. Specifically, the Constitution of the Tribe authorizes and empowers the Tribal Council to, among other matters, (a) supervise and manage tribal economic affairs and enterprises in accordance with the Constitution and Tribal laws; (b) establish and regulate subordinate organizations for social and business purposes, and (c) promote and protect the health, peace, morals, education and the general welfare of the Tribe.

**ARTICLE II
NAME OF LIMITED LIABILITY COMPANY**

The name of the limited liability company shall be “MobiLoans, LLC.”

**ARTICLE III
PURPOSE**

The LLC is formed for the primary purpose of engaging in lending and related activities. The LLC may engage in any lawful business activity.

**ARTICLE IV
DURATION**

The duration of the LLC shall be perpetual, subject to the dissolution provisions set forth at Article XIII, below.

**ARTICLE V
OWNERSHIP AND LIMITED LIABILITY COMPANY INTERESTS**

The limited liability company interests in the LLC shall at all times be one hundred percent (100%) owned in total by the Tribe. Limited Liability Company interests in the LLC will not be certificated.

**ARTICLE VI
REGISTERED OFFICE AND PRINCIPAL PLACE OF BUSINESS**

The registered office and the principal place of business of the LLC is:

**150 Melacon Road
Marksville, Louisiana 71351**

**ARTICLE VII
MANAGER**

The business and affairs of the LLC shall be managed by a manager. As of the Organization Date, the Manager (as defined in the Operating Agreement of the LLC) shall be the initial and sole manager of the LLC.

**ARTICLE VIII
ORGANIZERS**

The LLC is organized in accordance with this Charter by the Chairman and the Secretary-Treasurer, respectively, of the Tribe. Their names and addresses are as follows:

**Earl J. Barbry, Sr.
Chairman
150 Melacon Road
Marksville, Louisiana 71351**

**Joey P. Barbry
Secretary-Treasurer
150 Melacon Road
Marksville, Louisiana 71351**

**ARTICLE IX
POWERS**

The LLC shall possess all lawful powers of a limited liability company organized under the laws of the Tribe. Any limitations on such powers shall be set forth in the Operating Agreement of the LLC adopted by the Tribe.

**ARTICLE X
PRIVILEGES AND IMMUNITIES**

The LLC shall be vested with all of the privileges and immunities of the Tribe, including, without limitation, the immunity from suit by any person or entity in any forum; immunity from regulation by any sovereign other than the Tribe and the United States federal government, when applicable; and immunity from taxation by any sovereign other than the Tribe. Notwithstanding the foregoing, the LLC shall have the power to waive any of its immunities on a limited basis for the purpose of entering into binding and enforceable contracts or securing any other substantial advantage or benefit to the LLC. Such waivers if granted, shall be express and shall be enforceable only with the formal, written approval of the Tribal Council in the form of a Tribal Council Resolution. No such waiver shall be deemed to impact, in any manner, the sovereign immunity of the Tribe.

**ARTICLE XI
GOVERNING LAW AND OPERATING AGREEMENT**

The LLC shall be governed by the laws of the Tribe and applicable federal law. The LLC shall be governed pursuant to this Charter and in accordance with an Operating Agreement which shall be adopted by Resolution of the Tribal Council and which may be amended only by Resolution of the Tribal Council.

**ARTICLE XII
NON-LIABILITY OF MANAGER AND OFFICERS**

No Manager, nor any officer of the LLC, if applicable, shall be liable to any creditor or claimant of the LLC by reason of his or her status or service as a Manager or officer, or by reason of acts done in the course of its, his or her official duties.

**ARTICLE XIII
DISSOLUTION**

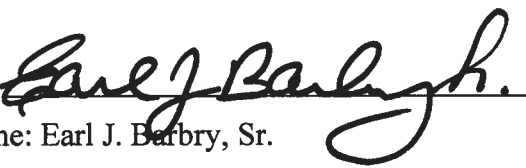
The LLC may be dissolved only by action of the Tribal Council. Upon dissolution, all assets of the LLC shall be distributed at the direction of the Tribal Council.

[Certification Follows]

**CERTIFICATE OF CHAIRMAN AND SECRETARY/TREASURER
OF
THE TRIBAL COUNCIL**

We, the undersigned Chairman and Secretary-Treasurer, respectively, of the Tunica-Biloxi Tribe of Louisiana, do hereby certify that this Charter of MobiLoans, LLC, was adopted and made effective on the 26th day of July, 2011, by official action of the Tunica-Biloxi Tribal Council pursuant to Tribal Council Resolution #24-11.

TUNICA-BILOXI TRIBE OF LOUISIANA

By: 
Name: Earl J. Barbry, Sr.
Its: Chairman

Attest:

TUNICA-BILOXI TRIBE OF LOUISIANA

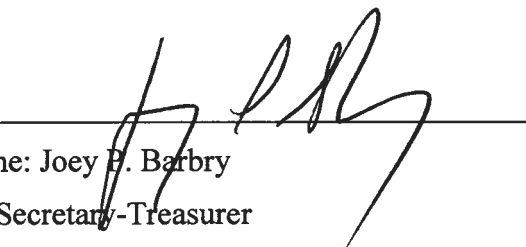
By: 
Name: Joey P. Barbry
Its: Secretary-Treasurer

Exhibit F

**ARTICLES OF ORGANIZATION
OF
FIRST AMERICAN ASSET RECOVERY, LLC**

The Chippewa Cree Tribe of the Rocky Boy's Reservation ("Tribe"), a federally recognized Indian Tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984) (25 U.S.C. § 476) as amended by the Act of June 15, 1935 (48 Stat. 378), acting through the Chippewa Cree Tribal Business Committee, hereby authorizes these Articles of Organization to be filed under the Law and Order Code of the Chippewa Cree Tribe, Title 14, Chippewa Cree Tribe Limited Liability Company Act ("CCTLLA"), for the purpose of creating the tribal limited liability company ("Company") described herein.

The Company described herein is to be wholly owned by the Tribe and is subject to Sections 101 to 1107 of the CCTLLA.

Section 1. Name. The name of the Company is:

First American Asset Recovery, LLC

Section 2. Duration. The period of existence of the Company shall be perpetual, except that the Company may have these Articles of Organization amended or restated or the Company may be dissolved in accordance with the CCTLLA.

Section 3. Purposes and Powers.

3.1 Purposes. The Company is formed pursuant to and shall be subject to the laws of the Tribe and shall be at all times wholly owned by the Tribe. The Tribe shall have the sole proprietary interest in, and shall have sole responsibility for the conduct of the activities of, the Company. The purposes for which the Company is organized are:

- (a) To serve the social, economic, educational and health needs of the Tribe;
- (b) To increase tribal revenues;
- (c) To enhance the Tribe's economic self-sufficiency and self-determination; and
- (d) To provide positive, long-term social, environmental and economic benefits to tribal members by enhancing the Tribe's business undertakings and prospects.

