

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

MARGRETTY RABANG, OLIVE OSHIRO,
DOMINADOR AURE, CHRISTINA PEATO,
and ELIZABETH OSHIRO,

Plaintiffs,

v.

ROBERT KELLY, JR., RICK D. GEORGE,
AGRIPINA SMITH, BOB SOLOMON, LONA
JOHNSON, KATHERINE CANETE,
RAYMOND DODGE, ELIZABETH KING
GEORGE, KATRICE ROMERO, DONIA
EDWARDS, and RICKIE ARMSTRONG,

Defendants.

Case No. 2:17-CV-00088-JCC

SECOND AMENDED COMPLAINT
FOR DAMAGES AND INJUNCTIVE
RELIEF FOR VIOLATIONS OF THE
FEDERAL RACKETEER
INFLUENCED AND CORRUPT
ORGANIZATIONS ACT

DEMAND FOR JURY TRIAL

Plaintiffs bring this civil action to rectify Defendants’ violations of the federal Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1964 (“RICO”). Defendants are advancing a scheme to defraud Plaintiffs of money and property. Defendants are purporting to act as an Indian tribal government although the United States, particularly the U.S. Department of the Interior (“DOI”), has already determined, repeatedly, that Defendants are acting illegally.

I. NATURE OF THE CASE

1
2 1. Defendants Robert Kelly, Jr., Rick D. George (“George”), Agripina Smith, Bob
3 Solomon, Lona Johnson, Katherine Canete, Elizabeth King George (“King George”), Katrice
4 Romero, Raymond Dodge, and Rickie Armstrong (collectively, “RICO Defendants” or
5 “Defendants”) have violated RICO.

6
7 2. Since at least March 2016, Defendants Kelly, George, Smith, Solomon, Johnson,
8 and Canete (collectively, “Holdover Council Defendants”) have falsely behaved and represented
9 themselves as the Nooksack Indian Tribe (“Tribe”) or Nooksack Indian Tribal Council (“NITC”).
10 RICO Defendants’ acts and omissions were deliberate and part of a scheme that began by
11 December 2015 to defraud Plaintiffs of money, property, and benefits of monetary value by
12 depriving them of Tribal citizenship through false pretenses and representations.

13
14 3. RICO Defendants carried out their scheme to defraud Plaintiffs, through their
15 official positions in or other affiliations with the Tribe, NITC, Nooksack Enrollment Department
16 (“NED”), Nooksack Indian Housing Authority (“NIHA”), Nooksack Tribal Court (“NTC”),
17 Nooksack Indian Health Department (“NIHD”), Nooksack Social Services Department
18 (“NSSD”), and Nooksack Education Department (“NEdD”). RICO Defendants used or caused
19 the use of the mails and wires to execute their scheme, and to personally enrich themselves.

20
21 **II. PARTIES**

22 **A. Plaintiffs**

23 4. MARGRETTY RABANG is a 56-year-old resident of Whatcom County,
24 Washington. Ms. Rabang participates in a lease-to-own program for her home pursuant to HUD’s
25 Mutual Help Occupancy Program (“MHOP”), which is administered by NIHA. HUD MHOP

1 allows NIHA to help low-income Nooksack Indian families purchase a home by limiting monthly
2 payments to a percentage of adjusted gross income and crediting those payments to an equity
3 account for purchase of the home. Ms. Rabang, through her husband Robert Rabang, and the
4 NIHA entered into a HUD MHOP agreement regarding her home in 2006. As of October 1,
5 2016, Ms. Rabang needed to pay off only \$9,326.68 before she owned her home outright under
6 the terms of that agreement.
7

8 5. OLIVE OSHIRO is an 80-year-old resident of Whatcom County, Washington.
9 Ms. Oshiro suffers from numerous serious health conditions, including Sjogren’s syndrome, lung
10 disease, high blood pressure, thyroid disease, and restless leg syndrome. Ms. Oshiro also is
11 experiencing the early stages of dementia, including insomnia and depression. Ms. Oshiro relies
12 on federally funded healthcare services provided by the Tribe and NIHD for treatment of her
13 many serious health conditions.
14

15 6. DOMINADOR AURE is a 56-year-old resident of Whatcom County, Washington.
16 After Mr. Aure was diagnosed with renal disease in 2009, he received a kidney transplant in
17 2015. As a result of the transplant, Mr. Aure must be on anti-rejection medication for the rest of
18 his life. Mr. Aure relies on federally funded health care services provided by the Tribe and NIHD
19 for treatment of his serious health condition. As the father of five children, Mr. Aure also relies
20 upon federal Temporary Assistance for Needy Families (“TANF”) funding to survive.
21

22 7. CHRISTINA PEATO is a 38-year-old resident of Whatcom County, Washington.
23 Ms. Peato is the mother of three minor-aged children and serves as caretaker of two additional
24 minor-aged children. Ms. Peato relies on federally funded health care services provided through
25 the Tribe as well as TANF funding for her family and children.

1 8. ELIZABETH OSHIRO is a 48-year-old resident of Whatcom County,
2 Washington. Ms. Oshiro is the mother of four children and serves as sole caregiver to her ailing
3 mother, Plaintiff Olive Oshiro. Prior to her illegal eviction from her home in July of 2016, Ms.
4 Oshiro also participated in the HUD MHOP lease-to-own program at Nooksack, beginning in
5 2002. As of the date of her illegal eviction facilitated by RICO Defendants, Ms. Oshiro needed to
6 make only one more payment before she owned the property outright under the terms of her HUD
7 MHOP agreement with NIHA. Ms. Oshiro’s minor-aged son, K.O., also received federal Johnson
8 O’Malley (“JOM”) education funding prior to his illegal disenrollment from the Tribe.
9

10 9. Plaintiffs are each enrolled members of the Tribe who were purportedly
11 disenrolled by Holdover Council Defendants in June and November of 2016.
12

13 **B. Defendants**

14 **1. Holdover Council Defendants**

15 10. The following six Defendants collectively constitute the “Holdover NITC” or
16 “Holdover Council Defendants.” Defendants George, Smith, Johnson, and Canete are referred to
17 as the “Holdover Councilpersons,” as of March 24, 2016, as alleged below.

18 11. ROBERT KELLY, JR., is a resident of Whatcom County, Washington, and
19 Chairman of the NITC. Defendant Kelly leads and acts as part of the Holdover NITC.
20

21 12. RICK D. GEORGE is a resident of Whatcom County, Washington, and purported
22 Vice Chairman of the NITC. Having refused to vacate his expired seat in the NITC, Defendant
23 George acts as part of the Holdover NITC.

24 13. AGRIPINA SMITH is a resident of Whatcom County, Washington, and purported
25 Treasurer of the NITC. Having refused to vacate her expired seat on the NITC, Defendant Smith

1 acts as part of the Holdover NITC.

2 14. BOB SOLOMON is a resident of Whatcom County, Washington, and
3 Councilperson on the NITC. Defendant Solomon acts as part of the Holdover NITC.

4 15. LONA JOHNSON is a resident of Whatcom County, Washington, purported
5 Councilperson on the NITC. Defendant Johnson also is the Director of the NIHD, which is a
6 subordinate body of the NITC. Having refused to vacate her expired seat in the NITC, Defendant
7 Johnson acts as part of the Holdover NITC.

8 16. KATHERINE CANETE is a resident of Whatcom County, Washington, purported
9 Councilperson on the NITC. Defendant Canete also is the General Manager of the Tribe. Having
10 refused to vacate her expired seat in the NITC, Defendant Canete acts as part of the Holdover
11 NITC.
12

13
14 **2. Other RICO Defendants**

15 17. RAYMOND DODGE is a resident of Whatcom County, Washington, the
16 immediate past Tribal Attorney with the Nooksack Office of Tribal Attorney, and the purported
17 Chief Judge of the NTC, a subordinate body of the NITC.

18 18. ELIZABETH KING GEORGE is a resident of King County, Washington, and the
19 Director of the NED, a subordinate body of the NITC.

20 19. KATRICE ROMERO is a resident of Whatcom County, Washington, sister of
21 Defendant Canete, and the Director of the NIHA. The NIHA is a subordinate body of the NITC.

22 20. DONIA EDWARDS is a resident of Whatcom County, Washington, and the
23 Director of the NEDD, a subordinate body of the NITC.

24 21. RICKIE ARMSTRONG is a resident of Whatcom County, Washington, and Tribal
25

1 Attorney with the Nooksack Office of Tribal Attorney, purporting to serve as legal counsel for the
2 Tribe, and all other named subordinate departments of the Tribe. Defendant Armstrong serves as
3 legal counsel for the Holdover NITC.

4 22. All Defendants are sued in their personal capacities.

5
6 **III. JURISDICTION AND VENUE**

7 23. The Court possess jurisdiction under 28 U.S.C. § 1331. Plaintiffs' claims present
8 federal questions.

9 24. Venue is proper in the Western District of Washington. The Tribe is located
10 geographically within the State of Washington. A substantial part of the events or omissions
11 giving rise to Plaintiffs' claims occurred in Whatcom County, Washington. 28 U.S.C. §
12 1391(a)(2). Defendants transacted their affairs in Whatcom County, Washington. 18 U.S.C. §
13 1965(a). Whatcom County, Washington, is located within the Western District of Washington.

14
15 25. The Tribe's sovereign immunity does not bar this personal capacity suit.

16 **IV. FACTS**

17 26. The United States acknowledged the Tribe in 1973. The Constitution and Bylaws
18 of the Nooksack Indian Tribe govern the Tribe and established the NITC to chiefly carry out
19 Tribal governance. The Nooksack Constitution requires that NITC consist of one chairman, one
20 vice-chairman, one secretary, one treasurer, and four councilmen.

