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Counsel for Matthew Cantor, Chapter 11 Trustee

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

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In re:	:	Case No: 18-14603 (MBK)
	:	
PRINCETON ALTERNATIVE INCOME FUND,	:	Chapter 11
LP, <i>et al.</i> ,	:	
	:	
Debtors. ¹	:	

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MATTHEW CANTOR, solely in his capacity	:	
as Chapter 11 Trustee for Debtors Princeton	:	ADVERSARY COMPLAINT
Alternative Income Fund, LP, and Princeton	:	
Alternative Funding, LLC f/k/a MicroBilt	:	Adv. Proc. No.
Capital Funding, LLC,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
PHILIP N. BURGESS, JR., MICROBILT	:	
CORPORATION, MICROBILT FINANCIAL	:	
SERVICES CORPORATION, ROSEBUD	:	
MANAGEMENT LLC, ALONZO J. PRIMUS,	:	
LJP CONSULTING LLC, WALTER	:	
WOJCIECHOWSKI, JOHN "JACK" COOK,	:	
and PRINCETON ALTERNATIVE FUNDING	:	
MANAGEMENT LLC,	:	
	:	
Defendants.	:	
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¹ The Debtors are Princeton Alternative Income Fund, LP ("PAIF") and Princeton Alternative Funding, LLC ("PAF").

Plaintiff, Matthew Cantor, solely in his capacity as Chapter 11 Trustee (the “Trustee”) for the Debtors, by and through his counsel, Wollmuth Maher & Deutsch LLP, as and for his complaint (the “Complaint”) in this Adversary Proceeding alleges as follows:

Nature of the Action

1. This is an action for civil violations of New Jersey’s Racketeer Influenced and Corrupt Organization Act, N.J. Stat. Ann. § 2C:41-1 *et seq.* (“NJ RICO”), fraudulent conveyances, common law breach of fiduciary duty, aiding and abetting breaches of fiduciary duty, causing the Debtors to breach their fiduciary duties to investors, as well as for breaches of contract and declaratory judgments that certain contractual and indemnification provisions purporting to bind the Debtors are unenforceable and void. Defendants owed fiduciary duties to the Debtors, by virtue of their status as officers, partners, managers or agents of the Debtors. Defendants misappropriated Debtors’ funds, caused Debtors to incur liabilities, and caused Debtors to lend money to third-parties, with whom Defendants had conflicting, self-interested economic relationships on unreasonable terms and with the intent and effect of profiting at the Debtors’ expense. In so doing, they caused the Debtors to breach their fiduciary and contractual duties to direct and indirect investors in PAIF. Defendants’ fiduciary breaches and aiding and abetting in such breaches were made in bad faith and/or through fraud, willful misconduct and gross negligence. Defendant MicroBilt Corporation (“MicroBilt”) also directly contracted with Debtors to provide them with data studies, analyses and monitoring services for loans to and collateral of Debtors’ third-party borrowers, but MicroBilt immediately and continually breached the contract. Defendants caused the Debtors to incur obligations to MicroBilt, and to pay monies to MicroBilt and the incurrence of such obligations, and their payment, were intentionally and constructively fraudulent. Certain of the Defendants are liable as immediate or mediate

transferees of the avoidable transfers made to Defendant MicroBilt. Plaintiff seeks treble damages, restitution and disgorgement on behalf of the Debtors, avoidance of fraudulent billings and transfers and declarations that Defendants are not entitled to any indemnification from either Debtor under any applicable law, operating agreements or contract under which Defendants have claimed.

Jurisdiction and Venue

2. This is a core proceeding by the Debtors against a group of insiders of the Debtors, and their co-conspirators, under 28 U.S.C. § 157(b)(2)(b) and (c). It arises in the Debtors' above-captioned jointly-administered Chapter 11 case. This Complaint is filed in the nature of a counterclaim to proofs of claim filed by each of the Defendants in the Debtors' Chapter 11 cases, and is brought in conjunction with objections the Trustee has also filed to such proofs of claim. This Court also has jurisdiction pursuant to 28 U.S.C. § 1334(b) and venue is proper in this Court pursuant to 28 U.S.C. § 1409(a). This Court has personal jurisdiction over each of the Defendants because they all reside or do business in the United States.

Parties and Significant Non-Parties

3. The Trustee was appointed Chapter 11 Trustee of the Debtors pursuant to orders of this Court entered on November 7, 2018 and November 15, 2018, and is duly qualified and acting.

4. Debtor PAIF is a limited partnership formed under the laws of the State of Delaware. Defendants Walter Wojciechowski ("Wojciechowski"), Philip N. Burgess, Jr. ("Burgess"), MicroBilt, Alonzo J. Primus ("Primus") and others organized PAIF and sold its limited partnership interests directly or indirectly to investors pursuant to a private placement memorandum (the "PPM"). The stated objective of PAIF was profitably to lend the money

raised through the sale of its limited partnership interests (including sales to the Feeder Fund, as defined herein) to third-party lenders that, in turn, made risky, short-term, high-interest loans to consumers unable to access credit from traditional lending sources. Defendants caused PAIF to acquire credit facilities originated by others, including by certain of the Defendants, and to extend credit to the third-party consumer lenders. PAIF obtained security interests in the loans that the consumer lenders made to end user borrowers and in substantially all the other assets of the consumer lenders. Defendants identified in the PPM, including Primus, MicroBilt and Wojciechowski, held themselves out to potential Limited Partners² in PAIF and to investors in the Feeder Fund as knowledgeable about which consumer lenders would make the most appropriate borrowers from PAIF, and as having proprietary software and data that would allow PAIF to monitor its loans to the consumer lenders on a real-time basis as those consumer lenders, in turn, made the funds available and serviced the loans to consumers and/or the consumers defaulted on their loans.

5. Princeton Alternative Funding, LLC was a limited liability company formed in 2014 (“Old PAF”) under the laws of the State of Delaware and was the General Partner³ of PAIF, as defined in the PAIF Agreement, defined below, from the latter’s formation until February 26, 2016. Effective February 26, 2016, certain Defendants caused Old PAF to be merged into another, then newly-formed Delaware limited liability company completely under their control named MicroBilt Capital Funding, LLC, which was the “Surviving Entity” in the merger. MicroBilt Capital Funding LLC simultaneously amended its name to Princeton

² As defined in the PAIF Agreement.

³ As defined in the PPM.

Alternative Funding, LLC (“New PAF” or “Debtor”).⁴ New PAF was the General Partner of PAIF from February 26, 2016 until being improperly and temporarily removed in favor of Defendant Princeton Alternative Funding Management LLC (“PAFM”) shortly after the petition date of March 9, 2018 (the “Petition Date”). By this Court’s February 23, 2019 order, New PAF has been reappointed as General Partner of PAIF *nunc pro tunc* to the Petition Date.

6. Defendant Burgess is an individual who resides and maintains a place of business in the United States. On information and belief, affiliates of Burgess own a controlling equity interest in MicroBilt, and Burgess is deeply and intimately involved in MicroBilt’s operations. On information and belief, Burgess does not serve as an officer of MicroBilt. However, he was designated by a company with which he is affiliated, known as AFAB International Ltd., as a “consultant” to MicroBilt, and was, in turn, assigned by MicroBilt as a consultant to Debtors under the “MicroBilt Services Agreement” (the “Services Agreement”). At all relevant times prior to the appointment of the Trustee, Burgess acted as an agent of both Debtors and owed them fiduciary duties. On information and belief, Burgess is an insider of the Debtors. Burgess also owns or controls entities that originated loans that were sold and assigned to PAIF, and which, in self-interested breaches of Burgess’ fiduciary duties to Debtors, obtained “origination,” “referral” or other fees in connection with such loans. These Burgess-controlled entities include Westminster National Capital Co., Inc. (“Westminster”), AFAB International Ltd. and Bristol Investments Ltd. (collectively, the “Burgess Entities”).

7. Defendant MicroBilt is a Delaware corporation with its principal place of business in the United States. According to its website, MicroBilt is a “pioneer in the now exploding alternative credit data space” and offers short-term lenders data, software and

⁴ New PAF and Old PAF are sometimes jointly referred to herein as “PAF.”

analytics to assist in lending decisions, loan monitoring and servicing and default recovery with respect to consumer borrowers with sub-prime credit. On or about December 23, 2014, MicroBilt contracted with Old PAF to provide services to the latter in its capacity as General Partner of PAIF, through a “Services Agreement” which described MicroBilt as at least a 40% “shareholder” in Old PAF. On information and belief, MicroBilt exercised control over the Debtors by virtue of its control over PAF. MicroBilt was therefore an insider of both Old (and New) PAF, and also acted as an agent of PAF and PAIF. MicroBilt owed the Debtors fiduciary duties. As detailed herein, Defendant MicroBilt not only breached its fiduciary duties to Debtors, but it also immediately and continually breached the Services Agreement and is liable to the Debtors for, among other things, restitution of monies that MicroBilt improperly caused Old PAF, New PAF and PAIF to pay to it under the contract, as well as damages to those entities proximately caused by MicroBilt’s breaches of the contract. MicroBilt also participated in an “enterprise” under NJ RICO with Defendants Wojciechowski, Burgess and others, as described below, and is liable for the damages resulting therefrom. MicroBilt received transfers from the Debtors avoidable under sections 544 and 548 of title 11 of the United States Code, 11 U.S.C. §§101-1532, as amended from time to time (the “Bankruptcy Code”) and the New Jersey Uniform Fraudulent Transfer Act. MicroBilt should also be ordered to disgorge funds that it received from or through PAIF’s borrowers, and vendors to those borrowers, as fruits of its wrongful acts. The Services Agreement also contains several unconscionable terms which, whether MicroBilt breached the Services Agreement or not, should be declared to be unenforceable and void as a matter of public policy. Those provisions include an unconscionably broad indemnification provision, and another provision that purports to make the Services Agreement non-terminable by Old PAF or New PAF.