3.2 Powers. In furtherance of the foregoing purposes the Company shall have and may exercise all of the rights, powers, and privileges now or hereafter conferred upon limited liability companies organized under the laws of the Tribe. In addition, it may do everything necessary, suitable or proper for the accomplishment of any of its purposes. Without in any way limiting the

scope and generality of the foregoing, the Company shall have and may exercise the following powers:

(a) To carry on the business of a financial services company engaging in a debt collection, acquisition and recovery business and providing other related goods and services;

(b) To form subsidiary corporations and to enter into business associations, and other business arrangements;

(c) To conduct and carry out business either within or outside of the exterior boundaries of the Chippewa Cree Tribe of the Rocky Boy's Reservation;

(d) To buy, sell, lease, and otherwise acquire and maintain buildings, offices, shops and other appurtenances proper and necessary for the carrying on of said business;

(e) To guarantee, purchase hold assign, mortgage, pledge or otherwise dispose of capital stock of, or any bonds, securities or other evidences of indebtedness created by any other corporation or organization that is in existence under the laws of the United States, any state, Indian tribe, nation, government, or country and to exercise all the rights, privileges, and powers of ownership;

(f) To enter into and make contracts of every kind and nature with any person, government agency, firm, association, corporation, municipality, nation, Indian tribe, state or political body, without the approval of the Secretary of the Interior, except when the use of trust of federally restricted Indian property requires such approval;

(g) To purchase, take by gift or bequest, acquire, own lease, manage, operate, deal in and dispose of real and personal property of all kinds and descriptions, whenever situated;

(h) To incur debts and raise, borrow and secure the payment of any money in any lawful manner, including the issue and sale or other disposal of stocks, bonds, indentures, obligations, negotiable and transferable instruments and evidence of indebtedness of all kinds, whether secured by mortgage pledge, deed of trust of otherwise, without the approval of the Secretary of the Interior, except when the use of trust or federally-restricted Indian property requires such approval;

(i) To apply for, obtain, register, purchase, lease or otherwise acquire, own, hold, use, operate and introduce, and to sell, assign or otherwise dispose of any trademark, trade name, patent invention, improvements, and processes used in connection with or secured under letters patent, and to use, exercise, develop, grant and give licenses in respect thereto; and

(j) To exercise such powers as are incidental to the Company's powers and as may be at any time permitted under the CCTLLA and deemed desirable to give effect to

the Company's purpose.

3.3 Purposes and Powers Not Limited. The enumeration herein of any specific purpose or power shall not be held to limit or restrict in any manner the exercise by the Company of the general powers and privileges now or hereafter conferred by the laws of the Tribe upon limited liability companies formed under the CCTLLA, or the accomplishment of any purpose now or hereafter permitted to the Company pursuant to these Articles of Organization.

Section 4. Immunities of the Company and Personnel.

4.1. Jurisdictional Immunity of the Company. The Chippewa Cree Tribe hereby confers on the Company all of the Tribe's rights, privileges and immunities concerning federal, state, and local taxes, regulation, and jurisdiction, to the same extent that the Tribe would have such rights, privileges, and immunities, if it engaged in the activities undertaken by the Company.

4.2. Sovereign Immunity of the Company and Personnel. The Chippewa Cree Tribe hereby confers on the Company sovereign immunity from suit to the same extent that the Tribe would have such sovereign immunity if it engaged in the activities undertaken by the Company. It is the intention of the Chippewa Cree Tribe that the extension to the Company of such sovereign immunity from suit shall apply to the Company's directors, officers, employees and agents to the same extent that the Tribe's directors, officers, employees and agents would have such sovereign immunity if the Tribe engaged in the activities undertaken by the Company. In furtherance of and in clarification of the Company's power to "sue and be sued" as set forth and intended in the CCTLLA, the Company shall have the power to sue and is authorized to consent to be sued in the Chippewa Cree Tribal Court or another court of competent jurisdiction, provided, however, that:

(a) no such consent to suit shall be effective against the Company in any manner and to any extent whatsoever unless such consent is:

(1) explicit,

(2) contained in a written contract or commercial document to which the Company is a party, and

(3) specifically approved by the board of directors of the Company, and

(b) any recovery against such Company shall be limited to the assets of the Company in the manner and to the extent as explicitly set forth in such consent.

Any consent to suit may as explicitly set forth in such consent be limited to the court or courts in which suit may be brought, to the matters that may be made the subject of the suit and to the assets or revenues of the Company against which any judgment may be executed.

Consent to suit by the Company shall in no way extend to an action against the Tribe, nor shall consent to suit by the Company in any way be deemed a waiver of any of the rights, privileges and immunities of the Tribe. The Tribe shall not be liable for the payment or performance of any of the obligations of the Company, and no recourse shall be had against any assets or revenues of the Tribe in order to satisfy the obligations of the Company.

The sovereign immunity of the Company shall not extend to actions against the Company by the Tribe.

Section 5. Principal Place of Business; Mailing Address; Registered Agent.

5.1. Principal Place of Business. The Company shall be a resident of and maintain its corporate headquarters on the Rocky Boy's Reservation, in Montana, but may conduct its business activities any place in or outside of the United States. The company may have such other offices, either within or without the Rocky Boy's Reservation as the business of the corporation may require from time to time.

5.2. Mailing Address and Registered Agent. The mailing address of the company's initial registered office is First American Financial Services Corporation, LLC c/o Chippewa Cree Tribe, R.R. 1 Box 544, Box Elder, Montana 59521 and the name of the initial registered agent at this address is Raymond "Jake" Parker, Tribal Chairman.

Section 6. Operational Requirements.

6.1. Fiscal Year. The Company shall have a fiscal year, which shall be determined by the board of directors during the first twelve months of operation of the company. Such fiscal year shall end on the last day of any one calendar month, and shall begin the first day of the next succeeding calendar month.

6.2. Business Plan. Not less than 30 days prior to the beginning of each fiscal year, the Company shall prepare a business plan for such fiscal year and present it to the Chippewa Cree Tribal Business Committee for review and approval.

6.3. Annual Report. Not less than 90 days following the end of each fiscal year, the Company shall prepare and deliver to the Chippewa Cree Tribal Business Committee an annual report and an audited financial statement, including a balance sheet and a statement of income and expenses, including comparative figures from the preceding fiscal year.

Section 7. Board of Directors.

7.1. Duties and Powers; Operating Agreement. The business and activities of the Company shall be managed by the board of directors. The board of directors is hereby vested with all powers necessary to carry out the purposes of the Company and shall have control and management of the business and activities of the Company. The directors shall in all cases act as a board. The directors may adopt such provisions in an operating agreement for the conduct of

their meetings and the management of the Company as they may deem proper, not inconsistent with the Chippewa Cree Tribe Limited Liability Company Act and other tribal laws, or these Articles of Organization.

7.2 Number. The number of directors that shall constitute the whole board of directors of the Company shall be 5. Each director of the Company shall be a member of the Tribe; two (2) of the directors shall be members of the Chippewa Cree Tribal Business Committee, and, two (2) of the directors shall be officers of the Chippewa Cree Community Development Corporation.

7.3 Term. The initial board of directors shall choose, by lot, two (2) directors who will serve an initial term of one year, two (2) directors who will serve an initial term of two years and one (1) directors who will serve an initial term of three years. Thereafter, the term of each director shall be for three years

7.4. Selection. The initial board of directors shall be as follows:

John Chance Houle, Chairman
Joseph Lafromboise, Vice-Chairman
Billi Anne Morsette, Secretary
Theodore Whitford
Tony Belcourt

Vacancies on the board of directors shall be filled by the Chippewa Cree Tribal Business Committee.

