and vision medical services for herself, her family members, select Foundation employees, and their family members.

136. Foundation was the rightful owner and possessor of these funds and defendant's wrongful acts caused Foundation to be permanently dispossessed of the funds and converted to the personal use and benefit of her and others without Foundation's consent; said acts constitute embezzlement and/or conversion of funds.

137. Defendant's acts of embezzlement and/or conversion were committed without actual or apparent authority and without approval of the Foundation Board of Directors, and were committed with a culpable state of mind involving knowledge of, or with gross recklessness with respect to, her fiduciary duty owed to the Foundation and constitute a breach and defalcation of that fiduciary duty.

138. As a direct and proximate result of defendant's breach of fiduciary duty through embezzlement and/or conversion, Foundation has suffered monetary damages relating to Count 19 in the amount of $3,288.20.

COUNT 20
BREACH OF FIDUCIARY DUTY
(Miscellaneous Infractions - $3,000.00)

139. Plaintiff incorporates by reference paragraphs 1 through 138 above as if fully set forth herein.

140. On or about December 12, 2009, defendant wrongfully received reimbursement from Foundation funds for two bottles of King Gris wine in the amount of $76.00.

141. On or about February 24, 2010, defendant wrongfully used Foundation funds to purchase food, alcoholic beverages and children's meals at Toby Keith's Restaurant at the Hard Rock Casino in Tulsa, Oklahoma, in the amount of $305.51, including a $50.00 gratuity.

142. On or about February 25, 2010, defendant wrongfully used Foundation funds to purchase food and alcoholic beverages at McGill's 19 Restaurant at the Hard Rock Casino in Tulsa, Oklahoma, in the amount of $484.35, including a $71.00 gratuity.

143. From November, 2011, through July, 2012, defendant wrongfully used the Foundation's Pike Pass account for her own personal vehicle. The amounts expended to be determined.

144. On or about October 28, 2010, defendant wrongfully used Foundation funds to reimburse herself for a bottle of La Linda Viognier purchased at Cheever's Café in Oklahoma City, Oklahoma, on October 5, 2010, in the amount of $27.00.

145. On or about November 18, 2010, defendant wrongfully received reimbursement from Foundation funds in the amount of $470.00, allegedly paid to Lisa Smith Reed without supporting documentation.

146. On or about October 18, 2011, defendant wrongfully used Foundation funds to purchase a bottle of Meridian Pinot Grigio at 2 Rivers Grille in the Nashville International Airport in the amount of $28.00.

147. On or about October 21, 2011, defendant wrongfully used Foundation funds to purchase two Chicago Bloody Marys at O'Charley's in the Nashville International Airport in the amount of $20.90.

148. On or about February 6, 2012, defendant wrongfully used Foundation funds to purchase food and alcoholic beverages for three persons, including three bottles of G Sean Minot Pinot at $14.00 a bottle, at the Branch in Tahlequah in the amount of $140.64, including a $30.00 gratuity.

149. On or about October 19, 2012, defendant wrongfully used Foundation funds to

purchase a bottle of Maker's Mark for $22.50, and numerous other alcoholic beverages purchased at Russell's in the Oklahoma City Marriott (now The Tower Hotel) for a total amount of $115.23.

150. On or about November 15, 2012, defendant wrongfully used Foundation funds to pay a parking citation issued to defendant on October 12, 2012, while operating her personal vehicle in Tulsa. The $30.00 fine was paid late and assessed a $10.00 late fee.

151. On or about February 19, 2013, defendant wrongfully used Foundation funds to pay a parking citation issued to defendant on November 20, 2012, while operating the Foundation vehicle in Boulder, Colorado.

152. On or about March 11, 2013, defendant wrongfully used Foundation funds to purchase food and alcohol beverages for four persons at The Branch in Tahlequah, Oklahoma, in the amount of $175.96, including a $30.00 gratuity.

153. Foundation was the rightful owner and possessor of these funds and benefits and defendant's wrongful acts caused Foundation to be permanently dispossessed of the funds and benefits and converted to the personal use and benefit of her and others without Foundation's consent; said acts constitute embezzlement and/or conversion of funds.

154. Defendant's acts of embezzlement and/or conversion were committed without actual or apparent authority and without approval of the Foundation Board of Directors, and were committed with a culpable state of mind involving knowledge of, or with gross recklessness with respect to, her fiduciary duty owed to the Foundation and constitute a breach and defalcation of that fiduciary duty.

155. As a direct and proximate result of defendant's breach of fiduciary duty through embezzlement and/or conversion, Foundation has suffered monetary damages relating to Count

20 in the amount of $3,000.00.