8. Defendant MicroBilt Financial Services Corporation (“MicroBilt Financial”) is a Delaware corporation with a principal place of business in the United States. MicroBilt Financial is a direct or indirect subsidiary of MicroBilt. MicroBilt Financial is an insider of the Debtors as a managing member of Old PAF and New PAF holding more than 20% of the outstanding voting securities of each. MicroBilt Financial owed both Debtors fiduciary duties.

9. Defendant Rosebud Management LLC (“Rosebud Management”) is a Delaware limited liability company with its principal place of business in the United States. On information and belief, Rosebud Management is controlled by Defendant MicroBilt Financial and is thus indirectly controlled by Defendant MicroBilt. Rosebud Management operated several credit lines nominally affiliated with the Rosebud Sioux Tribe of Native Americans.

10. Defendant LJP Consulting LLC (“LJP”) is a limited liability company that on information and belief is owned or controlled by Defendant Alonzo J. Primus. Both LJP and Primus are residents of and do business in the United States. LJP was a Member of New PAF and is an insider of the Debtors to whom it owes fiduciary duties.

11. Defendant Primus is an individual who resides in the United States. Primus was PAIF’s Chief Credit Officer from its formation. Primus was a Member of Old PAF, PAIF’s first General Partner, in his individual capacity, and he controls Defendant LJP, which became one of the two managing members of New PAF. Primus is an insider of the Debtors, to whom he owed fiduciary duties.

12. Primus directly or indirectly owns at least 50% of several other companies, including HP Funding LLC, HP Funding II LLC, RAP Funding LLC, Learn2Comply LLC (“LTC”) and VP Compliance Services LLC (“VPCS”) (collectively with LJP, the “Primus Entities”), that billed, and were paid, hundreds of thousands of dollars by consumer lenders

nominally affiliated with a Native American tribe, including, but not limited to, those Rosebud Management-operated tribal credit lines to which Defendants caused PAIF to lend.

13. Defendant Wojciechowski is an individual who, upon information and belief, resides in New Jersey. Wojciechowski is the President and Chief Executive Officer and, upon information and belief, is a director of Defendant MicroBilt. Wojciechowski was Chief Financial Officer of PAIF from its inception until the present and acted as PAIF's Chief Executive Officer from January to March 2016, and is an insider of the Debtors to whom he owed fiduciary duties.

14. Defendant John "Jack" Cook ("Cook") is a resident of the United States and at all times relevant hereto served as an officer and insider of the Debtor PAIF to whom he owed fiduciary duties. Cook is also the Chief Executive Officer of Defendant PAFM.

15. Defendant PAFM is a limited liability company formed under the laws of the State of Delaware. Defendant MicroBilt Financial is a Managing Member of PAFM with an 86% membership interest. On or about the Petition Date, Defendants improperly substituted PAFM for Debtor New PAF so that PAFM and its members could control the Debtors during this bankruptcy, and reap the benefits that accrued to the General Partner of PAIF. By this Court's February 13, 2019 order, PAFM was removed as PAIF's General Partner *nunc pro tunc* to the Petition Date. Plaintiff seeks to recover from PAFM the amounts it was wrongfully paid by PAIF in General Partner compensation, plus interest, and to disallow and/or subordinate all amounts which PAFM has purported to charge PAIF in PAFM's capacity as General Partner which remain unpaid.

16. Non-party Robert Farrell ("Farrell") was a Managing Member and President of Old PAF. Upon information and belief, Farrell had no business relationships with any of the

credit lines to which PAIF prospectively or actually lent money outside of his role at Old PAF and Farrell was not suffering from a disabling conflict of interest in the discharge of his fiduciary duties, compared to Defendants, in making business decisions on behalf of PAIF concerning prospective or actual loans to such credit lines. In furtherance of Defendants' breaches of fiduciary duties and contract, Defendants, in late 2015 and early 2016, stripped Farrell of any operational role at Old PAF, and thus at PAIF, and merged Old PAF into New PAF in which Farrell was not a Managing Member, and thereby forced Farrell out of his positions with the Debtors.

17. Non-party Ranger Alternative Management L.P. ("Ranger Management") is a registered investment advisor and manager within the Ranger Capital Group, a multi-faceted investment company. Most relevant to this matter, Ranger Management managed the investments of a domestic affiliate, Ranger Specialty Income Fund, L.P., ("Ranger Domestic") and an offshore affiliate, Ranger Direct Lending Fund Trust ("Ranger Offshore") in PAIF.⁵ Between March 2015 and February 2016 Ranger Domestic invested \$5.75 million directly in PAIF as a Limited Partner. Between May 2015 and January 2016, Ranger Offshore invested \$55.1 million in Princeton Alternative Income Offshore Fund, Ltd. ("PAIOF" or the "Feeder Fund"), a British Virgin Islands company created by certain of Defendants to facilitate offshore investments in PAIF (*i.e.*, a "feeder fund" to PAIF). All Ranger Offshore capital contributed to PAIOF, net of expenses, was invested in PAIF and used as a part of the capital that PAIF used to make loans to the consumer lenders.

18. Defendants' NJ RICO violations, breaches of fiduciary duty, their aiding and abetting in such breaches, the fraudulent transfers to Defendants, and MicroBilt's breaches of its

⁵ Unless specificity is needed or desirable, Plaintiff will hereafter refer to Ranger Management, Ranger Domestic and Ranger Offshore individually and collectively simply as "Ranger."

contract obligations owed to and improper and fraudulent billing of Debtors, caused the Debtors to be unable to fulfill a redemption demand by Ranger of its investments in PAIF and PAIOF, as well as similar demands of other Limited Partners of PAIF and investors in PAIOF, thereby exposing Debtors to liability to Ranger and those other Limited Partners/investors. During arbitration in July 2018, Ranger obtained a “Partial Final Award” (the “Award”) against New PAF and PAIF for \$30.7 million plus 99 percent of the distributions attributable to the Argon Side Pocket (defined below) plus pre-judgment interest thereon. The Award also determined that the Debtors breached their fiduciary duty to Ranger.

19. With the possible exception of Defendant Rosebud Management, each and all of the Defendants were officers, partners, managers and/or agents of the Debtors (collectively, the “Insider Defendants”), and owed the Debtors fiduciary duties of care, loyalty, good faith and honesty, including the obligation to act for the Debtors’ benefit and in Debtors’ best interests. The Insider Defendants breached their fiduciary duties and Defendant Rosebud Management aided and abetted therein by, among other things: (1) causing the Debtors to breach their contractual and fiduciary obligations, (2) causing the Debtors to incur and pay obligations to MicroBilt instead of winding down the fund and paying the Ranger redemption demand, (3) causing the Debtors to incur and pay obligations to the Burgess Entities, the Primus Entities and others that were not in the best interests of the Debtors, (4) causing the Debtor PAF to enter into and continue the Services Agreement, and overcharging the Debtors for services thereunder, (5) causing the Debtor PAIF to acquire unsound and risky investments, including the Bristlecone Loans, the Argon Loans and the Tribal Loans (as defined below) that were inadequately and grossly negligently or recklessly structured, in order to benefit Defendants personally from the payment of fees and the opportunity to obtain additional revenue from the consumer lenders, (6)

committing waste with respect to the assets of PAIF, including by making payments and investments that were excessively risky, unauthorized or inappropriate, and (7) before and after the Chapter 11 case by preferring the interests of MicroBilt, and the other Insider Defendants over the interests of the Debtors.

20. During the Chapter 11 case Defendants MicroBilt and Wojciechowski caused the filing of Proof of Claim Number 8-1 by MicroBilt against PAIF for an amount in excess of \$4 million. Despite numerous requests by the Trustee that the claimant provide the invoices to PAIF to support such claim, Defendants failed and refused to provide such documentation. By email dated May 31, 2019, the Trustee demanded that MicroBilt withdraw the unsupported proof of claim, as violative of Bankruptcy Rule 9011, and warned that, if it did not, the Trustee would seek sanctions against the persons responsible for its filing. To date MicroBilt has not withdrawn the undocumented claim.