7.5. Resignation; Removal. Any director may resign from office at any time, such resignation to be made in writing and to take effect immediately without acceptance. A director may be removed, with cause, by the Chippewa Cree Tribal Business Committee.

7.6 Chief Executive Officer. The Company will appoint and hire a Chief Executive Officer ("CEO") to manage the Company on a daily basis. The CEO or the board of directors shall have the authority to hire and terminate employees whenever necessary.

Section 8. Indemnification. The Company may at the discretion of the board of directors, indemnify any current or former director, officer or employee against reasonable expenses actually necessarily incurred by him or her in connection with the defense of any action, suit, or proceeding in which he or she is made a party by reason of being, or having been, such director, officer or employee of the Company and the reasonable cost of settlement of any such action or proceeding, if a majority of directors not seeking indemnification or otherwise involved in the controversy shall determine in good faith:

(a) That such person did not act, fail to act, or refuse to act willfully or with gross negligence or with fraudulent or criminal intent; and

(b) That legal fees paid or any settlements made are reasonable; and

(c) That the person seeking indemnification did not act beyond the scope of his or her employment or office; and

(d) That it is in the best interests of the Company that indemnification is made.

Section 9. Amendments. The board of directors may recommend amendments to the Articles of Organization from time to time as necessary and appropriate. No amendments to the Articles of Organization shall become operative until official approval is provided by the Chippewa Cree Tribal Business Committee.

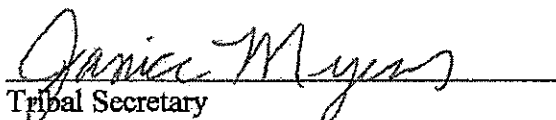
Dated: May 13, 2010

Organizer :



Chairman, Chippewa Cree Tribal Business Committee pursuant to a Resolution of the Chippewa Cree Tribal Business Committee

Filed: May 13, 2010



Tribal Secretary

Exhibit G

**ARTICLES OF ORGANIZATION
OF
FIRST AMERICAN ASSET RECOVERY, LLC**

The Chippewa Cree Tribe of the Rocky Boy's Reservation ("Tribe"), a federally recognized Indian Tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984) (25 U.S.C. § 476) as amended by the Act of June 15, 1935 (48 Stat. 378), acting through the Chippewa Cree Tribal Business Committee, hereby authorizes these Articles of Organization to be filed under the Law and Order Code of the Chippewa Cree Tribe, Title 14, Chippewa Cree Tribe Limited Liability Company Act ("CCTLLA"), for the purpose of creating the tribal limited liability company ("Company") described herein.

The Company described herein is to be wholly owned by the Tribe and is subject to Sections 101 to 1107 of the CCTLLA.

Section 1. Name. The name of the Company is:

First American Asset Recovery, LLC

Section 2. Duration. The period of existence of the Company shall be perpetual, except that the Company may have these Articles of Organization amended or restated or the Company may be dissolved in accordance with the CCTLLA.

Section 3. Purposes and Powers.

3.1 Purposes. The Company is formed pursuant to and shall be subject to the laws of the Tribe and shall be at all times wholly owned by the Tribe. The Tribe shall have the sole proprietary interest in, and shall have sole responsibility for the conduct of the activities of, the Company. The purposes for which the Company is organized are:

- (a) To serve the social, economic, educational and health needs of the Tribe;
- (b) To increase tribal revenues;
- (c) To enhance the Tribe's economic self-sufficiency and self-determination; and
- (d) To provide positive, long-term social, environmental and economic benefits to tribal members by enhancing the Tribe's business undertakings and prospects.

3.2 Powers. In furtherance of the foregoing purposes the Company shall have and may exercise all of the rights, powers, and privileges now or hereafter conferred upon limited liability companies organized under the laws of the Tribe. In addition, it may do everything necessary, suitable or proper for the accomplishment of any of its purposes. Without in any way limiting the

scope and generality of the foregoing, the Company shall have and may exercise the following powers:

(a) To carry on the business of a financial services company engaging in a debt collection, acquisition and recovery business and providing other related goods and services;

(b) To form subsidiary corporations and to enter into business associations, and other business arrangements;

(c) To conduct and carry out business either within or outside of the exterior boundaries of the Chippewa Cree Tribe of the Rocky Boy's Reservation;

(d) To buy, sell, lease, and otherwise acquire and maintain buildings, offices, shops and other appurtenances proper and necessary for the carrying on of said business;

(e) To guarantee, purchase hold assign, mortgage, pledge or otherwise dispose of capital stock of, or any bonds, securities or other evidences of indebtedness created by any other corporation or organization that is in existence under the laws of the United States, any state, Indian tribe, nation, government, or country and to exercise all the rights, privileges, and powers of ownership;

(f) To enter into and make contracts of every kind and nature with any person, government agency, firm, association, corporation, municipality, nation, Indian tribe, state or political body, without the approval of the Secretary of the Interior, except when the use of trust of federally restricted Indian property requires such approval;

(g) To purchase, take by gift or bequest, acquire, own lease, manage, operate, deal in and dispose of real and personal property of all kinds and descriptions, whenever situated;

(h) To incur debts and raise, borrow and secure the payment of any money in any lawful manner, including the issue and sale or other disposal of stocks, bonds, indentures, obligations, negotiable and transferable instruments and evidence of indebtedness of all kinds, whether secured by mortgage pledge, deed of trust of otherwise, without the approval of the Secretary of the Interior, except when the use of trust or federally-restricted Indian property requires such approval;

(i) To apply for, obtain, register, purchase, lease or otherwise acquire, own, hold, use, operate and introduce, and to sell, assign or otherwise dispose of any trademark, trade name, patent invention, improvements, and processes used in connection with or secured under letters patent, and to use, exercise, develop, grant and give licenses in respect thereto; and

(j) To exercise such powers as are incidental to the Company's powers and as may be at any time permitted under the CCTLLA and deemed desirable to give effect to

the Company's purpose.

3.3 Purposes and Powers Not Limited. The enumeration herein of any specific purpose or power shall not be held to limit or restrict in any manner the exercise by the Company of the general powers and privileges now or hereafter conferred by the laws of the Tribe upon limited liability companies formed under the CCTLLA, or the accomplishment of any purpose now or hereafter permitted to the Company pursuant to these Articles of Organization.

Section 4. Immunities of the Company and Personnel.

4.1. Jurisdictional Immunity of the Company. The Chippewa Cree Tribe hereby confers on the Company all of the Tribe's rights, privileges and immunities concerning federal, state, and local taxes, regulation, and jurisdiction, to the same extent that the Tribe would have such rights, privileges, and immunities, if it engaged in the activities undertaken by the Company.

4.2. Sovereign Immunity of the Company and Personnel. The Chippewa Cree Tribe hereby confers on the Company sovereign immunity from suit to the same extent that the Tribe would have such sovereign immunity if it engaged in the activities undertaken by the Company. It is the intention of the Chippewa Cree Tribe that the extension to the Company of such sovereign immunity from suit shall apply to the Company's directors, officers, employees and agents to the same extent that the Tribe's directors, officers, employees and agents would have such sovereign immunity if the Tribe engaged in the activities undertaken by the Company. In furtherance of and in clarification of the Company's power to "sue and be sued" as set forth and intended in the CCTLLA, the Company shall have the power to sue and is authorized to consent to be sued in the Chippewa Cree Tribal Court or another court of competent jurisdiction, provided, however, that:

(a) no such consent to suit shall be effective against the Company in any manner and to any extent whatsoever unless such consent is:

(1) explicit,

(2) contained in a written contract or commercial document to which the Company is a party, and

(3) specifically approved by the board of directors of the Company, and

(b) any recovery against such Company shall be limited to the assets of the Company in the manner and to the extent as explicitly set forth in such consent.