21
22 27. The Nooksack Constitution mandates that "elections for the tribal council shall be
23 called within 90 days prior to the expiration of the terms of office of its members. After the first
24 election, all members of council shall run for four-year terms." Five members constitute a
25 quorum for the NITC. The NITC cannot transact any Tribal business without a quorum of at least

1 five members present.

2 28. The four-year terms of Defendant George's vice chairmanship, Defendant Smith's
3 treasurer position, and Defendant Johnson's and Canete's respective councilmember positions,
4 each expired on March 24, 2016. Holdover Councilpersons have refused to vacate those NITC
5 seats since March 24, 2016.
6

7 29. The NITC has lacked a quorum of at least five members by which to transact any
8 Tribal business, and have acted in illegal holdover status, since March 24, 2016.

9 30. By October 17, 2016, Lawrence S. Roberts, DOI's Principal Deputy Assistant
10 Secretary of Indian Affairs ("AS-IA Roberts"), issued a decision to Holdover Council
11 Defendants, formally finding that since March 24, 2016, the Holdover NITC has acted illegally,
12 lacked authority, and cannot undertake business on behalf of the Tribe. RICO Defendants have
13 ignored AS-IA Roberts' final agency determination and other final agency determinations
14 rendered by the Federal Government, as detailed below.
15

16 **A. Holdover Council Defendants Prevent and Cancel Tribal Elections**

17 31. RICO Defendants' scheme to defraud Plaintiffs began with fraudulently
18 preventing elections for half of the eight NITC seats. With the chairman not allowed to vote
19 except to break a tie, Holdover Council Defendants realized they needed to occupy at least four
20 other NITC seats to carry out their scheme to defraud Plaintiffs of money, property, and benefits
21 by depriving Plaintiffs of their Tribal membership, and to personally enrich themselves with
22 hundreds of thousands of dollars in salaries, stipends, and other benefits funded through federal
23 contracts and grants.¹
24

25

¹ For example, in 2015, Chairman Kelly received a \$144,266 salary, over 50% of which was funded through federal dollars, specifically "indirect" or administrative costs charged to the U.S. pursuant to federal-tribal contracts.

1 32. In 2012, Holdover Councilperson Defendants were each elected to serve four-year
2 terms on the NITC. Holdover Councilperson Defendants were sworn in for those offices by
3 March 24, 2012. The seats still held by Holdover Councilperson Defendants expired by March
4 24, 2016.

5 33. The Nooksack Constitution required that elections for the four NITC seats
6 occupied by Holdover Councilperson Defendants be called within ninety (90) days prior to the
7 expiration of the terms of those NITC offices. As of December 2015, Tribal law required
8 Defendant Kelly, as Chairman, to appoint an Election Superintendent and in turn hold a Primary
9 Election on February 20, 2016, and General Election on March 19, 2016, for the four open NITC
10 seats.
11

12 34. In late 2015, at some time prior to December 2015, Defendant Dodge arrived to
13 Nooksack as the Tribal Attorney, at which time Plaintiffs' disenrollment was stayed, and they
14 were otherwise secure in their homes, benefits and other properties, by operation of federal and
15 Tribal law. 25 C.F.R. §§ 2.6(a), (b); 43 C.F.R. § 4.314(a); *St. Germain v. Acting N.W. Reg'l Dir.*,
16 IBIA No.16-022; *Roberts v. Kelly*, No. 2013-CI-CL-003, *Belmont v. Kelly*, No. 2014-CI-CL-007,
17 Order (Feb. 26, 2015) ("the parties shall maintain the status quo . . . until a decision approving
18 Title 63 becomes final for the Department of the Interior pursuant to 25 C.F.R. § 2.6.").
19

20 35. Starting in December 2015, Defendant Dodge, in concert with Holdover Council
21 Defendants, commenced their scheme to defraud Plaintiffs and personally enrich themselves.
22

23 36. By December 3, 2015, Defendant Kelly failed to appoint an Election
24 Superintendent as required.

25 37. On December 18, 2015, Holdover Council Defendants amended Tribal law to

1 gerrymander via mail-in voting and otherwise rig both the February 20, 2016, Primary Election
2 and March 19, 2016, General Election for the four NITC seats. Also on December 18, 2015,
3 Defendants Dodge and Armstrong filed a Motion for Preliminary Injunction before the NTC that
4 sought to deny Plaintiffs' voting rights in the event the Holdover Council decided to hold those
5 elections.
6

7 38. On January 14, 2016, Defendant Dodge argued the Motion for Preliminary
8 Injunction before NTC Chief Judge Susan Alexander, who expressed concerns about the "delay
9 of elections" and suggested the Court would deny the injunction motion and allow Plaintiffs to
10 vote in any Tribal Council election.

11 39. On January 20, 2016, Holdover Council Defendants—including the Holdover
12 Councilpersons—announced at a Nooksack Community Council meeting that they had
13 "cancelled" the February 20, 2016, Primary Election and the March 19, 2016, General Election
14 for the NITC seats occupied by the Holdover Councilpersons. Holdover Council Defendants then
15 pronounced that they had "postponed" any Tribal election for those seats until *after* disenrollment
16 proceedings against Plaintiffs and over 275 other Tribal members were complete. Holdover
17 Council Defendants then refused to call or commence a Primary Election by February 20, 2016,
18 and a General Election by March 19, 2016.
19

20 40. On January 26, 2016, Chief Judge Alexander denied the Motion for Preliminary
21 Injunction filed by Defendants Dodge and Armstrong, affirming Plaintiffs' constitutional right to
22 vote in any Tribal Council election. AS-IA Roberts subsequently indicated DOI recognized Chief
23 Judge Alexander's January 26, 2016 ruling.
24

25 41. On February 10, 2016, Defendants Dodge and Armstrong filed a Motion For

1 Reconsideration of Judge Alexander’s preliminary injunction denial.

2 42. On February 22, 2016, Defendant Dodge argued the Motion for Reconsideration
3 before Judge Alexander, who, relative to a pending Petition for Writ of Mandamus filed by
4 Plaintiffs, suggested she would compel the Tribal Council elections.

5 43. On February 24, 2016, Defendant Dodge orchestrated the disbarment of his
6 opposing counsel, Gabriel S. Galanda and Galanda Broadman, PLLC, per Resolution Nos. 16-27
7 and 16-28. Resolution No. 16-27, which Defendant Dodge drafted, amended Title 10 to allow
8 administrative, rather than judicial, disbarment of counsel, for the first time in Nooksack history.
9 Resolution No. 16-28, which Defendant Dodge also drafted, apparently “bar[red] Mr. Galanda
10 and other attorneys at Galanda Broadman from practicing in the Nooksack Tribal Court and from
11 engaging in business on Nooksack tribal lands,” apparently for want of a tribal business license.
12 Defendant Dodge was in Tribal Council chambers when Resolution Nos. 16-27 and 16-28 were
13 passed.
14

15 44. February 24, 2016 did not mark the first occasion in which Defendant Dodge
16 manipulated tribal political legislative processes to cause the disbarment of his opposing counsel,
17 believing he and his client were free of impunity. In 2013, when Defendant Dodge was Attorney
18 General for the Quinault Indian Nation, he likewise orchestrated the disbarment of counsel
19 adverse to his client, the law firm of MacDonald Hoague & Bayless, also for want of a tribal
20 business license.
21

22 45. On February 29, 2016, Chief Judge Alexander denied the Motion for
23 Reconsideration filed by Defendants Dodge and Armstrong, further affirming Plaintiffs’
24 constitutional right to vote in any Tribal Council election. AS-IA Roberts subsequently indicated
25

1 DOI also recognized Chief Judge Alexander’s February 29, 2016 ruling.

2 46. On March 7, 2016, Chief Judge Alexander issued a Case Management Order,
3 ordering that the Tribal Council “shall submit an affidavit describing the due process afforded to
4 Mr. Galanda and other attorneys in the Galanda Broadman law firm in connection with the
5 enactment of Resolution #16-28.”
6

7 47. On March 11, 2016, Defendant Dodge filed his own declaration, among three
8 other declarations but failed to submit the affidavit ordered by Chief Judge Alexander.

9 48. On March 21, 2016, Chief Judge Alexander issued an Order Re Resolution #16-28
10 and Due Process, admonishing the Tribal Council and Defendant Dodge for filing the four
11 declarations and thus “doing exactly the opposite of what the Court ordered”; noting that the
12 “newly minted Nooksack Advocates Code of Conduct, suddenly adopted by the Tribal Council
13 [via Resolution No. 16-27] without notice to or opportunity for input by the Tribal Court was
14 borrowed nearly whole from the Tohono O’odham Rules of Court, Section 14, Code of Ethics for
15 Attorneys and Advocates Practicing in the Courts of the Tohono O’odham Nation”; authorizing
16 Galanda Broadman to redress their property rights on a *pro se* basis; and ordering Court Clerk to
17 produce Resolution Nos. 16-27 and 16-28 to suddenly *pro se* Plaintiffs.
18

19 49. On March 24, 2016, the four-year terms of the NITC positions occupied by
20 Holdover Councilpersons lapsed. That day, Michelle Roberts filed a Motion for Declaratory
21 Judgment in the Nooksack Tribal Court seeking a declaration that the NITC could no longer take
22 any lawful action for want of a quorum of duly elected Tribal Councilmembers as of March 24,
23 2016. Ms. Roberts served Defendants Dodge and Armstrong with that Motion on March 24,
24 2016. Defendants Dodge and Armstrong otherwise knew that the NITC fell into holdover status
25

1 as of March 24, 2016. Throughout the spring and summer of 2016, Defendants Dodge and
 2 Armstrong were each served with several pleadings and papers by which Plaintiffs and others
 3 maintained that the four-year terms of the NITC positions occupied by Holdover Councilpersons
 4 lapsed on March 24, 2016 and thus any action taken by the NITC after that date was unlawful.
 5 AS-IA Roberts subsequently declared those four seats “expired” and thus “vacant” as of March
 6 24, 2016.