Factual Background

21. PAIF's first General Partner, Old PAF, was formed on or about August 29, 2014. PAIF itself was formed on or about November 3, 2014. In a PPM, Old PAF solicited investments in limited partnership interests in PAIF. The PPM identified PAIF as the "Fund" and described its investment objective and strategy as linked to a contract with MicroBilt. The PPM states as follows:

The Fund intends to invest substantially all of its assets into organizations which will originate loans in the alternative marketplace. The Fund's investment objective is to provide investors consistent, risk-adjusted returns through direct loans to non-bank lenders operating in the alternative marketplace. The Fund will retain MicroBilt Corporation ("Microbilt") and employ its proprietary evaluation models to identify, analyze and monitor those lenders in real time.

PPM at 1. An investor presentation slide deck created at the same time as the PPM similarly described "The Process" for PAIF's investments as involving: (i) screening "4000 Microbilt

customers” for “best in class” credit line operators as potential borrowers, (ii) analyzing the operators’ “historical lending performance for predictive returns,” (iii) using “extensive background data” supplied by MicroBilt to make lending decisions, and (iv) after extending funds to approved operators, using “MicroBilt live data feeds [to] bring real time monitoring capabilities to our portfolio.”

22. According to the PPM, PAIF would hold revolving notes made by the consumer lenders upon which the latter could repeatedly draw and pay down as they made consumer loans and the consumers paid the lines back. The consumer lenders would be contractually required to build reserves against defaults on their loans by the consumer borrowers and would be limited in their ability to continue to draw down on the revolver if, as and when consumer borrowers became delinquent on their loans. The PPM contemplated that the PAIF revolvers would charge the credit lines interest of approximately 20% per annum and that, after expenses, including management fees paid to PAIF’s General Partner and administrative costs, PAIF would generate substantial returns for its Limited Partners. The intent of all transactions in which PAIF became a lender was that the credit facility would be structured so that PAIF held a first priority secured claim against the assets of its borrower.

23. The PPM further explained that Old PAF, as General Partner of PAIF, would be “responsible for the affairs of the Fund and the management of the Fund’s portfolio.” PPM at 2. It identified non-party Farrell as “President and Co-founder” of Old PAF, another non-party, Bert Szostak (“Szostak”), as Old PAF’s “Managing Partner and Co-founder” and Defendant Primus as a third “Managing Partner” of Old PAF. *Id.*

24. Defendants did not allow the disinterested members of Old PAF any meaningful say in the management of PAIF in the areas where the Defendants were suffering from conflicts

of interest. Defendants MicroBilt, Burgess and Wojciechowski together with Defendant Primus, operated PAF and PAIF in their own self-interest (and that of the other Defendant entities in which they were financially interested) and adversely to the interests of PAF and PAIF.

25. On or about December 23, 2014, Defendants caused Old PAF to execute the Services Agreement with MicroBilt, retroactively effective as of October 1, 2014. In addition to providing Old PAF with office space, computers and internet and telephone access at \$8,000-\$10,000 per month, MicroBilt was to provide Old PAF with “Data Studies, Analysis and Monitoring” (billed at hourly rates) of the type represented in the PPM: that is, “proprietary evaluation models to identify, analyze and monitor [the third-party] lenders in real time” who were obligated to PAIF under the revolving notes and who, in turn, would make the consumer loans that would generate returns on PAIF’s investment. In addition to causing the Debtor to enter into the Services Agreement, the individual Defendants caused PAF and PAIF to be entirely dependent on MicroBilt for all essential services, including maintenance of their books and records. In doing so, the Defendants breached their fiduciary duties to the Debtors by entrenchment of MicroBilt in a position that was adverse to the Debtors’ best interests, and which was designed to allow MicroBilt and the Defendants to profit personally from the perpetuation of such position.

26. MicroBilt soon after breached the Services Agreement with Old PAF. It overbilled Old PAF for the office space, equipment and utilities. As far as “analytics” are concerned, MicroBilt’s main service during the 2015 period was to provide credit checks on proposed individual consumer borrowers when the PAIF-funded lenders asked for access to their respective revolvers. MicroBilt provided virtually no meaningful or valuable proprietary data studies or analyses to Old PAF’s President, Farrell, to identify and rank in terms of past

experience the credit lines themselves with whom PAIF might enter into revolving credit arrangements. Rather, Defendants caused PAIF to lend to entities that they themselves managed and/or that generated side-payments and kickbacks to Defendants' business interests outside of PAIF and its General Partner, Old PAF. MicroBilt further breached in 2015 by failing to provide PAIF or Old PAF with proprietary studies or analyses to monitor in real-time the performance (or delinquencies and defaults) in the portfolios of loans made by the third-parties to consumers that were PAIF's collateral once the third-party credit lines had drawn down on their PAIF-funded revolvers. Instead of live reporting, the Debtors received only once-a-month snapshots of the loan portfolios from their borrowers. In 2016, when PAIF's borrowers had fully drawn down on their revolvers from PAIF (and there were, therefore, decreasing numbers of new consumer borrower applicants on whom MicroBilt needed to run credit checks), MicroBilt's invoices for analytics falsely showed increased hours compared to the 2015 period. In short, MicroBilt billed PAIF, Old PAF (and, later, New PAF) and caused them to pay MicroBilt for fictitious, overpriced, non-conforming and/or unnecessary services.

27. After the appointment of the Trustee, (a) MicroBilt further breached the Services Agreement by failing to accurately and timely respond to the Trustee's request for information, including by refusing to timely deliver information readily available in the ordinary course, and (b) the Defendants continued to breach their fiduciary duties to the Debtors (and/or aided in the breaches) by continually preferring the interests of adverse claimants against the Debtors over the interests of the Debtors, including by taking positions adverse to the positions advanced by the Trustee before the Court.

28. In breaching the Services Agreement, MicroBilt and the other Insider Defendants also caused Old PAF, New PAF and PAIF itself to breach the above representations in the PPM

and investor presentation to Ranger and others about how they would invest Limited Partners' funds with the third-party lenders—thereby exposing Old PAF, New PAF and PAIF to investor claims and lawsuits. The Insider Defendants also caused Old PAF, New PAF and PAIF to breach side letters that they executed, in their capacities as agents of those entities, with Ranger and to breach Ranger's redemption rights in the PAIF Limited Partnership Agreement, defined below.

29. Under the PAIF Limited Partnership Agreement dated as of January 14, 2015 (the "PAIF Agreement"), all Limited Partners were granted the right to make withdrawals from their capital accounts upon 180 days prior notice. *See* PAIF Agreement, § 8.02. To induce Ranger to become the first Limited Partner, Old PAF executed a "side letter" dated March 3, 2015 in which it agreed (among other things) to "transparency" provisions under which PAF and PAIF would provide Ranger with advance notice of, and the right to opt-out of, prospective loans to credit lines (at least with respect to money invested directly in PAIF as opposed to through PAIOF). As discussed below, PAIF and PAF did not honor the transparency provisions of the side letter with Ranger and, in 2016, the Insider Defendants (other than PAFM, which was not then yet formed) caused PAIF to breach Ranger's redemption rights.

30. Almost immediately after Ranger began investing in PAIF in March 2015, Defendants began committing PAIF to revolving loans to consumer lenders aimed at offering short-term, high-risk loans to consumers with deep subprime credit. Old PAF did not give Ranger advance notice of or the opportunity to opt out of the commitments with the credit lines, the second of which was with an entity later designated as "Rosebud ZTC" and managed by Defendant Rosebud Management, a MicroBilt subsidiary. No disinterested fiduciary of PAF or of PAIF had the benefit of any proprietary MicroBilt data or analyses before the entities made

the commitments to the credit lines, nor did either receive any “real-time” monitoring capabilities through MicroBilt once the consumer lenders began to draw on their revolvers in 2015 and 2016.

31. MicroBilt, through Rosebud Management, and Primus, through the Primus Entities, had financial ties to Rosebud ZTC and other “tribal lending entities” affiliated with the Rosebud Sioux Tribe of Native Americans which conflicted with their duty to make disinterested lending decisions on behalf of PAIF. Defendants dealt with the economic development arm of the Tribe, called the Rosebud Economic Development Corporation or “REDCO” and two of its subsidiaries, Rosebud Lending and Fintech Financial LLC (“Fintech”).⁶

32. Rosebud Lending was the nominal sponsor not only of Rosebud ZTC, but also of several of the other consumer lenders to which Defendants ultimately caused PAIF to lend. However, Rosebud Lending contracted with Rosebud Management, Primus and the Primus Entities to perform all the operating and back-office functions for the Rosebud Lending-sponsored credit lines in return for fees and profit splits. Thus, Defendants were incentivized to cause PAIF to lend to newly-created Rosebud Lending affiliates to increase their compensation regardless of whether the lending relationship would be favorable for PAIF. Rosebud Management collected over \$4 million from REDCO and its subsidiaries over the period 2014-2017. One Primus Entity, HP Funding II, invoiced Rosebud Lending over \$450,000 in the period of 2015 through 2018. Another Primus Entity, Defendant LJP, billed and collected

⁶ Because short-term, high interest consumer loans have the potential to violate state usury statutes, having a Native American tribe—a sovereign nation—issue and service the loan may provide legal protection under the doctrine of sovereign immunity. However, when the tribe cedes control over the loans to non-tribal management, such as the Defendants herein, the case for sovereign immunity is weakened and adds additional material legal risk to what is already a very risky consumer lending operation from a legal and business point-of-view. By causing PAIF to lend to Rosebud Lending affiliates that contracted with Rosebud Management and the Primus Entities, Defendants not only enriched themselves at PAIF’s expense, but they also exposed PAIF to undue risks for the return on PAIF’s investment in the tribal credit lines.

approximately \$175,000 from MicroBilt for assistance in maintaining the latter's relationship with Rosebud Lending between 2013 to mid-2017.