Any consent to suit may as explicitly set forth in such consent be limited to the court or courts in which suit may be brought, to the matters that may be made the subject of the suit and to the assets or revenues of the Company against which any judgment may be executed.

Consent to suit by the Company shall in no way extend to an action against the Tribe, nor shall consent to suit by the Company in any way be deemed a waiver of any of the rights, privileges and immunities of the Tribe. The Tribe shall not be liable for the payment or performance of any of the obligations of the Company, and no recourse shall be had against any assets or revenues of the Tribe in order to satisfy the obligations of the Company.

The sovereign immunity of the Company shall not extend to actions against the Company by the Tribe.

Section 5. Principal Place of Business; Mailing Address; Registered Agent.

5.1. Principal Place of Business. The Company shall be a resident of and maintain its corporate headquarters on the Rocky Boy's Reservation, in Montana, but may conduct its business activities any place in or outside of the United States. The company may have such other offices, either within or without the Rocky Boy's Reservation as the business of the corporation may require from time to time.

5.2. Mailing Address and Registered Agent. The mailing address of the company's initial registered office is First American Financial Services Corporation, LLC c/o Chippewa Cree Tribe, R.R. 1 Box 544, Box Elder, Montana 59521 and the name of the initial registered agent at this address is Raymond "Jake" Parker, Tribal Chairman.

Section 6. Operational Requirements.

6.1. Fiscal Year. The Company shall have a fiscal year, which shall be determined by the board of directors during the first twelve months of operation of the company. Such fiscal year shall end on the last day of any one calendar month, and shall begin the first day of the next succeeding calendar month.

6.2. Business Plan. Not less than 30 days prior to the beginning of each fiscal year, the Company shall prepare a business plan for such fiscal year and present it to the Chippewa Cree Tribal Business Committee for review and approval.

6.3. Annual Report. Not less than 90 days following the end of each fiscal year, the Company shall prepare and deliver to the Chippewa Cree Tribal Business Committee an annual report and an audited financial statement, including a balance sheet and a statement of income and expenses, including comparative figures from the preceding fiscal year.

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their meetings and the management of the Company as they may deem proper, not inconsistent with the Chippewa Cree Tribe Limited Liability Company Act and other tribal laws, or these Articles of Organization.

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7.3 Term. The initial board of directors shall choose, by lot, two (2) directors who will serve an initial term of one year, two (2) directors who will serve an initial term of two years and one (1) directors who will serve an initial term of three years. Thereafter, the term of each director shall be for three years

7.4. Selection. The initial board of directors shall be as follows:

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Joseph Lafromboise, Vice-Chairman
Billi Anne Morsette, Secretary
Theodore Whitford
Tony Belcourt

Vacancies on the board of directors shall be filled by the Chippewa Cree Tribal Business Committee.

7.5. Resignation; Removal. Any director may resign from office at any time, such resignation to be made in writing and to take effect immediately without acceptance. A director may be removed, with cause, by the Chippewa Cree Tribal Business Committee.

7.6 Chief Executive Officer. The Company will appoint and hire a Chief Executive Officer ("CEO") to manage the Company on a daily basis. The CEO or the board of directors shall have the authority to hire and terminate employees whenever necessary.

Section 8. Indemnification. The Company may at the discretion of the board of directors, indemnify any current or former director, officer or employee against reasonable expenses actually necessarily incurred by him or her in connection with the defense of any action, suit, or proceeding in which he or she is made a party by reason of being, or having been, such director, officer or employee of the Company and the reasonable cost of settlement of any such action or proceeding, if a majority of directors not seeking indemnification or otherwise involved in the controversy shall determine in good faith:

(a) That such person did not act, fail to act, or refuse to act willfully or with gross negligence or with fraudulent or criminal intent; and

(b) That legal fees paid or any settlements made are reasonable; and

(c) That the person seeking indemnification did not act beyond the scope of his or her employment or office; and

(d) That it is in the best interests of the Company that indemnification is made.

Section 9. Amendments. The board of directors may recommend amendments to the Articles of Organization from time to time as necessary and appropriate. No amendments to the Articles of Organization shall become operative until official approval is provided by the Chippewa Cree Tribal Business Committee.

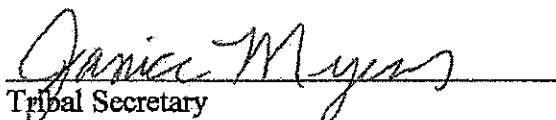
Dated: May 13, 2010

Organizer :



Chairman, Chippewa Cree Tribal Business Committee pursuant to a Resolution of the Chippewa Cree Tribal Business Committee

Filed: May 13, 2010



Tribal Secretary

**CERTIFICATE OF AMENDMENT
OF
ARTICLES OF ORGANIZATION**

PLAIN GREEN, LLC
(formerly named First American Asset Recovery, LLC)

The undersigned, John Chance Houle, Chairman of the Board of Plain Green, LLC (formerly First American Asset Recovery, LLC) does hereby certify:

1. I am the Chairman of the Board of Plain Green, LLC (formerly First American Asset Recovery, LLC) located within the exterior boundaries of the Reservation of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation, Montana and I have been appointed and am presently serving in that capacity in accordance with the Articles of Organization of the company.
2. The company is wholly owned by the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation, Montana.
3. At a meeting of the Chippewa Cree Business Committee, the governing body of the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation, Montana, duly called and held on March 11, 2011, the following resolution was adopted to approve an amendment to the company's Articles of Organization in order to change the name of the company:

"THEREFORE BE IT RESOLVED, that for the purpose of changing the name of First American Asset Recovery, LLC to Plain Green, LLC, Section 1 (Name) of the company's Articles of Organization shall be hereby amended to read in its entirety as follows:

Section 1. Name. The name of the Company is:

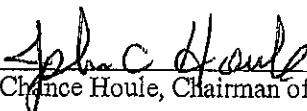
Plain Green, LLC

BE IT FURTHER RESOLVED, that the change in name of the company shall be effective as of the 9th day of March, 2011."

4. The amendment to the Articles of Organization and, accordingly, the change of the company's name was duly adopted in accordance with provisions of law and is effective as of March 9, 2011.

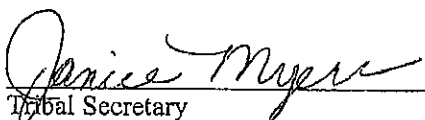
IN WITNESS WHEREOF, the undersigned has caused this Certificate of Amendment of Articles of Organization to be executed this 11 day of March, 2011.