8 50. As of March 24, 2016, the Holdover NITC, by its own design, lacked and
 9 continues to lack the quorum necessary to take official action on behalf of the Tribe or direct the
 10 affairs of the Tribe. Any acts of Holdover Council Defendants or of the governmental entities
 11 subordinate to the NITC committed by the RICO Defendants are fraudulent, particularly pursuant
 12 to AS-IA Roberts’ final agency determination and other such federal determinations.

13 **B. Holdover Council Defendants Act To Further The Scheme, And RICO Defendants**
 14 **Act In Concert With Holdover Council Defendants, To Defraud Plaintiffs.**

15 51. On March 28, 2016, Holdover Council Defendants terminated Chief Judge
 16 Alexander—who was appointed lawfully by the NITC effective as of June 1, 2015—as she was in
 17 the final stage of preparing a ruling to compel Holdover Council Defendants to call the election
 18 for the four now expired and vacant NITC seats.² Holdover Council Defendants, lacking a
 19 quorum, fraudulently fired Judge Alexander, and fraudulently replaced her with in-house
 20 Nooksack Tribal Attorney Raymond Dodge on June 13, 2016.

22 52. By March 28, 2016, having been unable to overcome Galanda Broadman or Chief
 23 Judge Alexander in order to carry out Defendant Dodge and Holdover Council Defendants’
 24

25 ² Memorandum from Susan M. Alexander to Samantha Wohlfeil, Reporter, The Bellingham Herald (Apr. 21, 2016)
 available at <http://media.bellinghamherald.com/static/downloads/AlexanderMemo.pdf>; see also Samantha Wohlfeil,
Nooksack Tribe fires judge handling disenrollment case, THE BELLINGHAM HERALD (Apr. 22, 2016)
<http://www.bellinghamherald.com/news/local/article73366262.html>.

1 scheme to defraud Plaintiffs and obtain personal enrichment, Defendant Dodge and Holdover
2 Council Defendants purported to eliminate both Galanda Broadman and Chief Judge Alexander.
3 In turn, Defendant Dodge and Holdover Council Defendants overthrew the NTC and closed its
4 doors to Plaintiffs.

5
6 53. In April 2016, Defendant Dodge contacted the current Quinault Attorney General
7 to request a meeting on Defendants Dodge and Kelly's behalf, regarding Galanda Broadman's
8 disbarment at Nooksack on February 24, 2016, and Defendant Dodge's prior involvement in the
9 MacDonald Hoague & Bayless disbarment at Quinault in 2013.

10 54. On April 2, 2016, the NTC Court Clerk "sought the advice of legal counsel
11 regarding whether a lawyer who is acting pro se is 'practicing in tribal court,' [sic] prohibited by
12 Resolution #16-28," the Clerk and under cover of an unsigned letter prepared by Defendants
13 Dodge and Armstrong, rejected a *pro se* lawsuit Galanda Broadman attempted to file against
14 Holdover Council Defendants, as represented by Defendants Dodge and Armstrong, per Chief
15 Judge Alexander's March 21, 2016 ruling. The NITC Clerk again received advice from
16 Defendants Dodge and Armstrong on April 21, 2016, before rejecting a *pro se* appeal that
17 Galanda Broadman attempted to file with the Nooksack Court of Appeals.

18
19 55. On April 29, 2016, Plaintiff Rabang filed suit in NTC for prospective equitable
20 relief, including "declaratory judgment that [Holdover Council Defendants] have no authority to
21 act on may matter, including [Ms. Rabang's] disenrollment." Ms. Rabang also filed a Motion for
22 Permanent Injunction. She was forced to file these papers *pro se* because Holdover Council
23 Defendants had refused to issue a "business license" to Ms. Rabang's chosen counsel, Garvey
24 Schubert Barer, who could not obtain admission to practice before the NTC. At the direction of
25

1 Holdover Council Defendants and Defendant Dodge, and in an effort to further their scheme to
2 defraud Plaintiffs, the NTC never convened Plaintiff Rabang's *pro se* lawsuit.

3 56. On May 9, 2016, the NTC Clerk sent Galanda Broadman yet another unsigned
4 letter, prepared by Defendant Armstrong, but suspiciously courtesy copied to him, announcing
5 that "a lawyer who is acting pro se is 'representing a client.' *In re Discipline of Haley*, 156 Wn.2d
6 324, 338, 126 P.3d 1261 (2006)," and thus advising the Galanda Broadman lawyers that they are
7 "each 'representing a client,'" which "constitutes conduct prohibited by Resolution #16-28." The
8 Nooksack Court of Appeals later renounced the Clerk and Defendant Armstrong's reading of *In*
9 *re Discipline of Haley*: "The decision does not hold that a lawyer who is acting pro se is
10 practicing law. In fact, just the opposite is true: in the State of Washington, a lawyer who is
11 acting pro se is *not* practicing law" (emphasis in original).
12

13 57. On May 27, 2016, the Nooksack Court of Appeals suggested that insofar as
14 Defendants Dodge and Armstrong had provided advice to the NTC Clerk since at least April
15 2016, in controversy before the NTC wherein they represented Holdover Council Defendants,
16 Defendants Dodge and Armstrong violated Washington Rule of Professional Conduct 8.4(d).
17

18 58. On June 3, 2016, Holdover Council Defendants, still lacking a quorum, purported
19 to pass NITC Resolutions to disenroll Plaintiffs Rabang and Elizabeth Oshiro from the Tribe.
20

21 59. On June 6, 2016, at the direction of Holdover Council Defendants, NED Director
22 Defendant King George mailed Ms. Rabang an "IMPORTANT LEGAL NOTICE OF
23 INVOLUNTARY DISENROLLMENT." The Notice purported to be from the Tribe and
24 informed Ms. Rabang that Holdover Council Defendants had acted to supposedly disenrolled her
25 from the Tribe.

1 60. On June 8, 2016, Holdover Council Defendants notified the NIHA by mail or wire
2 that it had disenrolled Plaintiffs Rabang and Elizabeth Oshiro. Holdover Council Defendants,
3 together with other RICO Defendants Romero, Dodge, and Armstrong, then utilized the NIHA
4 and NTC to defraud Ms. Rabang and Ms. Oshiro of their HUD MHOP homes.

5
6 61. On June 16, 2016, the Nooksack Court of Appeals held the NTC Court Clerk in
7 contempt and, in reference to the Clerk’s unsigned April 2, 2016 letter, excoriated Defendants
8 Dodge and Armstrong and Holdover Council Defendants: “For all we know, the court clerk could
9 have consulted with the attorney for the defendants in a potential lawsuit about whether plaintiffs
10 should be allowed to file their complaint against the attorney’s clients. This perversion of justice
11 should be obvious that this represents should be patently obvious even to those untrained in the
12 law.”

13
14 62. On June 28, 2016, Garvey Schubert Barer wrote Defendant Dodge regarding the
15 status of five Tribal Court lawsuits involving or relating to Plaintiffs, requesting that he “formally
16 recuse [him]self from any involvement in [those] five cases, including administrative
17 involvement,” and explaining:

18 Our clients are troubled that during the last six weeks you have been back at the
19 Nooksack Tribal Court, they have been unable to schedule any hearing . . . even
20 before a Nooksack Judge Pro Tem. **It seems you are working with the former**
21 **Nooksack Tribal Council to delay the assignment of a Pro Tem, just like you**
worked with the former Nooksack Tribal Council to delay the March 19,
2016 election.

22 (emphasis added). Defendant Dodge never formally recused himself or responded to Garvey
23 Schubert Barer.

24
25 63. In July 2016, Defendant Romero mailed a “30-day Termination Notice” to
Plaintiff Elizabeth Oshiro. The Notice stated that the NIHA intended to unilaterally terminate

1 Ms. Oshiro's HUD MHOP. Ms. Oshiro would, in other words, be defrauded of her own
2 investment in her home and federal funds because of RICO Defendants' scheme.

3 64. On July 11, 2016, Defendants Dodge and Armstrong caused an "Amended Notice
4 of Hearing" regarding an eviction hearing to be mailed to Plaintiff Elizabeth Oshiro in an effort to
5 defraud her of her home. On July 20, 2016, Defendant Dodge, as "Chief Judge" of the NTC,
6 issued an eviction order that set Ms. Oshiro's eviction for July 27, 2016. Defendant Dodge sent
7 the eviction order by mail or wire to Defendant Romero that same day.

9 65. On July 20, 2016, Defendant Dodge caused Plaintiff Elizabeth Oshiro to be evicted
10 from her HUD MHOP home. As a result of their scheme to defraud Plaintiffs, RICO Defendants
11 defrauded Ms. Oshiro of her home as well as her investment in it.

12 66. On August 19, 2016, Defendant Romero caused a "NOTICE OF
13 TERMINATION/NOTICE TO VACATE" to be mailed to Plaintiff Rabang. The Notice stated
14 that the NIHA intended to unilaterally terminate Ms. Rabang's HUD MHOP. Like Plaintiff
15 Elizabeth Oshiro, Ms. Rabang would too, in other words, be defrauded of her own investment in
16 her home and federal funds as a direct result of RICO Defendants' scheme.

18 67. On October 3, 2016, Defendant Romero mailed a "14 DAY NOTICE TO
19 VACATE" to Plaintiff Rabang. The Notice advised Ms. Rabang: "Your MHOP Agreement and
20 participation with NIHA is terminated Effective [sic] September 19, 2016."