33. Fintech, another arm of REDCO, originated loans to non-tribal lenders and then shifted the risk to PAIF. In one of the most fateful examples, on or about May 6, 2015, Defendants caused PAIF to purchase from Fintech all right, title and interest in a \$20 million Loan and Security Agreement that Fintech had made to a newly-formed consumer lender called Argon X LLC ("Argon X"). Just days earlier, on May 1, 2015, Primus Entity VPCS entered into a consulting agreement with Argon X for a purported review of the latter's compliance and risk management activities and procedures. Argon X thus became PAIF's third borrower, and soon thereafter, the first to go bankrupt at a time when it owed PAIF over \$35 million. Defendant MicroBilt again provided no proprietary information to allow a disinterested Managing Member of Old PAF to vet Argon X as an investment.

34. Fintech's original Loan and Security Agreement required Argon X to use MicroBilt for credit scoring and underwriting of Argon X's consumer loans. Despite this, however, MicroBilt did not provide PAF or PAIF with any tools with which to monitor Argon X's consumer loans in real-time as contemplated in the MicroBilt Services Agreement. And despite MicroBilt's breach of its contract obligations to Old PAF and PAIF, Defendants caused PAIF (through further assignments from Fintech) blindly to extend even more credit to Argon X than the original \$20 million—up to \$35 million by September 2015 and \$37.5 million by February 2016. Before increasing the line to Argon X, Burgess, Wojciechowski and certain of the other Defendants were aware that the persons in control of Argon X had violated the credit agreements, converted collateral and committed other fraudulent transactions. Nevertheless, putting their self-interest ahead of the interests of PAIF, Defendants caused the Argon X line to

be increased, ultimately causing PAIF to lose many millions of dollars from its Argon X investment.

35. In another conflicted transaction that began in the summer of 2015, Defendants Burgess and Primus used their control of Old PAF and PAIF to cause them to acquire a fourth credit line, an entity known as “Green Circle,” from a tribal lender called the Wakpamni Lake Community Corporation (“WLCC”). Primus, through Defendant LJP, provided back-office services to Green Circle, such as accounting and financial reporting. Primus Entities, HP Funding II, LLC, LTC and VPCS also received consulting fees from WLCC and Green Circle. Primus and the Primus Entities also received “referral fees” in connection with ACH processing services used in WLCC-affiliated and Rosebud Lending-affiliated credit lines’ operations.

36. By the fall of 2015, Farrell, on behalf of Old PAF and PAIF, complained to MicroBilt employees that MicroBilt was still not performing under the Services Agreement and that MicroBilt’s non-performance was damaging PAF’s and PAIF’s ability to make lending decisions and to monitor its borrowers’ portfolios. Defendant Burgess learned of Farrell’s complaints and, assisted by Defendant Wojciechowski, began efforts to freeze Farrell and the other unconflicted Managing Member of Old PAF (Szostak), out of PAIF’s General Partner. In October of 2015, Defendants temporarily locked Farrell and Szostak out of PAF’s offices and blocked their access to network data about PAIF. They directed MicroBilt employees managing the payroll for PAF not to pay Farrell and Szostak their salary for November and December 2015. By letter dated January 4, 2016, Wojciechowski formally terminated their employment. Finally, in February 2016, Defendants merged Old PAF into New PAF in a transaction that left

MicroBilt Financial and Primus Entity, Defendant LJP, as the only Managing Members of PAIF's new General Partner, New PAF.⁷

37. By letter dated March 28, 2016, Ranger notified New PAF, PAIF and PAIOF that it was redeeming all of its interests in the latter two funds effective 180 days hence, as provided in the PAIF Agreement.

38. Shortly thereafter, Ranger instructed New PAF "to cease investing Ranger's assets" and that "PAIF should not renew the credit lines that were initially funded using investments from either [Ranger Domestic] or [Ranger Offshore]." As of April 1, 2016, PAIF had seven credit lines that had drawn down on their revolvers with a combined principal balance of approximately \$62,628,000.

39. Instead of preparing to honor Ranger's redemption demand, or bringing in disinterested fiduciaries for New PAF, PAIF and PAIOF to make business decisions on their behalf regarding the demand, Defendants ignored the demand and exposed New PAF, PAIF and PAIOF to even more liabilities by opening five additional credit lines: Credit Line 5 (Credda); Credit Line 8 (TKC Worldwide); Credit Line 10 (Rosebud DRT); Credit Line 11 (Rosebud RQC); and Credit Line 12 (Big Valley). The total commitment on the five new lines was \$41,500,000, although PAIF had nowhere near that much additional capital to lend.⁸

⁷ In 2016, Farrell and Szostak, individually and derivatively on behalf of Old PAF sued, among others, Burgess, Wojciechowski, MicroBilt, MicroBilt Financial and New PAF for the above conduct. They have voluntarily dismissed the derivative claims without prejudice at the request of the Trustee. The remaining claims in that litigation against the non-debtors (the "Farrell/Szostak Litigation") is proceeding in New Jersey State Court. Upon information and belief, Defendants herein have used their control of PAIF and New PAF to cause them to advance or reimburse such Defendants for their legal fees and expenses in connection with the Farrell/Szostak Litigation. This action seeks a declaration that Defendants were not entitled to such advances or reimbursements, a declaration that they are not entitled to any further advances or reimbursements or indemnity in connection with the Farrell/Szostak Litigation, or with any other litigation, and restitution of all indemnification amounts previously paid by PAIF or New PAF.

⁸ As of the date of Ranger's redemption demand in March 2016, Ranger was the only Limited Partner in PAIF and investor in PAIOF, with a total contribution amount of \$61,900,000. From April 2016 to March 2017, Defendants

40. Defendants' acts in the face of Ranger's redemption demand can be explained only in terms of their conflicts of interest in obtaining fees from the consumer lenders in Defendants' personal and corporate capacities; that is, other than through their capital investments and economic interests in PAF. PAIF had the ability as a matter of contract in its revolving credit arrangements with the consumer lenders existing as of the date of Ranger's redemption demand to cease funding in its discretion, and also to demand payment on the lines at any time and have the consumer lenders repay PAIF without penalty. Thus, PAIF had little or no legal exposure to the consumer lenders in honoring Ranger's redemption demand. Moreover, Defendants knew or should have known from monthly reports that they were receiving from the consumer lenders that several consumer lenders were experiencing high levels of defaults on their consumer loans that had left PAIF severely under-collateralized and that materially negated the consumer lenders' ability to pay PAIF back the principal they had borrowed. Yet, Defendants continued to allow these same lines to draw down on their revolvers in breach of the contractual requirements for such draw downs and, in some cases, even increased the amounts of PAIF's commitments to such lines.

41. After the Insider Defendants caused the debtor PAIF to establish the Argon Side Pocket (as defined below) purportedly for the exclusive benefit of Ranger, they nevertheless diverted funds from the Argon Side Pocket rather than paying those funds to Ranger, thereby reducing Ranger's claims against the Debtors. In so doing, the Insider Defendants intentionally increased the liabilities of the Debtors to Ranger in violation of their fiduciary duties to the Debtors.

attracted a handful of other Limited Partners and other investors, who contributed a total of \$8,575,000 in limited partnership interests and \$2,743,000 to PAIOF.

42. Defendants Wojciechowski and Cook (with the intentional assistance of Burgess) also recklessly or willfully failed to mark down PAIF's collateral and inaccurately calculated the net asset values of PAIF, and the Statements of its and the Feeder Fund's Limited Partners' Capital Accounts ("NAVs") as the defaults by the fund's borrowers increased. The falsification of PAIF's NAVs not only exposed PAF and PAIF to investor lawsuits, but also directly harmed PAIF by artificially increasing the management fee it was to pay to its General Partner. Limited Partners in turn were harmed because PAF purportedly took some portion of its management fees as Limited Partner equity interests in PAIF, diluting the other Limited Partners.

43. MicroBilt billed and collected approximately \$2 million for services that it supposedly provided to PAIF's consumer lender borrowers from the credit lines' inception to June 30, 2018. Westminster, a Burgess-owned company, collected at least \$66,000 in fees and expenses from New PAF for "loan origination" services in connection with two credit lines that were funded by PAIF after the Ranger redemption demand. Yet another Burgess wholly-owned company, AFAB International Ltd., collected tens of thousands of dollars from PAIF credit lines and their vendors for various consulting services and referrals. Defendants Rosebud Management, Primus, LJP and the other Primus Entities similarly billed and collected hundreds of thousands of dollars from credit lines issued to Rosebud Lending affiliates that were funded by PAIF both before and after Ranger's redemption demand.