Plain Green, LLC
(formerly First American Asset Recovery, LLC)



John Chance Houle, Chairman of the Board

FILED: 3/11/11



Tribal Secretary

Exhibit C



IN RE GREAT PLAINS)
 LENDING, LLC; MOBILOANS,)
 LLC; and PLAIN GREEN, LLC)
)
 2013-MISC-Great Plains)
 Lending-0001)

**DECISION AND ORDER ON PETITION BY GREAT PLAINS LENDING, LLC;
 MOBILOANS, LLC; AND PLAIN GREEN, LLC TO SET ASIDE CIVIL
 INVESTIGATIVE DEMANDS**

Great Plains Lending, LLC; MobiLoans, LLC; and Plain Green, LLC (collectively, “the Lenders”) have petitioned the U.S. Consumer Financial Protection Bureau to set aside civil investigative demands issued to each of them. Their joint petition presents issues of federal authority over lenders whose businesses are affiliated in some manner with Indian tribes, and thus bears precedential value meriting more extended discussion. For the following reasons, the petition is denied. The Lenders are directed to comply with the CIDs within 21 calendar days of this Decision and Order.

STATEMENT OF FACTS

This matter arises from the Bureau’s investigation into several online-lending entities that offer a variety of online small-dollar loan products, including payday loans, installment loans, and lines of credit. As part of the investigation, the Bureau issued CIDs to each of the Lenders on June 12, 2012. The CIDs contained a “Notification of Purpose” advising the Lenders that the Bureau’s investigation sought to determine whether small-dollar online lenders or other unnamed persons have engaged in unlawful acts or practices relating to the advertising, marketing, provision, or collection of small-dollar loan products, in violation of Section 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Truth in Lending Act, the Electronic Funds Transfer Act, the Gramm-Leach-Bliley Act, or any other Federal consumer financial law.

On July 17, 2012, after requesting and receiving an extension of time, the Lenders filed this joint petition to set aside the CIDs. The Petition explains that the Lenders are limited liability companies organized and chartered under the laws of federally recognized Indian tribes. In particular, each lender was created by resolution of its respective tribe in or about 2011 and is wholly owned by that tribe. Great Plains was created by the Otoe-Missouria Tribe of Indians, located in Oklahoma; MobiLoans was created by the Tunica-Biloxi Tribe of Louisiana; and Plain Green was created by the Chippewa Cree Tribe of Rocky Boy’s Reservation, located in Montana. Pet. at 2-6.



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LEGAL DISCUSSION

As the Bureau explained in its Decision and Order on PHH Corporation's Petition to Modify or Set Aside Civil Investigative Demand, the Bureau will decline to set aside a CID so long as (1) the investigation is for a lawfully authorized purpose; (2) the information requested is relevant to the investigation; and (3) procedural requirements are followed. Decision and Order on PHH Corporation's Petition to Modify or Set Aside Civil Investigative Demand, No. 2012-MISC-PHH Corp-0001, at 5 (2012), available at http://files.consumerfinance.gov/f/201209_cfpb_setaside_phhcorp_0001.pdf.

The Lenders focus their main arguments on the first prong of this test, arguing that the Bureau's investigation is not for a lawfully authorized purpose because the Bureau lacks authority to issue CIDs to tribally-affiliated entities like them. They also contend that the CIDs do not provide adequate notice of the investigation's purpose and scope and make requests for information that are vague, overly broad, and unduly burdensome. Finally, the Lenders purport to incorporate by reference several arguments from another entity's petition to modify or set aside a separate CID. This Decision and Order addresses each argument in turn.

I. The Consumer Bureau Has Authority to Issue CIDs to the Tribally-Affiliated Lenders.

Turning to the Lenders' principal arguments that the Bureau lacks authority to issue CIDs to them because they are affiliated with Indian tribes, it is appropriate to begin by setting the threshold framework. When courts evaluate claims like these that challenge an agency's jurisdiction over the subject of an investigation, they often state that they will enforce a CID as long as "there is some plausible ground for jurisdiction, or to phrase it another way, unless jurisdiction is plainly lacking." *EEOC v. Karuk Tribe Hous. Auth.*, 260 F.3d 1071, 1077 (9th Cir. 2001) (quotations omitted); *accord EEOC v. Randstad*, 685 F.3d 433, 442 (4th Cir. 2012). Without resting on this more deferential standard here, I will assess the jurisdictional claims simply on their merits. The Lenders raise two particular claims: (1) that the Consumer Financial Protection Act ("CFPA") does not authorize the Bureau to issue CIDs to tribally-affiliated lenders; and (2) that even if the CFPA does authorize the CIDs here, tribal sovereign immunity trumps that purported statutory authority.

A. The CFPA Authorizes the Bureau to Issue CIDs to the Lenders.

The CFPA broadly authorizes the Bureau to issue a CID to "any person" the Bureau has reason to believe may have information relevant to a violation. 12 U.S.C. § 5562(c). The Act defines "person" to mean "an individual, partnership, *company*, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, *or other entity*." *Id.* § 5481(19) (emphasis added). The Lenders admit they are limited liability "companies," Pet. at 2, and no doubt they could be regarded also as "other entities," but the Lenders contend they are not "persons" subject to the Bureau's CID authority because they are affiliated with, and "arms" of, Indian tribes, Pet. at 8-19.



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The Supreme Court has long established the appropriate framework for analyzing whether a federal statute applies to Indian tribes, individual Indians, and tribally-affiliated entities. More than a half-century ago, the Court concluded that “it is now well settled by many decisions of this Court that a general statute in terms applying to all persons includes Indians and their property interests.” *FPC v. Tuscarora Indian Nation*, 362 U.S. 99, 116 (1960) (citing cases). The federal courts of appeal have uniformly applied this rule to individual Indians and to tribes and tribally-affiliated entities like the Lenders here. *See, e.g., San Manuel Indian Bingo & Casino v. NLRB*, 475 F.3d 1306 (D.C. Cir. 2007) (applying *Tuscarora* to casino owned and operated by tribe); *Fla. Paraplegic, Ass’n, Inc. v. Miccosukee Tribe of Indians of Fla.*, 166 F.3d 1126 (11th Cir. 1999) (applying *Tuscarora* to tribe); *Reich v. Mashantucket Sand & Gravel*, 95 F.3d 174 (2d Cir. 1996) (applying *Tuscarora* to construction business wholly owned and operated by tribe); *EEOC v. Fond du Lac Heavy Equip. & Constr. Co., Inc.*, 986 F.2d 246 (8th Cir. 1993) (applying *Tuscarora* to company wholly owned by tribe); *Nero v. Cherokee Nation of Okla.*, 892 F.2d 1457 (10th Cir. 1989) (applying *Tuscarora* to tribal officials); *Smart v. State Farm Ins. Co.*, 868 F.2d 929 (7th Cir. 1989) (applying *Tuscarora* to business owned and operated by tribe); *Donovan v. Coeur d’Alene Tribal Farm*, 751 F.2d 1113 (9th Cir. 1985) (applying *Tuscarora* to commercial farm wholly owned and operated by tribe).

The CFPA is subject to the *Tuscarora* presumption because it is a statute of general applicability, with its coverage extending to all “person[s]” and “other entities” who engage in offering or providing the consumer financial products and services regulated by the Act. *See id.* §§ 5481(6), 5531, 5536. This is so even though the CFPA contains exemptions, *see, e.g.*, 12 U.S.C. §§ 5517, 5519, for a statute need not be “universally applicable” to be considered “generally applicable.” *NLRB v. Chapa De Indian Health Program, Inc.*, 316 F.3d 995, 998 (9th Cir. 2003) (“[F]ederal statutes that contain exemptions are nevertheless generally applicable.”). And the CFPA’s provision governing the issuance of CIDs has an even broader scope, authorizing the Bureau to issue a CID to “any person,” whether or not a provider of financial products and services. 12 U.S.C. § 5562(c). Therefore, the CFPA presumptively applies to tribally-affiliated entities under the *Tuscarora* line of precedent.