22 68. On October 11, 2016, Plaintiff Rabang attempted to file a second lawsuit in the
23 NTC against Defendant Romero for prospective equitable relief, likewise seeking a "declaratory
24 judgment that Defendant has no authority to act on any matter, including [Ms. Rabang's] housing,
25 because of the Tribe's defunct status since March 24, 2016." At the direction of Holdover

1 Council Defendants and Defendant Dodge, the NTC “REJECTED” Ms. Rabang’s Complaint and
2 again refused to convene Ms. Rabang’s lawsuit.

3 69. On October 17, 2016, AS-IA Roberts issued a decision to Holdover Council
4 Defendants, which in pertinent part provides:

5
6 As you know, the Nooksack Tribal Council (Council) lacks a quorum to conduct
7 tribal business as required by the Nooksack Tribe’s (Tribe) Constitution and
8 Bylaws. Four Council members’ terms expired in March 2016, and an election was
9 never held to fill their seats. The Council currently consists of four members . . .
10 pursuant to the plain language of the Tribe’s Constitution and Bylaws, the Council
11 must have five duly elected officers to take any official action. **The Department
12 will only recognize those actions taken by the Council prior to March 24,
13 2016, when a quorum existed, and will not recognize any actions taken since
14 that time . . .**

15 We will not recognize any actions until duly elected officials are seated in
16 accordance with the Tribe’s Constitution and Bylaws. This includes recent actions
17 by you and two Council members to enjoin the authority of the Northwest
18 Intertribal Court System (NICS). Since the NICS was authorized by a quorum of
19 the Council to adjudicate matters prior to March 24, 2016, we will continue to
20 recognize judicial decisions issued by the NICS.

21 (“Roberts Decision”) (emphasis added). AS-IA Roberts, the highest-ranking federal Indian
22 official in the Nation, is the sole authority responsible for “maintaining the Federal-Tribal
23 government-to-government relationship” and determining who is and who is not allowed to carry
24 out acts on behalf of the tribal governments.

25 70. That same day, on or about October 17, 2016, Holdover Council Defendants
mailed Plaintiffs and over 275 other Tribal members a one-page “Notice of Involuntary
Disenrollment.”

71. On October 18, 2016, Plaintiffs provided the Roberts Decision to Defendant
Dodge via the Nooksack Tribal Court Clerk. Defendant Dodge was thereby placed on actual
notice of the Roberts Decision, which determined that all post-March 24, 2016 actions of the

1 NITC were unlawful and invalid for lack of quorum, and thus his lack of jurisdiction.

2 72. On October 25, 2016, Defendant Kelly acknowledged receipt of the Roberts
3 Decision via a letter transmitted to AS-IA Roberts via both mail and wire, and copied to “Tribal
4 Council.” Defendant Kelly claimed to not have received the Roberts Decision until October 21,
5 2016. Beyond Defendant Kelly’s October 25, 2016 letter, RICO Defendants have ignored the
6 Roberts Decision.

7
8 73. On November 2, 2016, the NIHA, through Defendant Armstrong, filed a
9 Complaint for Unlawful Detainer against Plaintiff Rabang in NTC. Holdover Council
10 Defendants, together with Defendants Romero, Dodge and Armstrong, caused the NTC to
11 convene NIHA’s lawsuit.

12
13 74. By November 4, 2016, Holdover Council Defendants conducted a “referendum
14 election” by mail to disenroll Plaintiffs and over 275 other Tribal members.

15
16 75. On November 9, 2016, Holdover Council Defendants mailed Plaintiffs and over
17 275 other Tribal members an “IMPORTANT LEGAL NOTICE OF DISENROLLMENT.” The
18 Notice stated that a disenrollment “meeting date” had been set via teleconference for November
19 16, 17, or 18, 2016. The Notice directed Plaintiffs to e-mail or call the Tribe to confirm the
20 “meeting,” which each of those named Plaintiffs in turn did. The Notice also indicated that
21 Holdover Council Defendants would participate in the telephonic meeting.

22
23 76. On November 14, 2016, AS-IA Roberts issued a second decision to Holdover
24 Council Defendants:

25
I want to reiterate that pursuant to our Nation-to-Nation relationship, the Department of the Interior (Department) will not recognize actions by you and the current Tribal Council members without a quorum consistent with the Nooksack Tribe’s (Tribe) Constitution and decisions issued by the

1 **Northwest Intertribal Court System.**

2 **As I stated in my October 17, 2016 letter, the Department will only recognize**
3 **those actions taken by the Tribal Council prior to March 2016, when a**
4 **quorum existed, and will not recognize any actions taken since that time**
5 **because of the lack of quorum.** Accordingly, until a Council is seated through an
6 election consistent with tribal law and the decisions of the Northwest Intertribal
7 Court System, we will not recognize any “referendum election” including the
8 purported results posted on the Tribe’s Facebook page on November 4, 2016,
9 claiming to disenroll current tribal citizens or any other action inconsistent with the
10 plan language of the Tribe’s laws. . . .

11 I reiterate that elections or actions inconsistent with 1) the Court of Appeals’ Order
12 of March 22, 2016, in *Belmont v. Kelly*; 2) the trial court’s decisions of January 26,
13 2016, and February 9, 2016; and 3) Nooksack law will not be recognized by the
14 Department.

15 (emphasis added). Holdover Council Defendants and Defendant King George’s disenrollment
16 efforts, as referenced by AS-IA Roberts, violate federal law. *See* 25 C.F.R. §§ 2.6(a), (b); 43
17 C.F.R. § 4.314(a); *St. Germain v. Acting N.W. Reg’l Dir.*, IBIA No.16-022.

18 77. Defendant Dodge had actual notice of AS-IA Roberts’ second decision and thus
19 his lack of jurisdiction insofar as Interior again refused to recognize any actions taken by the
20 NITC since March 24, 2016, including the appointment of Defendant Dodge, as well as any
21 Nooksack judicial decisions except those made either by (a) the Nooksack Tribal (trial) Court
22 prior to March 24, 2016; or (b) by NICS as the Nooksack Court of Appeals prior to or since
23 March 24, 2016.

24 78. On November 16, 17, and 18, 2016, Holdover Council Defendants conducted 10-
25 minute “meetings” via teleconference to accomplish the purported disenrollment of Plaintiffs and
over 275 other Tribal members. Holdover Council Defendants participated in the telephonic
meetings.

79. On November 18, 2016, U.S. Department of Health and Human Services (“HHS”)

1 Indian Health Service Portland Area Director Dean M. Seyler informed Defendant Kelly that
2 HHS would not recognize any post-March 24, 2016, actions of Holdover Council Defendants
3 “until the Tribe has a sufficient quorum” HHS cited to the Roberts Decision.

4 80. On November 22, 2016, Holdover Council Defendants purportedly passed over
5 275 NITC Resolutions to disenroll Plaintiffs and over 275 other Tribal members, respectively.
6

7 81. On November 28, 2016, Holdover Council Defendants notified the NSSD by that
8 it had purportedly disenrolled Plaintiffs Aure and Peato. Holdover Council Defendants instructed
9 the NSSD to deny Mr. Aure and Ms. Peato—both parents to several small children—TANF
10 assistance.
11

12 82. Also on November 28, 2018, Plaintiff Olive Oshiro was denied medical
13 prescription refills at both Hoagland Pharmacy and Walgreens Pharmacy in Bellingham,
14 Washington. At the direction of Holdover Council Defendants, NIHD Director Defendant
15 Johnson caused those pharmacies to be provided a list of purportedly disenrolled Nooksack
16 members, including all Plaintiffs, who were no longer being afforded Nooksack medical
17 insurance for their prescriptions.

18 83. On November 30, 2016, at the direction of Holdover Council Defendants, NIHD
19 Director Defendant Johnson mailed Plaintiffs Aure and Peato a letter regarding “Notice of
20 Discontinuation of Services.” Defendant Johnson informed Mr. Aure and Ms. Peato that they
21 were ineligible for NIHD-provided health care services based on actions taken by Holdover
22 Council Defendants.
23

24 84. On December 1, 2016, at the direction of Holdover Council Defendants, NSSD
25 TANF Program Director Heidi Davis mailed Plaintiffs Aure and Peato a letter discontinuing their

1 TANF benefits effective as of December 11, 2016.

2 85. On December 9, 2016, Tom Carney, HUD Office of Native American Programs
3 Director, informed Holdover Council Defendants that HUD had rejected the NIHA's FY 2017
4 Indian Housing Plan, citing the Roberts Decision to not recognize any actions taken by Holdover
5 Council since March 24, 2016. Holdover Council Defendants have not appealed or otherwise
6 challenged Mr. Carney's decision.
7

8 86. On December 13, 2016, HHS Indian Health Service Principal Deputy Director
9 Mary Smith informed Holdover Council Defendants that HHS would not recognize the acts of
10 Holdover Council Defendants to disenroll Plaintiffs because Holdover Council Defendants
11 "lacked a sufficient quorum and were done in violation of the Tribe's own Constitution and
12 bylaws," also citing to the Roberts Decision. Holdover Council Defendants have not appealed or
13 otherwise challenged Principal Deputy Director Smith's decision.
14

15 87. On December 14, 2016, at the direction of the Holdover Council Defendants and
16 NIHD Director Defendant Johnson mailed Plaintiff Elizabeth Oshiro a letter stating that the
17 NIHD had denied her application for HHS-funded Community Health Program benefits.