44. The following charges/obligations incurred by Debtors and payment/transfers to MicroBilt (such obligations and payments, collectively, "Transfers") were made either (a) with actual intent to hinder, delay or defraud entities to which New PAF and PAIF were already or soon to be indebted, and are avoidable under sections 544 and 548(a)(1)(A) of the Bankruptcy Code and N.J. Stat. Ann. § 25:2-25 or (b) if occurring after November 2016 (i) constituted

payments of antecedent debts to an insider while the Debtor was insolvent and MicroBilt had reasonable cause to believe the Debtor was insolvent, and are avoidable by the Trustee under section 544 of the Bankruptcy Code and N.J. Stat. Ann. § 25:2-27(b), (ii) if occurring within one year of March 9, 2018 constituted transfers voidable under section 547 of the Bankruptcy Code, as they were made while the transferor was insolvent, to a creditor, on account of an antecedent debt, which enabled the transferee to receive more than it would in a chapter 7 case if such Transfers had not been made, and (iii) were made for less than reasonably equivalent value when one or more of the conditions set forth in section 548(a)(1)(B)(ii) prevailed with respect to the financial condition of the Debtor transferor, and are therefore avoidable under that section.

Quarter	<u>PAF</u>		<u>PAIF</u>	
	Shared Services		Analytics	
	Charges	Payments	Charges	Payments
Q1'16	28,385	-	117,141	-
Q2'16	94,941	-	175,925	-
Q3'16	743,095	-	130,100	-
Q4'16	273,583	-	130,875	(462,391)
Q1'17	499,566	-	155,505	-
Q2'17	310,882	-	161,933	-
Q3'17	203,423	(110,000)	211,615	(137,100)
Q4'17	502,912	(363,084)	210,050	(271,988)
Q1'18	145,295	-	134,425	(211,615)

45. In early September 2016, Defendants caused New PAF, PAIF and PAIOF to request an extension of the 180-day period for the effectiveness of Ranger's March 28, 2016 redemption demand from September 30 to October 31, 2016. Ranger agreed. On October 28, 2016, three-days before the new deadline, Defendants caused counsel for New PAF to attempt to

preempt Ranger's redemption demand through what they called a "mandatory redemption" of Ranger's interests under the PAIF Agreement that would further delay Ranger's repayment into 2017. According to the arbitration panel that later decided Ranger's claims against New PAF and PAIF for breach of the PAIF Agreement, the mandatory redemption notice was ineffective and could not be justified in the name of protecting other investors in PAIF and/or PAIOF. The panel ordered New PAF and PAIF liable for damages and pre-judgment interest for failure to honor Ranger's redemption demand beginning November 30, 2016. PAIF and PAF were insolvent no later than November 1, 2016 for purposes of the constructive fraudulent Transfers set forth above.

46. The Insider Defendants controlled the disposition of the Debtors' assets, and the Insider Defendants' purposes and objectives as evidenced by their conduct after the receipt of Ranger's redemption demand was to hinder, delay or defraud Ranger in the ability to recover the capital it had invested in the Debtors. Thus, the Insider Defendants' intent should be imputed to the Debtors.

47. Moreover, each of the Transfers was to an insider, was not disclosed, the Debtors had been threatened with suit by Ranger before the Transfers were made, the Debtors received less than reasonably equivalent consideration in exchange for the Transfers, the Debtors were or became insolvent at the time of the Transfers or shortly thereafter, and the Transfers were made at or around the time when the Debtors became liable for a substantial debt.

48. On or about December 7, 2016, representatives of Argon Credit, LLC, the parent company of PAIF's largest credit line (Argon X), informed New PAF that Argon X's prior reporting concerning the performance of its loan portfolio—*viz.* PAIF's collateral—had been misrepresented and that Argon X had many millions in non-performing loans. Upon information

and belief, Defendants MicroBilt, Burgess and Wojciechowski had notice of “red flags” concerning Argon X’s performance months earlier but turned a blind eye and allowed Argon X unfettered access to its PAIF revolver until December 7, 2016. Argon Credit, LLC and Argon X filed for bankruptcy later that month. Another of PAIF’s credit lines (Line 9, Bristlecone) filed for bankruptcy in April 2017.

49. Defendants created a wholly-owned subsidiary of PAIF called Fund Recovery Services, LLC (“FRS”) to prosecute claims on behalf of PAIF against Argon X in the latter’s bankruptcy proceedings. At the same time, Defendants invoked the “side pocket” provisions of PAIF Agreement to segregate the liabilities (and few remaining assets) associated with the bankrupt Argon X credit line from the accounting for the other credit lines to which PAIF had lent and to allocate the ensuing losses and any gains directly to individual Limited Partners (the “Argon Side Pocket”). Those same “side pocket” provisions required Defendants to maximize the return to those Limited Partners bearing the losses in the Argon X credit line (chiefly, Ranger) by, among other things, taking over the servicing of the few consumer loans made by that line which were still performing and minimizing the expenses incurred in connection with the servicing and defaults. Defendants, however, used their control of PAIF and FRS to bilk the Argon Side Pocket of \$2.5 million dollars in unrelated or exorbitant expenses (such as their own attorneys’ fees in legal disputes with Ranger discussed immediately below) and to direct \$2 million in Argon Side Pocket recoveries into PAIF to be used to pay PAIF expenses instead of to Ranger, thereby exposing PAIF to liability to Ranger for not honoring the Argon Side Pocket provisions.

50. In 2017, Ranger commenced arbitration against New PAF, PAIF, PAIOF and several of the Defendants herein. During the pendency of those proceedings, including several

days of testimony before the panel, on March 9, 2018, New PAF and PAIF filed the instant bankruptcy proceedings. Ranger applied for and obtained relief from the automatic stay provisions from this Court to proceed with the arbitration against New PAF and PAIF only, and only on certain claims including breach of contract, breach of fiduciary duty, fraud and violations of the securities law. On July 20, 2018, the panel issued a short-form “Partial Final Award” (defined above as the “Award”) on the claims as to which the stay was lifted, which included findings of breach of contract and fiduciary duty by the Debtors and damages in favor of Ranger for \$30.7 million dollars plus 99 percent of the distributions for the Argon Side Pocket plus prejudgment interest thereon calculated under Delaware law from November 30, 2016. The Delaware Court of Chancery confirmed the Award on or about June 25, 2019.

51. After the filing of the Debtors’ Petition and the improper substitution of PAFM for New PAF as General Partner for PAIF, PAFM claimed a substantial amount in General Partner fees. Upon information and belief, any amounts collected by PAFM while it was General Partner have been distributed to other Defendants, including MicroBilt. During the period that PAFM was improperly substituted as General Partner for PAIF, Defendant Cook refused to appropriately instruct MicroBilt under the Services Agreement and otherwise facilitated MicroBilt’s breach of that Services Agreement to the detriment of PAIF.

52. As of the date of this Complaint, only four of the twelve credit lines to which PAIF lent money were not in default, although the TKC line matured on June 30, 2019 and has not been repaid in full. The Bankruptcy Court entered an Order on July 12, 2019 approving a settlement with TKC whereby the Trustee expects to realize 72.5% of the principal balance outstanding as of closing of that settlement on July 29, 2019.

53. Of the twelve credit facilities operated by PAIF, five were to so-called Tribal Lenders, *i.e.*, consumer lenders who claim the purported sovereign immunity of Native American tribes allows them to charge interest rates vastly exceeding the amounts chargeable under the usury laws of every state in the United States.⁹ Making loans to Tribal Lenders carries substantially greater risk than lending to other deep subprime consumer lenders because of the enhanced difficulty in collecting on the collateral for such loans. PAIF was not adequately compensated for the risks it incurred in loans it made to Tribal Lenders, as the interest rates PAIF was able to charge to such Tribal Lenders were not materially higher than the rates it charged to other consumer lenders. All or substantially all of the loans to Tribal Lenders defaulted and PAIF incurred millions of dollars in losses on the loans it made to Tribal Lenders.

54. Each of the loans to Tribal Lenders was originated by a company known as Fintech. On information and belief, one or more of the Defendants obtained material personal benefits, directly or indirectly, by causing PAIF to acquire loans from Fintech and to commit to make advances to the various Tribal Lenders identified above.

55. In causing PAIF to acquire loans to the Tribal Lenders, the Insider Defendants breached their fiduciary duties to PAIF, and committed waste of PAIF's assets. Defendant Rosebud Management aided and abetted in the Insider Defendants' fiduciary breaches.

56. The Insider Defendants also caused PAIF to acquire from Burgess Entity Westminster two loans to borrowers known as Bristlecone SPV ("Bristlecone") and Credda. In structuring and originating the Bristlecone and Credda loans, Westminster failed to adequately investigate and understand the borrowers, the collateral and competing creditors for the same collateral. Rather than structure the Bristlecone and Credda loans in a manner that would be

⁹ The five Tribal Lenders to which PAIF extended credit were known as Green Circle, TKC, Rosebud DRC, Rosebud RQC, and Big Valley.

protective of the interests of PAIF, the Insider Defendants, motivated by the prospect of personal gain, caused PAIF to acquire those loans nonetheless. In so doing, the Insider Defendants breached their fiduciary duties to PAIF and committed waste of PAIF's assets.