To be sure, *Tuscarora*’s general rule is not absolute, and courts have established certain exceptions to ensure proper respect for tribal sovereignty. Although the courts of appeals have adopted four different frameworks to determine whether an exception to *Tuscarora*’s general rule applies in a given case, the Ninth Circuit set forth the most common framework in *Donovan v. Coeur d’Alene Tribal Farm*, 751 F.2d 1113, which the Second, Seventh, and Eleventh Circuits have embraced. *See Fla. Paraplegic*, 166 F.3d at 1129; *Reich*, 95 F.3d at 179; *Smart*, 868 F.2d at 932-33. Under this framework, *Tuscarora*’s general rule will not apply if:

- (1) the law touches exclusive rights of self-governance in purely intramural matters;
- (2) the application of the law to the tribe would abrogate rights guaranteed by Indian treaties; or
- (3) there is proof by legislative history or some other means that Congress intended the law not to apply to Indians on their reservations.



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Coeur d'Alene, 751 F.2d at 1116 (internal quotations and alteration omitted). If any of these exceptions applies, then the law will not cover tribes or tribally-affiliated entities unless Congress expressly included them within the coverage of the statute. *Id.* But the Lenders are subject to the CFPB because none of the exceptions applies here.¹

The first exception does not apply because subjecting the Lenders to the Bureau's investigation (or to a potential enforcement action) would not touch "exclusive rights of self-governance in purely intramural matters," which are "matters such as conditions of tribal membership, inheritance rules, and domestic relations." *Coeur d'Alene*, 751 F.2d at 1116. As courts have overwhelmingly held, this exception does not apply to commercial relations between a tribally-affiliated entity and non-Indians. *See, e.g., Fla. Paraplegic*, 166 F.3d at 1127, 1129; *Reich*, 95 F.3d at 175, 179-81; *U.S. Dep't of Labor v. Occupational Safety & Health Review Comm'n*, 935 F.2d 182, 183, 184 (9th Cir. 1991); *Coeur d'Alene*, 751 F.2d at 1114, 1116-17; *accord San Manuel Indian Bingo & Casino*, 475 F.3d at 1308, 1312-15. Thus, for example, courts have held that it does not interfere with a tribe's rights of self-governance in purely intramural matters to apply the Occupational Safety and Health Act to a tribal farm employing non-Indians and selling on the open market, *Coeur d'Alene*, 751 F.2d at 1114, 1116-17; to a commercial timber mill that employs many non-Indians and sells most of its goods to non-Indians, *Occupational Safety & Health Review Comm'n*, 935 F.2d at 183, 184; or to a tribal construction business that hires non-Indians and is building a casino on reservation land that will operate in interstate commerce, *Reich*, 95 F.3d at 175, 179-81. Similarly, it does not interfere with a tribe's rights of self-governance in purely intramural matters to apply the Americans with Disabilities Act to restaurant and entertainment facilities run by a tribe and operating in interstate commerce, *Fla. Paraplegic*, 166 F.3d at 1127, 1129; or to apply the National Labor Relations Act to a tribal commercial enterprise with mostly non-Indian employees and customers, *San Manuel Indian Bingo & Casino*, 475 F.3d at 1308, 1312-15.

As in those cases, applying federal law here would not impede tribal self-governance in purely intramural matters. Instead, the Bureau seeks to apply the CFPB to the Lenders'

¹ Although this Order relies on the *Coeur d'Alene* framework, application of the other frameworks would not lead to a different conclusion. The Tenth Circuit framework declines to apply the *Tuscarora* rule when the federal law conflicts with a tribe's treaty-protected right. *EEOC v. Cherokee Nation*, 871 F.2d 937, 938 n.3 (10th Cir. 1989). That point is not at issue here. The Eighth Circuit applies the *Tuscarora* presumption unless applying federal law to the tribal entity would affect "a specific right reserved to Indians," such as the "right to self-governance" on "intramural matter[s]." *Fond du Lac*, 986 F.2d at 248-49. Similarly, the D.C. Circuit inquires whether applying the federal law to the tribal entity would "imping[e] upon protected tribal sovereignty," and if not then determines whether the statutory text "reasonably encompass[es]" the tribal entity to which the law is sought to be applied. *San Manuel Indian Bingo & Casino*, 475 F.3d at 1311. These two approaches also do not lead to a materially different analysis than that provided in the text below. Moreover, as the D.C. Circuit has recognized, a tribe's "claim of sovereignty is at its weakest" where, as here, the tribe "goes beyond matters of internal self-governance and enters into off-reservation business transaction[s] with non-Indians." *Id.* at 1312-13.



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commercial dealings with non-Indians on the open market. In particular, the Bureau has reason to believe that the Lenders are making loans to non-Indians over the internet, and it seeks to investigate those lending practices for compliance with Federal consumer financial law.

The Lenders contend that applying the CFPA to them interferes with their respective tribes' sovereign authority to regulate the Lenders' financial activities. Pet. at 16-17. But they do not contend that these financial activities are purely intramural, and in any event, as the Second Circuit has explained, this argument would rely on "too grandiose a concept of tribal sovereignty." *Reich*, 95 F.3d at 178. Tribal rights of self-governance do not "preempt[] the application of a federal regulatory scheme which is silent on its application to Indians." *Id.* at 179. Indeed, the Lenders' argument proves too much, as it would mean that applying *any* federal statute to a tribally-affiliated entity would interfere with self-governance if the tribe might choose to regulate that entity's activity itself. *See id.* at 179, 181; *accord Smart*, 868 F.2d at 935 (explaining that this exception does not apply whenever a law "merely affects self-governance as broadly conceived" because "[a]ny federal statute applied to an Indian on a reservation or to a Tribe has the arguable effect of eviscerating self-governance since it amounts to a subordination of the Indian government. But Indian Tribes are not possessed of absolute sovereignty.").

The Lenders also wrongly contend that this case is "on all fours" with the situation that the Eighth Circuit confronted in *Fond du Lac*. Pet. at 18. On the contrary, that court held that it would interfere with the tribe's right of self-government to apply the Age Discrimination in Employment Act to a "dispute [that] involve[d] a strictly internal matter" between a member of the tribe and a tribal employer on reservation land that had denied employment to the tribe member. *Fond du Lac*, 986 F.2d at 248-49. The Bureau, by contrast, seeks to apply the CFPA to the Lenders' commercial dealings with non-Indians on the open market, which does not interfere with tribal rights of self-governance in purely intramural matters. The other cases cited by the Lenders are as or more inapposite.

The second *Coeur d'Alene* exception likewise does not apply. The Lenders have not suggested that subjecting them to the Bureau's investigation would abrogate any rights guaranteed by Indian treaties, and the Bureau is not aware of any such treaty-protected rights.

The third exception does not apply because there is no "proof by legislative history or some other means that Congress intended the law not to apply to Indians on their reservations." *Coeur d'Alene*, 751 F.2d at 1116 (internal quotations and alteration omitted). The Lenders cite nothing from the CFPA's legislative history to indicate congressional intent to exclude tribally-affiliated entities from the Bureau's jurisdiction. Instead, they offer three arguments based on the statutory text, none of which is persuasive.