18 88. On December 14, 2016, Holdover Council Defendants and Defendant Johnson
19 caused a letter to be mailed to S.C., Plaintiff Aure's minor-aged son, informing S.C. that his
20 application for HHS-funded Community Health Program benefits was denied "due to the recent
21 disenrollment."
22

23 89. On December 15, 2016, Defendant Dodge issued an "Order Allowing Entry Order
24 of Eviction and Writ of Restitution" ("Eviction Order"), which "ORDERED evicted" Plaintiff
25 Rabang and her family from her HUD MHOP home. The Eviction Order also directed Nooksack

1 Tribal Police to evict Ms. Rabang and all her family from her home by December 28, 2016.

2 90. On December 22, 2016, Defendant Dodge issued an “Order Following Show
3 Cause Hearing” (“Order Following Show Cause”), amending his Eviction Order to evict Plaintiff
4 Rabang “and all members of her household” by December 28, 2016. Defendant Dodge mailed
5 his Order Following Show Cause to Ms. Rabang on December 23, 2016.
6

7 91. On December 23, 2016, AS-IA Roberts issued a third decision to Holdover
8 Council Defendants:

9 On October 17, 2016, and November 14, 2016, I sent letters to you regarding the
10 status of the [NITC Council]. The letters explained that, pursuant to [the Tribe’s]
11 constitution and laws, as of April 2016, the Tribal Council is no longer operating
12 with a quorum and therefore lacks authority to conduct business on behalf of the
13 Tribe. The letter stated further that the Department of the Interior (Department)
14 will recognize only those actions taken by the Tribal Council prior to March 24,
15 2016, when a quorum existed, and would not recognize any subsequent actions by
16 the Tribal Council until a valid election, consistent with the Tribe’s constitution
17 and the decisions of the Tribe’s Court of Appeals, the Northwest Intertribal Court
18 System, is held and a quorum of council members is achieved.

15 It has come to the Department’s attention that orders of eviction may have been
16 recently issued to be served by the Nooksack Chief of Police or could be issued
17 and served in the near future. **It appears that such orders are based on actions
18 taken by the Tribal Council after March 24, 2016. Therefore, as explained to
19 you above and in the previous letters to you, those orders are invalid and the
20 Department does not recognize them as lawful**

19 (emphasis added).

20 92. Defendant Dodge had actual notice of AS-IA Roberts’ third decision, which
21 refused to recognize as legitimate any action of the NITC after March 24, 2016, including
22 Defendant Dodge’s appointment, and thus his lack of jurisdiction insofar as Interior once again
23 refused to recognize any Nooksack Tribal (trial) Court decisions issued after March 24, 2016.
24

25 93. Defendant Dodge is an avid reader of the Michigan State University College of

1 Law’s Turtle Talk Blog, a leading federal Indian and tribal law blog that published AS-IA
2 Roberts’ first, second, and third decisions soon after AS-IA Roberts issued each decision,
3 respectively. *See* Email from Raymond G. Dodge, Jr., to Prof. Matthew Fletcher (Mar. 8, 2016)
4 (“I noticed in the recent posting on Turtle Talk regarding the Nooksack 306, there were four
5 declarations that were not posted. I have attached the first of three parts of one of those
6 declaration, along with attachments.”); Letter from Raymond G. Dodge, Jr., to Hon. Richard
7 Blake, President, National Indian Court Judges Association (Apr. 3, 2017) (discussing “publicly
8 available motions and papers that [he] filed” both in this suit and in *Nooksack Indian Tribal v.*
9 *Zinke*, 2:17-cv-0219-TSZ (W.D. Wash.))³; Letter from Raymond G. Dodge, Jr., to Hon. Richard
10 Blake, President, National Indian Court Judges Association (Apr. 12, 2017) (discussing papers
11 about him “published on popular Indian law blog titled Turtle Talk”). Defendant Dodge thereby
12 had further actual notice of AS-IA Roberts’ three decisions and thus his lack of jurisdiction
13 thereunder, soon after each decision was issued.

14
15
16 94. On January 3, 2017, Defendant Edwards caused Plaintiff Elizabeth Oshiro to be
17 mailed a letter informing her that federal Johnson O’Malley education assistance for her son was
18 denied “due to the recent disenrollment.”

19
20 95. The efforts to defraud Ms. Rabang of her HUD MHOP home remain ongoing.
21 Holdover Council Defendants along with Defendants Romero, Dodge, and Armstrong continue to
22 aggressively pursue Ms. Rabang in NTC, and have directed the Nooksack police to do the same,
23 despite AS-IA Roberts’ third decision in particular.

24 96. On March 24, 2017, the National Indian Court Judges Association Board of

25

³ Defendant Dodge’s admission that *he* has been involved in filing papers in *Nooksack Indian Tribal v. Zinke*, underscores his intimate involvement in RICO Defendants’ entire scheme to defraud Plaintiffs and personally enrich themselves, dating back to December 2015, shortly after he arrived at Nooksack.

1 Directors (NAICJA) wrote Defendant Dodge, quoting AS-IA Roberts’ first and third decisions:

2 NAICJA does not view your Nooksack Tribal Court judicial appointment as valid.
3 Further, while you have occupied the position of Chief Judge at Nooksack,
4 proceedings do not appear to have been conducted in compliance with the federal
[Indian Civil Rights Act] or fundamental tenets of due process at law. . . .

5 NAICJA can only support members who are legitimate and comport with . . . core
6 tenet[s] of tribal democracy and judicial integrity.

7 Accordingly, NAICJA requested Defendant Dodge’s resignation from its membership.

8 97. RICO Defendants’ fraudulent activities remain ongoing.

9 **IV. CLAIMS FOR RELIEF**

10 **FIRST CLAIM FOR RELIEF:**

11 **Violations of Federal Civil RICO—Conduct of a RICO Enterprise, 18 U.S.C. § 1962(c)**
12 **(RICO Defendants Kelly, George, Smith, Solomon, Johnson, Canete, Dodge, King George,**
Romero, and Edwards)

13 98. Plaintiffs incorporate by reference all the preceding paragraphs of this Complaint
14 as if fully set forth herein.

15 99. At all relevant times, RICO Defendants are each “person[s]” within the meaning of
16 18 U.S.C. §§ 1961(3) and 1962(c).

17 100. RICO Defendants each violated 18 U.S.C. § 1962(c) by the acts described in the
18 paragraphs below.

19 **The Enterprises**

20 *The Nooksack Indian Tribe*

21 101. At all relevant times, the Tribe constitutes an “Enterprise” within the meaning of
22 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the Tribe was engaged in, and/or its
23 activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C.
24 § 1962(c). At all relevant times, RICO Defendants held a position in the Tribe as well as
25

1 participated in the operation, management, and directed the affairs of the Tribe. The Tribe, as
2 alleged herein, was not limited to RICO Defendants' predicate acts and has activities extending
3 beyond RICO Defendants' racketeering activity. The Tribe exists separate and apart from the
4 pattern of racketeering activity. RICO Defendants have had and do have legitimate governmental
5 business plans outside the pattern of racketeering activity related to the Tribe.
6

7 *The Nooksack Indian Tribal Council*

8 102. At all relevant times, NITC constitutes an "Enterprise" within the meaning of 18
9 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NITC was engaged in, and/or its activities
10 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
11 1962(c). At all relevant times, RICO Defendants held a position in or were otherwise affiliated
12 with NITC as well as participated in the operation, management, and directed the affairs of NITC.
13 NITC, as alleged herein, was not limited to RICO Defendants' predicate acts and has activities
14 extending beyond RICO Defendants' racketeering activity. NITC exists separate and apart from
15 the pattern of racketeering activity for the legitimate governmental business purpose of operating
16 as the governing body of the Tribe. RICO Defendants have had and do have legitimate
17 governmental business plans outside the pattern of racketeering activity related to NITC.
18

19 *Nooksack Tribal Court*

20 103. At all relevant times, NTC constitutes an "Enterprise" within the meaning of 18
21 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NTC was engaged in, and/or its activities
22 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
23 1962(c). At all relevant times, RICO Defendants held a position in or were otherwise affiliated
24 with NTC as well as participated in the operation, management, and directed the affairs of NTC.
25

1 NTC, as alleged herein, was not limited to RICO Defendants' predicate acts and has activities
2 extending beyond RICO Defendants' racketeering activity. NTC exists separate and apart from
3 the pattern of racketeering activity for the legitimate governmental business purpose of providing
4 a forum for the Tribal community to resolve disputes. RICO Defendants have had and do have
5 legitimate governmental business plans outside the pattern of racketeering activity related to
6 NTC.

8 *Nooksack Indian Housing Authority*

9 104. At all relevant times, NIHA constitutes an "Enterprise" within the meaning of 18
10 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NIHA was engaged in, and/or its activities
11 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
12 1962(c). At all relevant times, RICO Defendants held a position in or were otherwise affiliated
13 with NIHA as well as participated in the operation, management, and directed the affairs of
14 NIHA. NIHA, as alleged herein, was not limited to RICO Defendants' predicate acts and has
15 business extending beyond RICO Defendants' racketeering activity. NIHA exists separate and
16 apart from the pattern of racketeering activity for the legitimate governmental business purpose of
17 providing housing-related services to the Tribal community. RICO Defendants have had and do
18 have legitimate governmental business plans outside the pattern of racketeering activity related to
19 NIHA.