57. The Insider Defendants also caused the Debtors to become the subject of an investigation by the Securities and Exchange Commission ("SEC"), which has caused the Debtors to incur substantial expenses for counsel fees and other costs, and potential liability to the SEC based on proofs of claim filed by the SEC in the Debtors' Chapter 11 cases.

58. Plaintiff seeks recovery from all Defendants of the above amounts, with interest, plus disgorgement, with interest, of all fees, profits and other funds Defendants received in self-interested transactions with Debtors, their credit line borrowers and with affiliates of, vendors to or consumer borrowers from the credit lines. Plaintiff also seeks to avoid the Debtors' fraudulent and preferential Transfers and incurrence of obligations to or for the benefit of MicroBilt, treble damages under NJ RICO and recovery of his attorneys' fees in this matter. Plaintiff also seeks damages from all Defendants for breach of contract, breach of fiduciary duty, aiding and abetting breaches of fiduciary duty, and violations of NJ RICO.

59. Finally, several Defendants have filed proofs of claims seeking indemnification and/or contribution from Debtors. Although Defendants have not identified the source of indemnification, Plaintiff seeks a declaratory judgment that no indemnification or contribution was or is owed by either Debtor in favor of such claimant Defendants, together with restitution or disgorgement of any and all amounts previously paid pursuant to their indemnification claims while Defendants were in control of the Debtors' purse strings. The Trustee also seeks common law contribution from Defendants that caused (or that aided and abetted in causing) PAIF, Old PAF or New PAF to be liable to third-parties, such as PAIF's Limited Partners and from those

Defendants that through their conduct caused (or that aided and abetted in causing) PAIF, Old PAF or New PAF to incur attorneys' fees and expenses defending or otherwise, in connection with lawsuits and investigations arising out of Defendants' conduct.

AS AND FOR A FIRST CAUSE ACTION
(Breach of Contract – Defendant MicroBilt Corporation)

60. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

61. The Services Agreement provides, among other things, for MicroBilt to supply PAF with daily access to offices and conference rooms, wireless laptops, VOIP telephones and unlimited internet access. Contemporaneous documents reveal that the agreed monthly charge was to be \$8,000 to \$10,000. MicroBilt overbilled PAF (and, after the Petition Date, PAFM) for these services.

62. The Services Agreement also required MicroBilt to provide Old PAF (and later New PAF and, after the Petition Date, PAFM) on behalf of PAIF "Data Studies, Analysis and Monitoring" as more fully described in the PPM and other materials that Old PAF and MicroBilt contemporaneously circulated to potential investors in PAIF. More specifically, MicroBilt contracted to provide Old PAF on behalf of PAIF data studies and analyses that were proprietary to MicroBilt (*i.e.*, not based on publicly available data) that would allow for: (i) screening "4000 Microbilt customers" for "best in class" credit line operators as potential borrowers, (ii) analyzing the operators' "historical lending performance for predictive returns," (iii) using "extensive background data" supplied by MicroBilt to make lending decisions, and (iv) after extending funds to approved operators using "MicroBilt live data feeds [to] bring real time monitoring capabilities to our portfolio," as was described in the PPM, and an investor presentation slide deck.

63. MicroBilt breached the Services Agreement by failing to provide the contracted-for studies and analyses before Old PAF and PAIF extended credit to “credit line operators” and, thereafter, supplied Old PAF, New PAF and PAIF materials on a monthly (not real-time) basis that were non-proprietary and available from other credit services and/or that were materially duplicative of materials that it prepared under separate contracts for third-parties for which MicroBilt was paid by those third-parties. MicroBilt also breached the Services Agreement by failing to render invoices monthly as required by its terms.

64. PAF had fully performed the Services Agreement prior to MicroBilt’s breach.

65. The Trustee seeks and is entitled to restitution of money Old PAF, New PAF, PAFM and/or PAIF paid MicroBilt under the Services Agreement for non-conforming performance and/or paid pursuant to indemnification claims made by MicroBilt or its consultants (including, but not limited to Defendant Burgess) under the Services Agreement.

66. The Trustee seeks and is also entitled to damages from MicroBilt for loans made by or on behalf of Old PAF, New PAF, PAFM and/or PAIF without the benefit of the contractual bargain of proprietary studies and analyses (a) identifying “best in class” borrowers, and (b) providing them with real-time “monitoring of borrowers” to whom PAIF lent money.

67. The Trustee seeks and is entitled to a declaration that, as a result of MicroBilt’s breaches of the Services Agreement, neither MicroBilt nor any affiliate of or consultant to it is entitled to claim any future indemnification under the Services Agreement from Old PAF, New PAF, PAFM or PAIF, and all proofs of claim filed by MicroBilt for unpaid invoices rendered to either Debtor should be expunged.

68. Under Paragraph N of the Services Agreement, should the Trustee prevail, he is entitled to his attorneys’ fees and other expenses in connection with enforcing the Services

Agreement against MicroBilt in this action and any subsequent judgment enforcement proceedings.

AS AND FOR A SECOND CAUSE ACTION
(Primary Violation of NJ RICO – All Insider Defendants)

69. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

70. Each of the Insider Defendants owed fiduciary duties to one or both of the Debtors.

71. Each of PAIF, PAF and PAFM while under the control of the Defendants was an “enterprise” within the meaning of the NJ RICO statute, N.J. Stat. Ann. § 2C:41-1(c), the business of each of which was to act as either the General Partner of PAIF, or as an investment vehicle under the control of its General Partner.

72. Each and all of the Insider Defendants conducted or participated in the affairs of PAIF, PAF and PAFM through a pattern of racketeering activity, including misappropriation by a fiduciary within the meaning of N.J. Stat. Ann. § 2C:21-15 and N.J. Stat. Ann. § 2C:20-4.

73. The Insider Defendants did so by failing to disclose their adverse self-interests in conducting the affairs of PAIF, PAF and PAFM, causing PAF or PAIF to pay them or their affiliates directly or indirectly for services that promoted their adverse self-interest at PAIF’s expense, and causing PAIF to make excessively risky loans, including Tribal Loans, and other loans whereby the Insider Defendants or their affiliates profited at PAIF’s expense. Specifically, these Defendants caused PAIF to lend money to third-party consumer lenders, or to acquire loans from third party originators like Fintech, that had contracted with Defendants or their affiliates, including but not limited to Rosebud Management, the Primus Entities and the Burgess Entities.

74. The Insider Defendants failed to recuse themselves from PAF's and PAFM's decision-making on behalf of PAIF as to credit lines with which Defendants' affiliates had financial relationships and deliberately froze-out unconflicted Managing Members of Old PAF from that decision-making. Defendants also caused Old PAF and PAIF to enter into (and New PAF and PAFM to maintain) oppressive, one sided agreements with Defendants or their affiliates designed to protect Defendants at the expense of the Debtors, which agreements contained provisions that were void and unenforceable as contrary to public policy.

75. The Insider Defendants caused PAIF to lend to and to expand or renew lending relationships to consumer lenders for the unlawful purposes of prioritizing their gains from operation of the credit lines and without regard to their fiduciary duties (a) to maximize and achieve returns from the credit lines for PAIF or its subsidiaries or General Partner, and (b) to protect PAIF from liability to Ranger and from insolvency arising out of Ranger's redemption demand and Ranger's interest as the Limited Partner with the greatest interest in the Argon Side Pocket.

76. The Insider Defendants misappropriated PAIF's and its subsidiaries' money in the conduct of the affairs of PAIF, PAF and PAFM through numerous breaches of their fiduciary duty. All such acts and omissions were committed by the Insider Defendants willfully and in bad faith and are outside the exculpatory provisions of relevant agreements as a matter of fact and law.

77. PAIF is a person that was injured in its business and property by reason of Defendants' conduct of the affairs of Old PAF, New PAF and PAFM, its General Partners, and its subsidiaries, through a pattern of racketing activity and PAIF is entitled to recover from said Defendants, jointly and severally, treble the amount of damages determined at trial.

AS AND FOR A THIRD CAUSE ACTION
(Conspiracy to Violate NJ RICO – All Defendants)

78. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

79. If and to the extent that any Defendant herein, including but not limited to Defendant Rosebud Management, was not itself a fiduciary to or of PAIF, PAF or PAFM, such Defendant (each a “Conspiring Defendant”) agreed with those remaining Defendants that were the fiduciaries (each a “Primary Violator Defendant”) to enable and profit from the latter’s breach of duty to PAF and PAFM, and thus to PAIF, by contracting directly with the credit lines to which PAF and PAFM caused PAIF to lend.

80. The contracts and relationships between each Conspiring Defendant and the credit lines constituted overt acts in furtherance of the agreement between all Conspiring Defendants and all Primary Violator Defendants to operate or participate in the operation of PAF and PAFM as General Partner of PAIF through a pattern of racketeering acts including misappropriation by a fiduciary.

81. PAIF is a person that was injured in its business and property by the agreement and overt acts of the combined Conspiring Defendants and Primary Violator Defendants in furtherance of a conspiracy to operate PAIF’s General Partners, PAF and PAFM, through a pattern of racketeering activity and, accordingly, PAIF is entitled to recover from said Defendants, jointly and severally, treble the amount of damages determined at trial.