First, the Lenders contend that Congress expressed its intent to exclude tribes from the definition of "person" by defining "States" to include federally recognized Indian tribes, while not expressly including states or tribes in the definition of "person." Pet. at 12-14. But regardless of whether these definitions could suggest that tribes *themselves* are not persons (a point that need not be addressed here), they do not suggest that a commercial entity *affiliated*



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with a tribe is not a “person” where the entity otherwise falls within the definition of “person,” as is true here. See 12 U.S.C. § 5481(19) (comprising both “companies” and “other entities”).

Second, the Lenders point to the general presumption that the term “‘person’ does not include the sovereign.” Pet. at 14-16 (quoting *Vt. Agency of Natural Res. v. United States*, 529 U.S. 765, 780 (2000)). But the Lenders are not themselves the sovereign; they are companies that have commercial dealings on the open market and at most claim to have some sort of affiliation with a sovereign. In any event, this presumption does not override *Tuscarora*’s presumption, for if it sufficed as “proof . . . that Congress intended [a] law not to apply to Indians on their reservations,” *Couer d’Alene*, 751 F.2d at 1116, then the third exception essentially would tautologically swallow the *Tuscarora* rule.

Third, the Lenders cite the interpretive canon that ambiguities in statutory text must be resolved in favor of Indians. Pet. at 16. But as the D.C. Circuit has explained, this interpretive canon does not apply to resolve ambiguities in “a statute of general application,” but rather only in statutes or provisions that “Congress enacted specifically for the benefit of Indians or for the regulation of Indian affairs.” *San Manuel Indian Bingo & Casino*, 475 F.3d at 1312.

For all these reasons, none of the *Couer d’Alene* exceptions applies, and *Tuscarora*’s general rule therefore controls: The CFPA applies to tribally-affiliated entities like the Lenders, which are “person[s]” as to which the CFPA authorizes the Bureau to issue CIDs.

B. Tribal Sovereign Immunity Does Not Protect the Lenders from the CIDs.

The Lenders next contend that tribal sovereign immunity protects them from the Bureau’s CIDs. Pet. at 20. But every court of appeals to address the issue has agreed that Indian tribes, like individual States, do not enjoy immunity from suits by the federal government. See *Karuk Tribe Hous. Auth.*, 260 F.3d at 1075; *Fla. Paralegic*, 166 F.3d at 1134; *Reich*, 95 F.3d at 182; *United States v. Red Lake Band of Chippewa Indians*, 827 F.2d 380, 383 (8th Cir. 1987). See also William C. Canby, Jr., *American Indian Law* 88 (3d ed. 1998) (“Tribes are not immune from suits by the United States.”); cf. *West Virginia v. United States*, 479 U.S. 305, 311 (1987) (“States have no sovereign immunity as against the Federal Government.”).

The Lenders disagree, but offer no plausible grounds to overcome this settled point. They contend that, unlike the States, the tribes were not present at the Constitutional Convention and so did not surrender their sovereign immunity. For this point, they cite *Blatchford v. Native Vill. of Noatak*, 501 U.S. 775 (1991), but that case involved claims of immunity by a state against a tribe rather than claims of immunity by a tribe against the federal government. On the latter point, the Supreme Court has not relied on an argument about who was or was not in attendance at the Constitutional Convention; instead, it has held that the U.S. government exercises superior sovereign powers as against the Indian tribes, by virtue of their status as “domestic dependent nations.” *Red Lake Band*, 827 F.2d at 382-83 (quoting *Cherokee Nation v. Georgia*, 30 U.S. 1, 15-17 (1831)) (“[I]t is an inherent implication of the superior power exercised by the United States over the Indian tribes that a tribe may not interpose its sovereign immunity against the United States.”); *United States v. White Mountain Apache Tribe*, 784 F.2d 917, 920 (9th Cir.



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1986) (“The Tribe’s own sovereignty does not extend to preventing the federal government from exercising its superior sovereign powers.”); *cf. also Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134, 153-54 (1980) (“tribal sovereignty is dependent on, and subordinate to, only the Federal Government, not the States” and is divested when it would be “inconsistent with the overriding interests of the National Government”).

The Bureau is an agency of the federal government. The tribes therefore cannot assert sovereign immunity against it. Nor can purported “arms” of the tribe, as the Lenders style themselves, whether or not the actual facts would support that characterization.²

II. The CIDs Request Relevant Information and Comply with Procedural Requirements.

The Lenders also contend that the CIDs should be set aside because they do not provide adequate notice of the purpose and scope of the Bureau’s investigation and make requests that are vague, overly broad, and unduly burdensome. Pet. at 23-25. These claims are baseless and must be rejected.

The CIDs provide adequate notice of the purpose and scope of the Bureau’s investigation. The CFPA simply requires a CID to “state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.” 12 U.S.C. § 5562(c)(2); *accord* 12 C.F.R. § 1080.5. This does not require a detailed narrative, and it is “well settled that the boundaries of an [agency] investigation may be drawn ‘quite generally.’” *FTC v. O’Connell Assocs., Inc.*, 828 F. Supp. 165, 171 (E.D.N.Y. 1993) (quoting *FTC v. Invention Submission Corp.*, 965 F.2d 1086, 1090 (D.C. Cir. 1992)).

The CIDs that the Bureau sent to each Lender easily meet the notice-of-purpose requirement. Each CID stated in its “Notification of Purpose” that the investigation was initiated “to determine whether small-dollar online lenders or other unnamed persons have engaged or are engaging in unlawful acts or practices relating to the advertising, marketing, provision, or collection of small-dollar loan products, in violation of” section 1036 of the CFPA, the Truth in Lending Act, the Electronic Funds Transfer Act, the Gramm-Leach-Bliley Act, or any other Federal consumer financial law, and “to determine whether Bureau action to obtain legal or equitable relief would be in the public interest.” Courts regularly enforce CIDs with statements of purpose that have comparable breadth and specificity. For example, the D.C. Circuit upheld a

² It is worth noting that even if it were somehow determined that the Bureau lacks jurisdiction over Indian tribes or is subject to tribal sovereign immunity, it would still have jurisdiction to investigate factual issues as to whether the tribal affiliation of the Lenders justifies treating them the same as tribes for purposes of statutory coverage and sovereign immunity. Where a CID recipient offers a “fact-based” challenge to the agency’s jurisdiction, the CID should be enforced unless jurisdiction is “plainly lacking.” *See Karuk Tribe*, 260 F.3d at 1076-77. The Lenders’ claim that they are arms of their respective tribes is just such a “fact-based” challenge. *See Breakthrough Mgmt. Grp., Inc. v. Chukchansi Gold Casino & Resort*, 629 F.3d 1173, 1181 (10th Cir. 2010) (listing six facts relevant to whether an entity is an “arm” of a tribe that shares the tribe’s immunity).