COUNT 21
RESCISSION, CANCELATION AND BREACH OF CONTRACT
($74,500.00)

157. Plaintiff incorporates by reference paragraphs 1 through 156 above as if fully set forth herein.

158. On January 28, 2013, Foundation and defendant entered into a Severance Agreement, attached hereto as Exhibit "A," wherein Foundation agreed to pay defendant $74,500.00 in exchange for her resignation as Executive Director, no later than July 12, 2013, at 5:00 p.m.

159. Foundation negotiated, entered into, and performed the Severance Agreement, paying the defendant the agreed severance amount, all in good faith and without knowledge of defendant's multiple breaches of fiduciary duty through embezzlement and conversion. But for defendant's complicit concealment of her multiple defalcations of fiduciary duty through embezzlement and conversion, Foundation would have never entered into the Severance Agreement.

160. Defendant negotiated and entered into the Severance Agreement in bad faith with full knowledge of, and in complicit concealment of, her multiple defalcations of fiduciary duty through embezzlement and conversion, allowing her to be further unjustly enriched in the amount of $74,500.00.

161. Public policy dictates that defendant should not be allowed to be unjustly enriched by her multiple defalcations of fiduciary duty through embezzlement and conversion; that the Severance Agreement should be rescinded, canceled and set aside, and all funds paid to defendant under the agreement be ordered disgorged and returned to the Foundation, with

interest.

162. As an additional basis for recovery, paragraph 4 of the Severance Agreement provides: *"Employee agrees that she will not disclose to anyone outside CNF, any information about CNF's business activities, business plans, financial status, or any other confidential or proprietary information about CNF and she will not use any such information for her own benefit."*

163. In October 2009, on behalf of Foundation, defendant opened a five-year membership account with Metasoft Systems, Inc., for $6,495.00. Metasoft Systems, Inc., provides an online searchable database for non-profit foundations to seek out potential donors, locate potential grant opportunities, and to assist in non-profit fundraising activities.

164. The membership included online user access to search for funding sources. All information acquired through the Metasoft Foundation Search database by means of Foundation's online account is strictly confidential and proprietary to Foundation.

165. After her departure from employment with Foundation, defendant acquired new employment with Bacone College in Muskogee, Oklahoma.

166. Records obtained from Metasoft Systems, Inc., reveal that from August 2013 through September 2014 Foundation's Metasoft account was accessed and searched on a continuing and regular basis through the username *"Kimberlie Gilliland"* and through IP addresses corresponding with those associated with Bacone College.

167. Defendant's unauthorized access to Foundation's Metasoft search account constitutes a material breach of the Severance Agreement by virtue of her willful conversion of Foundation resources and the disclosure of confidential or proprietary information for her own benefit and/or the benefit of her new employer.

168. As an additional basis for recovery, defendant's last day per the Severance Agreement was Friday, July 12, 2013, at 5:00 p.m. Due to the pay cycle ending on July 10, 2013, defendant, should have received two days pay over her contract rate. Per the approved 2010 contract rate, this should have been $600.00. However, defendant wrongfully paid herself $8,072.26 (a full month's salary at her unauthorized rate); said amount being $4,472.26 in excess of the pay provided in the Severance Agreement. As a result of defendant's unauthorized overpayment, she willfully and wrongfully breached the agreement.

169. As a direct and proximate result of defendant's multiple breaches of the Severance Agreement, Foundation has suffered damages, both economic and non-economic, through potential lost donors, lost grant opportunities, redirected funding sources, and lost fundraising opportunities as well as suffering disclosure of confidential or proprietary information. In restitution for defendant's material breach of the Severance Agreement, Foundation seeks liquidated damages in the amount of the full severance pay - $74,500.00.

COUNT 22
PUNITIVE DAMAGES
($928,000.00)

170. Plaintiff incorporates by reference paragraphs 1 through 169 above as if fully set forth herein.

171. Defendant's numerous acts breaching her fiduciary duties through embezzlement and conversion were willful and wanton, committed with a culpable state of mind involving knowledge of. or gross recklessness in respect to, the proper fiduciary behavior, in complete disregard of the consequences, and under such circumstances and conditions that a reasonable person would know, or have reason to know, that such conduct would, with a high degree of probability, result in harm.

172. To punish the defendant and to deter the defendant and others similarly situated from engaging in similar conduct in the future the Court should award punitive damages in an amount equal to four times the amount of Foundation's actual damages.

WHEREFORE, plaintiff prays it be awarded civil judgment against the defendant for actual damages in an aggregate amount in excess of $232,000.00; punitive damages in an amount four-times its actual damages, or $928,000.00; for its fees and costs of bringing this litigation, including a reasonable attorney's fee; and for such other relief the Court deems just and equitable.