AS AND FOR A FOURTH CAUSE ACTION
(Common Law Breach of Fiduciary Duty – All Insider Defendants)

82. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

83. Each of the Insider Defendants owed fiduciary duties to the Debtors.

84. Each of the Insider Defendants breached his or its fiduciary duties in the manner set forth above, including by failing to fully and accurately disclose his or its adverse self-interests in conducting the affairs of Old PAF, New PAF and PAFM as General Partner to PAIF and in causing PAIF and/or its subsidiaries, or other persons described above, to pay him or it directly or indirectly for services that promoted his or its adverse self-interest at PAIF's and its subsidiaries' expense. The Insider Defendants also caused the Debtors to breach their contractual and fiduciary duties to Ranger, as determined by the Award. In addition, the Insider Defendants caused PAIF to lend money to third-party credit lines that had contracted with Defendants' affiliates, including but not limited to Rosebud Management, the Primus Entities and the Burgess Entities. The Insider Defendants also improperly charged FRS for expenses unrelated to the Argon Side Pocket, overcharged for services that did relate to the Argon Side Pocket and/or exposed PAIF to liability to Ranger by allocating Argon X recoveries to PAIF's general accounts rather than to the Argon Side Pocket they had created. The Insider Defendants also caused the Debtors to commit waste as aforesaid, by making loans to Tribal Lenders, by negligently originating loans that they then foisted on PAIF as buyer, and by increasing or continuing advances to PAIF's borrowers when they should have honored Ranger's redemption demand and wound down and liquidated the fund.

85. Each of the Insider Defendants failed to recuse himself or itself from PAF's and PAFM's decision-making on behalf of PAIF as to credit lines with which the Insider Defendants'

side-businesses had financial relationships and deliberately froze-out unconflicted Managing Members of Old PAF from that decision-making.

86. The Insider Defendants caused PAIF to lend to and to expand or renew lending relationships to credit lines for the unlawful purposes of prioritizing their gains from their side-businesses connected to the credit lines and without regard to their fiduciary duties to (a) maximize and achieve returns from the credit lines for PAIF and PAF and (b) protect PAIF from liability to Ranger and from insolvency arising out of Ranger's redemption demand.

87. All such acts and omissions were committed by the Insider Defendants willfully and in bad faith and are outside the exculpatory provisions of relevant agreements as a matter of fact and law.

88. The Insider Defendants are liable to the Debtors for all losses suffered by the Debtors arising from their breaches of duty, for disgorgement of amounts paid to them directly or to their affiliates proximately related to their self-interested breaches of fiduciary duty and for damages in an amount to be determined at trial proximately resulting from their wrongful acts or omissions.

AS AND FOR A FIFTH CAUSE ACTION
(Aiding and Abetting Common Law Breach of Fiduciary Duty – All Defendants)

89. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

90. If and to the extent that any Defendant herein, including but not limited to Defendant Rosebud Management, was not itself a fiduciary to or of PAF or PAIF, such Defendant (each an "Aiding and Abetting Defendant") had actual knowledge that the remaining Defendants (each a "Primary Violator Defendant") were fiduciaries to those entities.

91. Each Aiding and Abetting Defendant was an affiliate of one or more Primary Violator Defendant(s).

92. The contracts and relationships between each Aiding and Abetting Defendant and the credit lines to which the Primary Violator Defendants caused PAIF to lend constituted substantial assistance in further of the Primary Violator Defendants' breaches of their fiduciary duties to PAF and/or PAIF.

93. The Aiding and Abetting Defendants are liable to PAF and PAIF for disgorgement of amounts paid to them in assisting the Primary Violator Defendants' breaches of fiduciary duties and for damages in an amount to be determined at trial proximately resulting from the conflicted decision-making of the Primary Violator Defendants in PAIF's loans to the credit lines with whom the Aiding and Abetting Defendants had financial relationships.

AS AND FOR A SIXTH CAUSE ACTION
(Declaratory Judgment – All Defendants)

94. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

95. The Services Agreement, PAIF Limited Partnership Agreement and the PAF and PAFM operating agreements provide for limited indemnification of claims made by third-parties against certain of their officers, partners and members and others (the "Indemnification Provisions"). Certain Defendant herein have claimed that the Indemnification Provisions purport to cause PAF, and indirectly PAIF, to indemnify some or all of said Defendants against negligent or intentional acts, as well as from causing damages alleged to result from violations of applicable law, theft, embezzlement, or any other crime, extortion, or any other tort or any unlawful act.

96. To the extent that the Indemnification Provisions theoretically apply to any Defendant herein, the enforcement of those provisions would violate public policy and are legally unenforceable in light of said Defendants' intentional or grossly negligent wrongful acts and omissions alleged herein.

97. Plaintiff is entitled to a declaration that, as a result of their breaches of fiduciary duty, other wrongful acts and acts and omissions under conflicts of interests, none of the Defendants are entitled to contractual or common law indemnification from any of Old PAF, New PAF or PAIF.

AS AND FOR A SEVENTH CAUSE ACTION
(Declaratory Judgment – Defendants MicroBilt, Wojciechowski, MicroBilt Financial & Primus)

98. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

99. The Services Agreement between MicroBilt and PAF contains an indemnification clause at Paragraph 10(O).

100. Defendants Wojciechowski, MicroBilt, MicroBilt Financial and Primus have claimed a right to contractual indemnification from the Debtors. To the extent any of those claims are based on the indemnification provision of the Services Agreement, or other contracts to which either of the Debtors are parties, the Trustee seeks a declaratory judgment that any claim by any of the Defendants named in this paragraph against any of the Debtors for contractual indemnity is unenforceable. PAIF is not a party to the Services Agreement and is not liable to indemnify anyone under it.

101. The indemnification clause in the Services Agreement, by its terms, purports to bind each party to indemnify the other against claims of third-parties for acts or omissions of the indemnitee "whether negligent or intentional" that "directly or indirectly caused or [are] alleged

to have caused” damages or injury, including but not limited to “violation of applicable law, theft, embezzlement or any other crime . . . tort or violation of any civil or personal right or any unlawful act” (the “Willful Acts Indemnity”).

102. The Trustee, on behalf of PAF and PAIF, is entitled to declarations (a) that the Willful Acts Indemnity is contrary to public policy, is void and is unenforceable and either should be severed from the Services Agreement, or renders the Services Agreement null and void, and (b) that MicroBilt is not entitled to any indemnification from any of the Debtors or their predecessors-in-interest.

103. The Trustee, on behalf of Old PAF, New PAF and PAIF, is also entitled to a declaration that none of the Defendants are entitled to any indemnification from either of the Debtors.

104. The Services Agreement further provides at Paragraph 5 that it is not terminable by Old PAF and shall continue in perpetuity, if not terminated for breach that remains uncured for greater than 30 days, “so long as MicroBilt maintains greater than forty percent (40%) ownership of [PAF]. . . .”

105. The Trustee is entitled to a declaration that the Services Agreement has been terminated because of MicroBilt’s prior, uncured breach or, in the alternative, that the perpetuity provisions of Services Agreement are void and unenforceable as a product of overreaching by a fiduciary, unconscionability and as against public policy.

AS AND FOR AN EIGHT CAUSE ACTION
(Intentional Fraudulent Transfer – 11 U.S.C. § 548(a)(1)(A) – MicroBilt)

106. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

107. MicroBilt billed Debtors for and, against those bills, Debtors transferred their cash and other property and/or incurred obligations to or for the benefit of MicroBilt within two years before the date of the Debtors' filing of the petition for relief in the above-captioned bankruptcy case.

108. Those transfers made or obligations incurred after the March 28, 2016 date of Ranger's redemption demand were made or incurred against false, fictitious or overstated MicroBilt invoices for goods or services (*i.e.*, for inadequate consideration to an insider) at a time when the Debtors faced extreme financial difficulties or actual insolvency and were made or incurred with actual intent to hinder, delay or defraud Ranger and other present or future creditors of Debtors.

109. The Plaintiff is entitled to avoid all such intentionally fraudulent transfers made or obligations incurred voluntarily or involuntarily by the Debtors to or for benefit of the MicroBilt on or after March 28, 2016.

110. Plaintiff seeks recovery of all transfers under section 550 of the Bankruptcy Code from either MicroBilt as initial transferee, or any mediate or immediate transferee of such initial transferee.

AS AND FOR A NINTH CAUSE ACTION
(Constructive Fraudulent Transfer – 11 U.S.C. § 548(a)(1)(B) – MicroBilt)

111. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

112. As of November 30, 2016, Debtors were liable to redeem Ranger's interests in PAIF and PAIOF.

113. As of November 1, 2016, Debtors were insolvent, were engaged in business or transactions or were about to engage in business or transactions for which any property remaining with either or both of them was an unreasonably small capital and/or Debtors intended to incur, or believed that they would incur, debts beyond either or both of their ability to pay as such debts matured.

114. On and after November 1, 2016, MicroBilt rendered false, fictitious or overstated invoices for goods or services to Debtors and Debtors transferred their cash and other property and/or incurred obligations to or for the benefit of MicroBilt in exchange for less than reasonably equivalent value.