22 *Nooksack Enrollment Department*

23 105. At all times relevant hereto, NED constitutes an "Enterprise" within the meaning
24 of 18 U.S.C. §§ 1961(4) and 1962(c). At all times relevant hereto, NED was engaged in, and/or
25 its activities affected, interstate commerce and/or foreign commerce within the meaning of 18

1 U.S.C. § 1962(c). At all relevant times, RICO Defendants held a position in or were otherwise
2 affiliated with NED as well as participated in the operation, management, and directed the affairs
3 of the NED. NED, as alleged herein, was not limited to RICO Defendants' predicate acts and has
4 activities extending beyond RICO Defendants' racketeering activity. NED exists separate and
5 apart from the pattern of racketeering activity for the purpose of providing information regarding
6 the enrollment process and criteria for enrollment, processing enrollment applications, and
7 keeping records and statistics for all members of the Tribe. RICO Defendants have had and do
8 have legitimate governmental business plans outside the pattern of racketeering activity related to
9 NED.
10

11 *Nooksack Indian Health Department*

12 106. At all relevant times, NIHD constitutes an "Enterprise" within the meaning of 18
13 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NIHD was engaged in, and/or its activities
14 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
15 1962(c). At all relevant times, RICO Defendants held a position in or were otherwise affiliated
16 with NIHD as well as participated in the operation, management, and directed the affairs of
17 NIHD. NIHD, as alleged herein, was not limited to RICO Defendants' predicate acts and has
18 activities extending beyond RICO Defendants' racketeering activity. NIHD exists separate and
19 apart from the pattern of racketeering activity for the purpose of providing health care services for
20 the Tribe. RICO Defendants have had and do have legitimate governmental business plans
21 outside the pattern of racketeering activity related to NIHD.
22

23 *Nooksack Education Department*

24 107. At all relevant times, NEdD constitutes an "Enterprise" within the meaning of 18
25

1 U.S.C. §§ 1961(4) and 1962(c).

2 108. At all relevant times, NEdD was engaged in, and/or its activities affected,
3 interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c). At all
4 relevant times, RICO Defendants held a position in or were otherwise affiliated with NEdD as
5 well as participated in the operation, management, and directed the affairs of NEdD. NEdD, as
6 alleged herein, was not limited to RICO Defendants' predicate acts and has activities extending
7 beyond RICO Defendants' racketeering activity. NEdD exists separate and apart from the pattern
8 of racketeering activity for the purpose of providing quality educational opportunities for Tribal
9 members. RICO Defendants have had and do have legitimate governmental business plans
10 outside the pattern of racketeering activity related to the NEdD.
11

12 **Pattern of Racketeering Activity**

13
14 109. RICO Defendants, each of whom are persons associated with, or employed by, the
15 Tribe, NITC, NIHA, NTC, NED, NIHD, and NEdD, did knowingly, willfully, and unlawfully
16 conduct or participate, directly or indirectly, in the conduct, management, or operation of the
17 affairs of the Tribe, NITC, NIHA, NTC, NED, NIHD, and NEdD through a pattern of
18 racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5), and 1962(c), through
19 multiple instances of Mail Fraud and Wire Fraud, in violation of 18 U.S.C. §§ 1341 and 1343.
20

21 **Use of the Mails and Wires to Defraud, in violation of 18 U.S.C. §§ 1341 and 1343**

22 110. RICO Defendants devised or intended to devise a scheme to defraud Plaintiffs of
23 money, property, and other tribal, state, and federal benefits of monetary value by depriving
24 Plaintiffs of their Tribal membership by means of false or fraudulent pretenses and
25 representations.

1 111. For the purposes of executing their scheme, RICO Defendants delivered or caused
2 delivery of various documents and things by the U.S. mails or by private or commercial interstate
3 carriers, or received such therefrom. For the purposes of executing their scheme, RICO
4 Defendants transmitted or caused to be transmitted by means of wire communications in interstate
5 or foreign commerce various writings, signs, and signals.

6
7 112. In furtherance of their scheme, RICO Defendants used the wires and/or U.S. mails
8 or private or commercial carriers to delivery documents and things to Plaintiffs or the Enterprises
9 for the purposes of defrauding Plaintiffs, including, but not limited to the following:

- 10 a. Emails and website postings incorporating false, fraudulent and misleading
11 statements regarding: the authority of Holdover Council Defendants; the
12 purported disenrollment of Plaintiffs; eligibility of Plaintiffs for money and
13 property as well as other tribal, state and federal benefits; directions,
14 instructions and actions taken to deprive Plaintiffs of money and property
15 as well as other tribal, state and federal benefits.
- 16
17 b. Wirings and/or mailings between and among RICO Defendants
18 concerning: the scheme to defraud Plaintiffs of money and property as well
19 as other tribal, state and federal benefits.
- 20
21 c. Funds transferred between Defendants with the intent that those funds be
22 used to promote the carrying on of Defendants' scheme to defraud
23 Plaintiffs of money and property as well as other tribal, state and federal
24 benefits;
- 25 d. Electronic filing and service of court papers containing false and

1 misleading statements intended to further Defendants' scheme to defraud
2 money and property as well as other tribal, state and federal benefits.

3 113. The RICO Defendants used wire and mail communications in furtherance of their
4 scheme to defraud Plaintiffs, in violation of 18 U.S.C. §§ 1341 and 1343, including but not
5 limited to, the following instances:
6

- 7 a. Holdover Council Defendants notified Defendant King George by mail/wire on
8 or about June 6, 2016, that they had disenrolled Plaintiff Rabang and to take
9 specific action to defraud Ms. Rabang of her money and property.
- 10 b. Holdover Council Defendants notified Defendant King George by mail/wire on
11 or about June 6, 2016, that they had disenrolled Plaintiff Elizabeth Oshiro and
12 to take specific action to defraud Ms. Oshiro of her money and property.
- 13 c. Defendant King George mailed Plaintiff Rabang on June 3, 2016, a letter titled
14 "IMPORTANT LEGAL NOTICE OF INVOLUNTARY
15 DISENROLLMENT."
16
- 17 d. Defendant King George mailed Plaintiff Elizabeth Oshiro on June 3, 2016, a
18 letter titled "IMPORTANT LEGAL NOTICE OF INVOLUNTARY
19 DISENROLLMENT."
20
- 21 e. Holdover Council Defendants notified NIHA by mail/wire of its disenrollment
22 of Plaintiff Rabang on June 6, 2016, and directed NIHA and/or Defendant
23 Romero by mail/wire to take further action to deprive Ms. Rabang of her HUD
24 MHOP home.
- 25 f. Holdover Council notified NIHA by mail/wire of its disenrollment of Plaintiff

1 Elizabeth Oshiro on June 6, 2016, and directed NIHA and/or Defendant
2 Romero to take further action to deprive Ms. Oshiro of her HUD MHOP home.

3 g. Defendant Romero mailed Plaintiff Elizabeth Oshiro a “30-day termination
4 notice” some time between June 6 and July 11, 2016.

5 h. Defendants Dodge and Armstrong mailed “Amended Notice of Hearing” to
6 Plaintiff Elizabeth Oshiro on July 11, 2016.

7 i. Defendant Dodge mailed an “eviction order” to Plaintiff Elizabeth Oshiro on
8 July 20, 2016.

9 j. Defendant Dodge mailed or wired Defendant Romero a copy of an “eviction
10 order” for Plaintiff Elizabeth Oshiro on July 27, 2016.

11 k. Defendant Romero mailed a “14 DAY NOTICE TO VACATE” to Plaintiff
12 Rabang on October 3, 2016.

13 l. Holdover Council Defendants mailed Plaintiff Peato an “IMPORTANT
14 LEGAL NOTICE OF DISENROLLMENT” on November 9, 2016.

15 m. Holdover Council Defendants mailed Plaintiff Aure an “IMPORTANT
16 LEGAL NOTICE OF DISENROLLMENT” on November 9, 2016.

17 n. Holdover Council Defendants mailed Plaintiff Olive Oshiro an “IMPORTANT
18 LEGAL NOTICE OF DISENROLLMENT” on November 9, 2016.

19 o. Holdover Council Defendants conducted telephonic disenrollment hearings on
20 November 16, 17, and 18, 2016, with all Plaintiffs.

21 p. Holdover Council Defendants notified NSSD by mail or wire of its
22 disenrollment of Plaintiff Aure on November 28, 2016, and to take action to
23
24
25

1 deprive Mr. Aure of money, property, and other benefits.

2 q. Holdover Council Defendants notified NSSD by mail or wire of its
3 disenrollment of Plaintiff Peato on November 28, 2016, and to take action to
4 deprive Plaintiff Ms. Peato of money, property, or other benefits.

5 r. Defendant Johnson mailed letter on November 30, 2016, titled “Notice of
6 Discontinuation of Services” to all Plaintiffs that stated all Plaintiffs would be
7 deprived of healthcare services as a result of Holdover Council’s actions.

8 s. Holdover Council caused TANF program director to mail Plaintiff Aure on
9 December 1, 2016, that it would discontinue TANF benefits to Mr. Aure.

10 t. Holdover Council caused TANF program director to mail Plaintiff Peato on
11 December 1, 2016, that it would discontinue TANF benefits to Ms. Peato.

12 u. Defendant Johnson caused a letter to be mailed to S.C., Plaintiff Aure’s minor-
13 aged son, informing S.C. that his application for HHS-funded Community
14 Health Program benefits was denied “due to the recent disenrollment,” on
15 December 14, 2016.

16 v. Defendant Dodge mailed his “Order Following Show Cause Hearing” to
17 Plaintiff Margretty Rabang on December 23, 2016.

18 w. Defendant Edwards caused Plaintiff Elizabeth Oshiro to be mailed a letter
19 informing her that federal Johnson O’Malley education assistance for her son
20 was denied “due to the recent disenrollment,” on January 3, 2017.

21
22
23
24 114. RICO Defendants used the wires and mails in interstate commerce with intent to
25 promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or

1 carrying on, of an unlawful activity.

2 115. RICO Defendants racketeering activities were multiple, continuous, and ongoing
3 from about December of 2015, and remain ongoing.