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CID issued “to determine whether [a company] may be engaged in unfair or deceptive acts or practices including but not limited to false or misleading representations made in connection with the advertising, offering for sale and sale of its services relating to the promotion of inventions or ideas and to determine whether Commission action to obtain redress of injury to consumers or others would be in the public interest.” *Invention Submission Corp.*, 965 F.2d at 1087-88 (alterations omitted). Another court concluded that an FTC resolution authorizing a CID “to determine whether unnamed consumer reporting agencies or others are or may be engaged in acts or practices in violation of Section 5 of the Federal Trade Commission Act and of the Fair Credit Reporting Act” properly defined the scope of the investigation. *O’Connell Assocs.*, 828 F. Supp. at 170-71 (alterations omitted); *see also Hyster Co. v. United States*, 338 F.2d 183, 184-86 (9th Cir. 1964) (approving CID with similar statement of purpose); *Gold Bond Stamp Co. v. United States*, 325 F.2d 1018, 1018 (8th Cir. 1964) (approving CID with similar statement of purpose).

The fact that the CIDs’ Notifications of Purpose refer to “any other Federal consumer financial law,” in addition to the four specific statutes they cite, does not render them impermissibly broad. The quoted phrase is a term defined in the statute with clear boundaries. *See* 12 U.S.C. § 5481(14). The Lenders cite *In re Sealed Case (Administrative Subpoena)*, 42 F.3d 1412 (D.C. Cir. 1994), but that case involved an asserted investigatory purpose far broader than the asserted purpose here, referring to “other wrongdoing, as yet unknown,” which is an unlimited area rather than a realm defined by statute. *Id.* at 1418. And even in that case, though disapproving of this undefined language, the court did enforce the subpoena to the extent that it sought information relevant to permissible purposes that the subpoena also listed. *See id.* at 1420. Thus, even if it were impermissible to seek information relevant to potential violations of “any other Federal consumer financial law” (which it is not), the CIDs here would still be generally valid to uncover violations of the specified laws, and the CIDs accordingly are enforceable in full.

The Lenders have not met their burden to show that the CIDs make requests that are vague, overly broad, or unduly burdensome. Anyone challenging a CID on these grounds must “prove[] the inquiry is unreasonable because it is overbroad or unduly burdensome.” *FDIC v. Garner*, 126 F.3d 1138, 1143 (9th Cir. 1997) (emphasis added). For example, as the Bureau has explained elsewhere, “the subject must undertake a good-faith effort to show ‘the exact nature and extent of the hardship’ imposed, and state specifically how compliance will harm its business.” Decision and Order on PHH Corporation’s Petition to Modify or Set Aside Civil Investigative Demand, No. 2012-MISC-PHH Corp-0001, at 6 (2012) (quoting *FTC v. Markin*, 391 F. Supp. 865, 870-71 (W.D. Mich. 1974), *aff’d*, 532 F.2d 541 (6th Cir. 1976)). The Lenders have offered no such detail to support their claims.

Nonetheless, the Lenders are welcome to continue to discuss, and to seek to resolve, issues about the scope and burden of individual interrogatories and document requests with the Bureau’s enforcement team.



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III. Arguments Incorporated by Reference Are Not Properly Raised and Lack Merit.

Finally, the Lenders purport to “incorporate[]” five arguments that another CID recipient makes in a separate petition to set aside a separate CID. This is procedurally improper. Courts generally refuse to consider incorporated-by-reference arguments because they “unnecessarily complicate the task of” the decision-maker. *Gaines-Tabb v. ICI Explosives, USA, Inc.*, 160 F.3d 613, 624 (10th Cir. 1998). Incorporation requires the decision-maker “to unearth [the] arguments lodged here and there . . . , to recognize and disregard any arguments that are now irrelevant, and to harmonize the arguments in the various documents.” *Northland Ins. Co. v. Stewart Title Guar. Co.*, 327 F.3d 448, 452 (6th Cir. 2003). For these reasons, the Bureau will not consider incorporated-by-reference arguments. A petitioner “must make all arguments accessible to the [Bureau], rather than ask [it] to play archaeologist” with the referenced materials. *DeSilva v. DiLeonardi*, 181 F.3d 865, 867 (7th Cir. 1999).

Because the Bureau has not previously announced that it will disallow incorporation by reference, however, I will briefly address the incorporated arguments, all of which lack merit. Two of them simply duplicate arguments that the Lenders have already made in their Petition – that the Notifications of Purpose in the CIDs are insufficient, and that the Bureau lacks authority over Indian tribes – and that have been rejected here. Another opines that, given the scope of this investigation, it would be “more appropriate” and “more efficient” to conduct an examination rather than an investigation. But the controlling statutory framework affords the Bureau, rather than a regulated entity, the discretion to decide how best to deploy the Bureau’s resources. And to the extent that the Lenders suggest that the scope of the CIDs’ inquiry is simply too broad for an investigation, that contention fails for the reasons discussed above.

The next incorporated argument challenges individual requests as not reasonably related to violations of Federal consumer financial law. It is particularly problematic to incorporate this argument by reference, as it refers to requests made in a different CID to a different entity that involve distinct circumstances. In any event, the Lenders bear the “burden to show that the information [sought] is irrelevant,” *Invention Submission Corp.*, 965 F.2d at 1090; they have made no such showing; and the courts will accept an agency’s appraisal of relevancy unless it is “obviously wrong.” *Id.* at 1089.

Finally, the Lenders object to requests for information from before July 21, 2011, on the ground that the Bureau lacks authority over violations that occurred before that date. But since the transfer of authority to the Bureau on July 21, 2011, *see* 75 Fed. Reg. 57,252 (Sept. 20, 2010), the Bureau has had authority over violations of federal consumer financial law that occurred both before and after July 21, 2011. In any event, the Bureau’s authority over pre-transfer-date violations is beside the point here: It unquestionably has the authority to obtain information about pre-transfer-date conduct, for that conduct could bear on post-transfer-date violations. *Cf.* Decision and Order on PHH Corporation’s Petition to Modify or Set Aside Civil Investigative Demand, No. 2012-MISC-PHH Corp-0001, at 7-8 (2012) (explaining that a CID may seek information “extending outside the applicable limitations period,” for that information “may constitute relevant background evidence in a proceeding in which the status of a current practice is at issue”) (quoting *United Air Lines, Inc. v. Evans*, 431 U.S. 553, 558 (1977)). It is



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thus appropriate for the Bureau to act within its authority by seeking such information through the CIDS at issue here.

CONCLUSION

For the foregoing reasons, the Lenders' petition to modify or set aside the CIDs issued to them is denied. In rejecting the jurisdictional claims they raise based on their status as tribally-affiliated entities and their claims of tribal sovereign immunity, the Bureau intends and expresses no disrespect to the status of the Indian tribes themselves. Indeed, the Bureau continues to engage with tribal governments pursuant to its Policy for Consultation with Tribal Governments, which provides guiding principles for its relationships, its communications, and its ongoing work with the tribes. Nonetheless, all commercial businesses (whether they are chartered financial institutions or their non-bank competitors) remain subject to the same evenhanded federal oversight and authority as their competitors in the consumer financial marketplace under the CFPB, which Congress incorporated as a core principle of the statutory scheme. In order to carry out its responsibilities to protect consumers, the Bureau must exercise its proper authority to gather information in order to monitor and ensure compliance with Federal consumer financial law. Therefore, within 21 calendar days of this Decision and Order, the Lenders are directed to produce all responsive documents, items, and information within their possession, custody, or control that are covered by the CIDs. The Lenders are also welcome to engage in further discussions with the Bureau's enforcement team about further suggestions for modifications to the CIDs, which the Office of Enforcement may adopt if deemed appropriate.

Richard Cordray, Director

September 26, 2013