115. The Plaintiff is entitled to avoid all such constructively fraudulent transfers made or obligations incurred voluntarily or involuntarily by the Debtors to or for the benefit of MicroBilt on or after November 1, 2016.

116. Plaintiff seeks recovery of all transfers under section 550 of the Bankruptcy Code from either MicroBilt as initial transferee, or any mediate or immediate transferee of such initial transferee.

AS AND FOR A TENTH CAUSE ACTION
(Intentional Fraudulent Transfer – N.J. Stat. Ann. § 25:2-25(a) – MicroBilt)

117. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

118. Debtors made transfers of their cash and other property and/or incurred obligations to or for the benefit of MicroBilt at and after the time of Ranger's redemption demand on March 28, 2016 with actual intent to hinder, delay or defraud Ranger and other present or future creditors of PAIF and New PAF.

119. The Plaintiff is entitled to avoid the transactions, and to recover under section 550 of the Bankruptcy Code against MicroBilt or any mediate or immediate transferee.

AS AND FOR AN ELEVENTH CAUSE ACTION
(Constructive Fraudulent Transfer – N.J. Stat. Ann. §§ 25:2-25(b), 25:2-27 – MicroBilt)

120. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

121. As of November 30, 2016, Debtors were in default for failure to redeem Ranger's interests in PAIF and PAIOF.

122. As of November 1, 2016, Debtors were insolvent, were engaged in business or transactions or were about to engage in business or transactions for which any assets remaining with either or both of them were unreasonably small in relation to the business or transaction and/or intended to incur, or believed that they would incur, debts beyond either or both of their ability to pay as such debts matured.

123. On and after November 1, 2016, Defendants caused Debtors to transfer the Debtors' cash and other property and/or incurred obligations to or for the benefit of MicroBilt in exchange for less than reasonably equivalent value.

124. The Plaintiff is entitled to avoid the transactions, other equitable relief or damages for all such constructively fraudulent transfers made or obligations incurred by the Debtors to or for MicroBilt on or after November 1, 2016.

AS AND FOR A TWELFTH CAUSE OF ACTION
(Insider Preferences – N.J. Stat. Ann. § 25:2-27(b) – MicroBilt)

125. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

126. Defendant MicroBilt, an insider, received payments of antecedent debts while the Debtor was insolvent and MicroBilt had reasonable cause to believe the Debtor was insolvent, which transfers are avoidable by the Trustee under section 544 of the Bankruptcy Code and N.J. Stat. Ann. § 25:2-27(b).

127. Plaintiff is entitled to avoid the transactions, and to recover under section 550 of the Bankruptcy Code against MicroBilt

AS AND FOR A THIRTEENTH CAUSE OF ACTION
(Voidable Preferences – 11 U.S.C. § 547 – MicroBilt)

128. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

129. All payments to MicroBilt by the Debtors set forth above occurring within one year of March 9, 2018 constituted transfers voidable under section 547 of the Bankruptcy Code, as they were made while the transferor was insolvent, to a creditor, on account of an antecedent debt, which enabled the transferee to receive more than it would in a chapter 7 case if such Transfers had not been made.

130. The Plaintiff is entitled to avoid the transactions, and to recover under section 550 of the Bankruptcy Code against MicroBilt

AS AND FOR A FOURTEENTH CAUSE ACTION
(Contribution – All Tortfeasor Defendants)

131. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

132. On or about July 20, 2018, a JAMS arbitration panel in the matter captioned *Ranger Specialty Income Fund, L.P. et al. v. Princeton Alternative Funding, LLC, et al.*, JAMS Arbitration Ref. #1450004894 (the “JAMS Arbitration”), issued the Award in favor of Ranger against New PAF and PAIF in the amount of \$30.7 million plus 99 percent of the distributions for the Argon Side Pocket plus pre-judgment interest from November 30, 2016 for, among other acts, breach of fiduciary duty to Ranger in denying Ranger’s redemption request.

133. The Insider Defendants who directed Old PAF, New PAF and PAIF, and each Aiding and Abetting Defendant who substantially assisted the Insider Defendants (collectively, the Insider Defendants and Aiding and Abetting Defendants are referred to hereafter as the “Tortfeasor Defendants”), are jointly liable with New PAF and PAIF for the above Award and are thus liable to New PAF and PAIF for contribution.

134. In addition to incurring liability and attorneys’ fees and expenses in the defense of the JAMS Arbitration, New PAF and PAIF have incurred attorneys’ fees and expenses in connection with a SEC investigation (the “SEC Investigation”) into each and both of them and into Old PAF for acts and omissions caused by and/or substantially assisted in by the Tortfeasor Defendants.

135. New PAF and PAIF are entitled to contribution from the Tortfeasor Defendants for all attorneys’ fees and expenses incurred by them in connection with the SEC Investigation and any private lawsuit, government investigation or regulatory action against either or both of them arising out of the Tortfeasor Defendants’ acts or omissions alleged herein.

AS AND FOR A FIFTEENTH CAUSE ACTION
(Equitable Subordination – All Claimant Defendants)

136. Plaintiff repeats, realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

137. As of the date of this Complaint, certain Defendants herein—namely, MicroBilt, MicroBilt Financial, Burgess, Wojciechowski, Rosebud Management, Primus and LJP (collectively, the “Claimant Defendants”) have filed proofs of claim in the Debtors’ bankruptcy case under the Services Agreement, the PAIF Agreement, the New PAF Limited Liability Agreement, other agreements and documents and common law for fees, indemnity, contribution or other moneys allegedly due to each them.

138. Each and all of the Claimant Defendants have engaged in inequitable conduct which conduct resulted in injury to creditors and Limited Partners of the Debtors or conferred an unfair advantage on said Claimant Defendant(s).

139. Equitable subordination of the full amount of each and every one of each Claimant Defendant’s claims against the Debtors to a position junior to the interests of the Limited Partners in the Debtor PAIF, and junior to the equity interests in the Debtor PAF, is necessary to offset the harm that the Debtors and their respective creditors have suffered as a result of the Claimant Defendant’s inequitable conduct and such subordination would be consistent with the provisions and purposes of the Bankruptcy Code.

WHEREFORE, Plaintiff Matthew Cantor, in his capacity as Chapter 11 Trustee for Debtor New PAF, successor-in-interest to Old PAF, and of Debtor PAIF respectfully requests the following relief:

1. Disgorgement of all monies received by any Insider Defendant or an affiliate of an Insider Defendant (including but not limited to Rosebud Management, the

- Primus Entities and the Burgess Entities) from a breach of the Insider Defendant's duties to PAIF, Old PAF, New PAF or FRS;
2. Restitution from Defendant MicroBilt of monies paid to it by PAIF or by Old PAF, New PAF or PAFM on behalf of PAIF, under the Services Agreement;
 3. A declaratory judgment that the Services Agreement is terminated because of MicroBilt's breaches and damages in an amount to be determined at trial from MicroBilt for breaches of the Services Agreement;
 4. Damages in an amount to be determined at trial from each Insider Defendant proximately caused by its or his breach of duty and damages from each and every Defendant that aided and abetted the breach by an Insider Defendant and proximately caused or contributed to said damages;
 5. Treble damages as allowed under NJ RICO for the injury to PAIF's business and property by reason of Defendants' conduct of the affairs of Old PAF, New PAF and PAFM, its General Partners, and FRS, PAIF's subsidiary, through a pattern of racketing activity and/or Defendants' conspiracy to do so;
 6. A declaratory judgment that none of the Defendants are entitled to indemnification from any of Old PAF, New PAF or PAIF;
 7. A declaratory judgment that the Willful Acts Indemnity in the Services Agreement is void and unenforceable and severed from the Services Agreement (if said Services Agreement is not terminated in its entirety);
 8. A declaratory judgment that the perpetuity provisions of Services Agreement are void and unenforceable and severed from the Services Agreement (if said Services Agreement is not terminated in its entirety);
 9. Avoidance, other equitable relief or damages under the above federal and state statutes, including 11 USC § 550, in connection with each fraudulent transfer to or obligation incurred by either PAIF or New PAF or both to or for the benefit of MicroBilt and each insider or voidable preference made by either Debtor or both to or for the benefit of MicroBilt;
 10. Contribution from each Tortfeasor Defendant for damages to third-parties and/or attorneys' fees and expenses incurred by Old PAF, New PAF and/or PAIF as a result of the Tortfeasor Defendants' conduct;
 11. Equitable subordination of the full amount of any and all claims filed against either Debtor in the above-captioned Chapter 11 proceedings by or on behalf of any Claimant Defendant to claims of all other creditors;

12. The Trustee's attorneys' fees and litigation expenses in this Adversary Proceeding and in connection with any subsequent enforcement proceedings related thereto;
13. Pre-judgment and post-judgment interest;
14. Costs; and
15. Such other and further equitable or legal relief as the Court may deem just and appropriate.

Respectfully submitted,

WOLLMUTH MAHER & DEUTSCH LLP
*Counsel for Matthew Cantor, Chapter 11
Trustee*

By: /s/ Paul R. DeFilippo
Paul R. DeFilippo
James N. Lawlor

Counsel for Matthew Cantor, Chapter 11 Trustee

Dated: July 29, 2019