4 116. RICO Defendants participated in the scheme or artifice knowingly, willfully, and
5 with the specific intent to advance their scheme to deceive or defraud Plaintiffs. RICO
6 Defendants knowingly and intentionally prepared documents, including but not limited to,
7 resolutions, court papers, letters, notices, and other documents, and then knowingly and with the
8 intent to deceive Plaintiffs, caused those documents to be sent to Plaintiffs or entities that would
9 further RICO Defendants' scheme to defraud.
10

11 **Summary**

12 117. Each RICO Defendant has engaged in multiple predicate acts, as described in
13 paragraphs 33-81, 96-97, *supra*. The conduct of each RICO Defendant described in paragraphs
14 33-81, 96-97, *supra*, constitutes a pattern of racketeering activity within the meaning of 18 U.S.C.
15 § 1961(5).
16

17 118. RICO Defendants' violations of federal law as set forth herein, each of which
18 directly and proximately injured Plaintiffs, constitutes a continuous course of conduct, which was
19 intended to defraud Plaintiffs of money and property through false representations, fraud, deceit,
20 and other improper and unlawful means. Therefore, said violations were a part of racketeering
21 activity as defined by 18 U.S.C. §§ 1961(1) and (5).
22

23 119. Plaintiffs were injured in their money and property by reason of RICO Defendants'
24 violation of 18 U.S.C. § 1962(c).

25 120. RICO Defendants' injuries to Plaintiffs were a direct, proximate, and reasonably

1 foreseeable result of their violation of 18 U.S.C. § 1962. Plaintiffs are the ultimate victims of
2 RICO Defendants’ unlawful enterprises. Plaintiffs have been and will continue to be injured in
3 their money and property in an amount to be determined at trial.

4 121. Pursuant to 18 U.S.C. § 1962(c), Plaintiffs are entitled to recover treble damages
5 plus costs and attorneys’ fees from RICO Defendants as well as any other relief authorized by
6 statute.
7

8 **SECOND CLAIM FOR RELIEF:**

9 **Violations of Federal Civil RICO—Taking Control of an Enterprise, 18 U.S.C. § 1962(b)**
10 **(RICO Defendants Kelly, George, Smith, Solomon, Johnson, Canete, Dodge, King George,**
11 **Romero, Edwards, and Armstrong)**

12 122. Plaintiffs incorporate by reference all the preceding paragraphs of this Complaint
13 as if fully set forth herein.

14 123. At all relevant times, RICO Defendants each were “person[s]” pursuant to 18
15 U.S.C. §§ 1961(3) and 1962(d).

16 124. At all relevant times, the Tribe constitutes an “Enterprise” within the meaning of
17 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the Tribe was engaged in, and/or its
18 activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C.
19 § 1962(c). At all times relevant hereto, RICO Defendants each held a position in or were
20 otherwise affiliated with the Tribe as well as participated in the operation, management, and
21 directed the affairs of the Tribe. The Tribe, as alleged herein, was not limited to RICO
22 Defendants’ predicate acts and has activities extending beyond RICO Defendants’ racketeering
23 activity. The Tribe exists separate and apart from the pattern of racketeering activity. RICO
24 Defendants have had and do have legitimate governmental business plans outside the pattern of
25 racketeering activity related to the Tribe.

1 125. Through a pattern of racketeering activity alleged herein, including without
2 limitation the RICO Defendants' violations of 18 U.S.C. §§ 1341 and 1343, RICO Defendants
3 took control of the Tribe.

4 126. At all relevant times, NITC constitutes an "Enterprise" within the meaning of 18
5 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NITC was engaged in, and/or its activities
6 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
7 1962(c). At all times relevant hereto, RICO Defendants held a position in or were otherwise
8 affiliated with NITC as well as participated in the operation, management, and directed the affairs
9 of NITC. NITC, as alleged herein, was not limited to RICO Defendants' predicate acts and has
10 activities extending beyond RICO Defendants' racketeering activity. NITC exists separate and
11 apart from the pattern of racketeering activity for the legitimate governmental business purpose of
12 operating as the governing body of the Tribe. RICO Defendants have had and do have legitimate
13 governmental business plans outside the pattern of racketeering activity related to NITC.

14 127. Through a pattern of racketeering activity alleged herein, including without
15 limitation the RICO Defendants' violations of 18 U.S.C. §§ 1341 and 1343, RICO Defendants
16 took control of NITC.

17 128. At all relevant times, NTC constitutes an "Enterprise" within the meaning of 18
18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NTC was engaged in, and/or its activities
19 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
20 1962(c). At all times relevant hereto, RICO Defendants participated in or were otherwise
21 affiliated with the operation, management, and directed the affairs of NTC. NTC, as alleged
22 herein, was not limited to RICO Defendants' predicate acts and has activities extending beyond
23
24
25

1 RICO Defendants' racketeering activity. NTC exists separate and apart from the pattern of
2 racketeering activity for the legitimate governmental business purpose of providing a forum for
3 the Tribal community to resolve disputes. RICO Defendants have had and do have legitimate
4 governmental business plans outside the pattern of racketeering activity related to NTC.

5
6 129. Through a pattern of racketeering activity alleged herein, including without
7 limitation the RICO Defendants' violations of 18 U.S.C. §§ 1341 and 1343, RICO Defendants
8 took control of NTC.

9 130. At all relevant times, NIHA constitutes an "Enterprise" within the meaning of 18
10 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NIHA was engaged in, and/or its activities
11 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
12 1962(c). At all times relevant hereto, RICO Defendants participated in or were otherwise
13 affiliated with the operation, management, and directed the affairs of NIHA. NIHA, as alleged
14 herein, was not limited to RICO Defendants' predicate acts and has business extending beyond
15 RICO Defendants' racketeering activity. NIHA exists separate and apart from the pattern of
16 racketeering activity for the legitimate governmental business purpose of providing housing-
17 related services to the Tribal community. RICO Defendants have had and do have legitimate
18 governmental business plans outside the pattern of racketeering activity related to NIHA.
19

20
21 131. Through a pattern of racketeering activity alleged herein, including without
22 limitation the RICO Defendants' violations of 18 U.S.C. §§ 1341 and 1343, RICO Defendants
23 took control of NIHA.

24 132. At all times relevant hereto, NED constitutes an "Enterprise" within the meaning
25 of 18 U.S.C. §§ 1961(4) and 1962(c). At all times relevant hereto, NED was engaged in, and/or

1 its activities affected, interstate commerce and/or foreign commerce within the meaning of 18
2 U.S.C. § 1962(c). At all times relevant hereto, RICO Defendants participated in the operation,
3 management, and directed the affairs of NED. NED, as alleged herein, was not limited to RICO
4 Defendants' predicate acts and has activities extending beyond Defendants' racketeering activity.
5 NED exists separate and apart from the pattern of racketeering activity for the purpose of
6 providing information regarding the enrollment process and criteria for enrollment, processing
7 enrollment applications, and keeping records and statistics for all members of the Tribe. RICO
8 Defendants have had and do have legitimate governmental business plans outside the pattern of
9 racketeering activity related to NED.
10

11 133. Through a pattern of racketeering activity alleged herein, including without
12 limitation the RICO Defendants' violations of 18 U.S.C. §§ 1341 and 1343, RICO Defendants
13 took control of NED.
14

15 134. At all times relevant hereto, NIHD constitutes an "Enterprise" within the meaning
16 of 18 U.S.C. §§ 1961(4) and 1962(c). At all times relevant hereto, NIHD was engaged in, and/or
17 its activities affected, interstate commerce and/or foreign commerce within the meaning of 18
18 U.S.C. § 1962(c). At all times relevant hereto, RICO Defendants participated in the operation,
19 management, and directed the affairs of NIHD. NIHD, as alleged herein, was not limited to
20 RICO Defendants' predicate acts and has activities extending beyond Defendants' racketeering
21 activity. NIHD exists separate and apart from the pattern of racketeering activity for the purpose
22 of providing information regarding the enrollment process and criteria for enrollment, processing
23 enrollment applications, and keeping records and statistics for all members of the Tribe. RICO
24 Defendants have had and do have legitimate governmental business plans outside the pattern of
25

1 racketeering activity related to NIHD.

2 135. Through a pattern of racketeering activity alleged herein, including without
3 limitation the RICO Defendants' violations of 18 U.S.C. §§ 1341 and 1343, RICO Defendants
4 took control of NIHD.

5 136. At all times relevant hereto, NEdD constitutes an "Enterprise" within the meaning
6 of 18 U.S.C. §§ 1961(4) and 1962(c). At all times relevant hereto, NEdD was engaged in, and/or
7 its activities affected, interstate commerce and/or foreign commerce within the meaning of 18
8 U.S.C. § 1962(c). At all times relevant hereto, RICO Defendants participated in the operation,
9 management, and directed the affairs of NEdD. NEdD, as alleged herein, was not limited to
10 RICO Defendants' predicate acts and has activities extending beyond Defendants' racketeering
11 activity. NEdD exists separate and apart from the pattern of racketeering activity for the purpose
12 of providing quality educational opportunities for Tribal members. RICO Defendants have had
13 and do have legitimate governmental business plans outside the pattern of racketeering activity
14 related to NEdD.

15 137. Through a pattern of racketeering activity alleged herein, including without
16 limitation the RICO Defendants' violations of 18 U.S.C. §§ 1341 and 1343, RICO Defendants
17 took control of NEdD.

18 138. By controlling the Tribe, NITC, NIHA, NTC, NED, NIHD, and NEdD, RICO
19 Defendants were able to cause these Enterprises to take actions to defraud Plaintiffs of money,
20 property, and benefits of monetary value.

21 139. As a direct and proximate result of RICO Defendants' taking control of the Tribe,
22 the NITC, the NIHA, the NTC, the NED, the NIHD, and the NEdD, in violation of 18 U.S.C. §
23
24
25

1 1962, Plaintiffs were injured in their monies, property, and benefits of monetary value.

2 140. Pursuant to 18 U.S.C. § 1962(c), Plaintiffs are entitled to recover treble damages
3 plus costs and attorneys' fees from RICO Defendants as well as any other relief authorized by
4 statute.

5 **THIRD CLAIM FOR RELIEF:**

6 **Violations of Civil RICO—Conspiracy to Violate § 1962(c) of RICO, 18 U.S.C. § 1962(d)**
7 **(RICO Defendants Kelly, George, Smith, Solomon, Johnson, Canete, Dodge, King George,**
8 **Romero, Edwards, and Armstrong)**

9 141. Plaintiffs incorporate by reference all the preceding paragraphs of this Complaint
10 as if fully set forth herein.

11 142. At all relevant times, RICO Defendants each were “person[s]” pursuant to 18
12 U.S.C. §§ 1961(3) and 1962(d).

13 143. At all relevant times, the Tribe constitutes an “Enterprise” within the meaning of
14 18 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, the Tribe was engaged in, and/or its
15 activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C.
16 § 1962(c). At all times relevant hereto, RICO Defendants each held a position in or were
17 otherwise affiliated with the Tribe as well as participated in the operation, management, and
18 directed the affairs of the Tribe. The Tribe, as alleged herein, was not limited to RICO
19 Defendants' predicate acts and has activities extending beyond RICO Defendants' racketeering
20 activity. The Tribe exists separate and apart from the pattern of racketeering activity. RICO
21 Defendants have had and do have legitimate governmental business plans outside the pattern of
22 racketeering activity related to the Tribe.

23 144. At all relevant times, NITC constitutes an “Enterprise” within the meaning of 18
24 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NITC was engaged in, and/or its activities
25

1 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
2 1962(c). At all times relevant hereto, RICO Defendants held a position in or were otherwise
3 affiliated with NITC as well as participated in the operation, management, and directed the affairs
4 of NITC. NITC, as alleged herein, was not limited to RICO Defendants' predicate acts and has
5 activities extending beyond RICO Defendants' racketeering activity. NITC exists separate and
6 apart from the pattern of racketeering activity for the legitimate governmental business purpose of
7 operating as the governing body of the Tribe. RICO Defendants have had and do have legitimate
8 governmental business plans outside the pattern of racketeering activity related to NITC.
9

10 145. At all relevant times, NTC constitutes an "Enterprise" within the meaning of 18
11 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NTC was engaged in, and/or its activities
12 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
13 1962(c). At all times relevant hereto, RICO Defendants participated in or were otherwise
14 affiliated with the operation, management, and directed the affairs of NTC. NTC, as alleged
15 herein, was not limited to RICO Defendants' predicate acts and has activities extending beyond
16 RICO Defendants' racketeering activity. NTC exists separate and apart from the pattern of
17 racketeering activity for the legitimate governmental business purpose of providing a forum for
18 the Tribal community to resolve disputes. RICO Defendants have had and do have legitimate
19 governmental business plans outside the pattern of racketeering activity related to NTC.
20

21 146. At all relevant times, NIHA constitutes an "Enterprise" within the meaning of 18
22 U.S.C. §§ 1961(4) and 1962(c). At all relevant times, NIHA was engaged in, and/or its activities
23 affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. §
24 1962(c). At all times relevant hereto, RICO Defendants participated in or were otherwise
25

1 affiliated with the operation, management, and directed the affairs of NIHA. NIHA, as alleged
2 herein, was not limited to RICO Defendants' predicate acts and has business extending beyond
3 RICO Defendants' racketeering activity. NIHA exists separate and apart from the pattern of
4 racketeering activity for the legitimate governmental business purpose of providing housing-
5 related services to the Tribal community. RICO Defendants have had and do have legitimate
6 governmental business plans outside the pattern of racketeering activity related to NIHA.
7

8 147. At all times relevant hereto, NED constitutes an "Enterprise" within the meaning
9 of 18 U.S.C. §§ 1961(4) and 1962(c). At all times relevant hereto, NED was engaged in, and/or
10 its activities affected, interstate commerce and/or foreign commerce within the meaning of 18
11 U.S.C. § 1962(c). At all times relevant hereto, RICO Defendants participated in the operation,
12 management, and directed the affairs of NED. NED, as alleged herein, was not limited to RICO
13 Defendants' predicate acts and has activities extending beyond Defendants' racketeering activity.
14 NED exists separate and apart from the pattern of racketeering activity for the purpose of
15 providing information regarding the enrollment process and criteria for enrollment, processing
16 enrollment applications, and keeping records and statistics for all members of the Tribe. RICO
17 Defendants have had and do have legitimate governmental business plans outside the pattern of
18 racketeering activity related to NED.
19

20 148. At all times relevant hereto, NIHD constitutes an "Enterprise" within the meaning
21 of 18 U.S.C. §§ 1961(4) and 1962(c). At all times relevant hereto, NIHD was engaged in, and/or
22 its activities affected, interstate commerce and/or foreign commerce within the meaning of 18
23 U.S.C. § 1962(c). At all times relevant hereto, RICO Defendants participated in the operation,
24 management, and directed the affairs of NIHD. NIHD, as alleged herein, was not limited to
25

1 RICO Defendants' predicate acts and has activities extending beyond Defendants' racketeering
2 activity. NIHD exists separate and apart from the pattern of racketeering activity for the purpose
3 of providing information regarding the enrollment process and criteria for enrollment, processing
4 enrollment applications, and keeping records and statistics for all members of the Tribe. RICO
5 Defendants have had and do have legitimate governmental business plans outside the pattern of
6 racketeering activity related to NIHD.

7
8 149. At all times relevant hereto, NEdD constitutes an "Enterprise" within the meaning
9 of 18 U.S.C. §§ 1961(4) and 1962(c). At all times relevant hereto, NEdD was engaged in, and/or
10 its activities affected, interstate commerce and/or foreign commerce within the meaning of 18
11 U.S.C. § 1962(c). At all times relevant hereto, RICO Defendants participated in the operation,
12 management, and directed the affairs of NEdD. NEdD, as alleged herein, was not limited to
13 RICO Defendants' predicate acts and has activities extending beyond Defendants' racketeering
14 activity. NEdD exists separate and apart from the pattern of racketeering activity for the purpose
15 of providing quality educational opportunities for Tribal members. RICO Defendants have had
16 and do have legitimate governmental business plans outside the pattern of racketeering activity
17 related to NEdD.

18
19 150. RICO Defendants have unlawfully, knowingly and willfully combined, conspired,
20 confederated and agreed together and with others to violate 18 U.S.C. § 1962(c) as described
21 above, in violation of 18 U.S.C. § 1962(d).

22
23 151. The conspiracy commenced at least as early as December of 2015, and remains
24 ongoing.

25 152. The conspiracy's purpose was to defraud Plaintiffs of money, property, and

1 benefits of monetary value by fraudulently depriving Plaintiffs of their membership in the Tribe.

2 153. Each RICO Defendant committed at least one overt act in furtherance of such
3 conspiracy. These acts in furtherance of the conspiracy include, but are not limited to, the acts set
4 forth in paragraphs 33-81, 96-97, *supra*.

5 154. RICO Defendants knew that they were engaged in a conspiracy to commit the
6 predicate acts, and they knew that the predicate acts were part of such racketeering activity, and
7 the participation and agreement of each of RICO Defendants was necessary to allow the
8 commission of this pattern of racketeering activity. RICO Defendants' conduct constitutes a
9 conspiracy to violate 18 U.S.C. § 1962(c), in violation of 18 U.S.C. § 1962(d).
10

11 155. Each RICO Defendant knew about and agreed to facilitate the scheme to defraud
12 Plaintiffs of their money, property, and other tribal, state and federal benefits of monetary value
13 by fraudulently depriving them of their Tribal membership. It was part of the conspiracy that
14 RICO Defendants would commit a pattern of racketeering activity in the conduct of the affairs of
15 the Tribe, NITC, NED, NIHA, NTC, NIHD, and NEdD, including the acts of racketeering set
16 forth in paragraphs 33-81, 96-97, *supra*.
17

18 156. As a direct and proximate result of RICO Defendants' conspiracy, the acts of
19 racketeering activity of the Enterprises, the overt acts taken in furtherance of that conspiracy, and
20 violations of 18 U.S.C. § 1962(d), Plaintiffs have been injured in their money and property, in an
21 amount to be determined at trial.
22

23 157. Pursuant to 18 U.S.C. § 1964(c), Plaintiffs are entitled to recover treble damages
24 plus costs and attorneys' fees from Defendants as well as any other relief authorized by statute.
25

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

1. Award Plaintiffs such equitable injunctive and ancillary relief as may be necessary to avert the likelihood of Plaintiffs’ irreparable injury or prohibit the illicit conduct described herein during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, a temporary restraining order and a preliminary injunctions;
2. Award Plaintiffs a declaratory judgment;
3. Order RICO Defendants to cease and desist from violating 18 U.S.C. § 1964;
4. Enter judgment against RICO Defendants in an amount equal to three times the amount of damages to the United States has sustained because of RICO Defendants’ actions, plus a civil penalty for each violation of 18 U.S.C. § 1964;
5. Restitution to Plaintiffs of all money, property, and benefits Plaintiffs were unlawfully defrauded and deprived of by RICO Defendants;
6. Award attorneys’ fees and costs to Plaintiffs;
7. Award damages to Plaintiffs in an amount to be determined at trial; and
8. Grant to Plaintiffs whatever other relief the Court may deem just and proper.

DATED this 3rd day of May, 2017.

GALANDA BROADMAN PLLC

/s/ Gabriel S. Galanda

Gabriel S. Galanda, WSBA #30331
 Anthony S. Broadman, WSBA #39508
 Ryan D. Dreveskracht, WSBA #42593
 Bree R. Black Horse, WSBA #47803
 P.O. Box 15416
 8606 35th Avenue NE, Suite L1
 Seattle, WA 98115
 PH: 206-557-7509
 FX: 206-299-7690

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

gabe@galandabroadman.com
anthony@galandabroadman.com
ryan@galandabroadman.com
bree@galandabroadman.com

Attorneys for Plaintiffs