Respectfully submitted,

Ralph F. Keen II, OBA #17077, CNBA #0094
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keenlaw@windstream.net
Attorney for Plaintiff

SEVERANCE AGREEMENT AND RELEASE

This Severance Agreement and Release ("Agreement") is made by and between the CHEROKEE NATION EDUCATION CORPORATION, DBA CHEROKEE NATION FOUNDATION ("CNF"), a nonprofit 501(c)(3) incorporated under the Cherokee Nation, and KIMBERLIE GILLILAND ("Employee"). This Agreement shall become effective and binding upon the signing of the Agreement by Employee (the "Effective Date").

Employee has informed CNF of her resignation as Executive Director of CNF effective no later than July 12, 2013 at 5:00 p.m. In exchange for the promises set forth herein and in recognition of Employee's past service as an employee, CNF will pay Employee a severance payment in the amount of Seventy-Four Thousand Five Hundred Dollars ($74,500.00) ("Severance Payment"). The Severance Payment will be made in a lump sum, less applicable withholding for taxes, FICA and other withholdings required by law. The lump sum payment will be made no later than the second regular payday for CNF employees next following the Effective Date, provided that the Employee has signed and returned this Agreement to CNF on or before fifteen (15) days after receiving it.

In consideration of the Severance Payment, Employee and CNF hereby agree and state as follows:

1. Employee, individually and on behalf of her heirs, personal representatives, successors, and assigns, releases, waives, and discharges CNF, its predecessors, successors, parent, subsidiaries, operating units, affiliates, divisions, and the agents, representatives, officers, directors, shareholders, partners, managers, employees and attorneys of each of the foregoing (hereinafter "Released Parties"), from all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, expenses, damages, actions, and causes of action, whether in law or in equity, whether known or unknown, suspected or unsuspected, arising from Employee's employment and resignation from employment with CNF, including but not limited to, any and all claims pursuant to federal, tribal, state and local laws and regulations prohibiting employment discrimination, and any and all common law contract and tort claims. Employee is not waiving any rights or claims that may arise after this Agreement is signed by Employee nor is Employee waiving any rights to indemnification or to coverage under any Directors and Officers Liability Insurance that CNF may have for any claims arising from Employee's performance of duties as Executive Director. Employee is also not waiving any right to her base salary for services performed as Executive Director of CNF or for reimbursement of any expenses incurred as Executive Director of CNF and approved by CNF.

2. Employee hereby acknowledges and affirms as follows:

    a. Employee acknowledges that the Severance Payment is consideration to which she is not otherwise entitled under any CNF plan, program, or prior agreement.

EXHIBIT

A

b. Employee has carefully read the contents of this Agreement and understands its contents. Employee is executing this Agreement voluntarily, knowingly, and without any duress or coercion.

c. It is Employee's intent to be legally bound according to the terms of this Agreement.

3. CNF and Employee each agree to keep in strictest confidence the existence of this Agreement, its terms, conditions and negotiations and agree that they will make no statements or representations relating thereto, except to their attorneys, tax advisors or as required by law.

4. Employee agrees that she will not disclose to anyone outside CNF, any information about CNF's business activities, business plans, financial status, or any other confidential or proprietary information about CNF and she will not use any such information for her own benefit.

5. This Agreement shall not be construed as an admission by any of the Released Parties of any liability whatsoever, or as an admission by any of the Released Parties of any violation of rights, of Employee's rights, or any person, or any violation of any order, law, statute, duty or contract.

6. In the event that any provision of this Agreement should be held void, voidable, or unenforceable, the remaining portions shall remain in full force and effect.

7. Employee hereby declares that this Agreement constitutes the entire and final settlement between Employee and CNF concerning Employee's resignation from employment with CNF, superseding all prior negotiations, understandings and/or agreements concerning her resignation from employment with CNF, and that CNF has not made any promise or offered any other agreement, except those expressed in this Agreement, to induce or persuade her to enter into this Agreement.

1-28-13
Date

KIMBERLIE GILLILAND

28 Jan 13
Date

THE CHEROKEE NATION EDUCATION CORPORATION, DBA CHEROKEE NATION FOUNDATION

By: Robin F Ballenger
Robin Flint Ballenger, President

Exhibit 2

Exhibit 2

FILED

IN THE DISTRICT COURT OF THE CHEROKEE NATION

2016 JUL 27 AM 9:19

CHEROKEE NATION EDUCATION CORPORATION, d/b/a CHEROKEE NATION FOUNDATION, Plaintiff,	Case No. CV-16-397
vs.	
KIMBERLIE GILLILAND, Defendant.	

REQUESTS FOR ADMISSIONS

TO: Kimberlie A. Gilliland
28177 S Boat House Ln.
Park Hill, OK 74451

Plaintiff, Cherokee Nation Education Corporation d/b/a Cherokee Nation Foundation (hereinafter "Foundation"), pursuant to FRCP Rule 36, requests the defendant respond to the following requests for admissions and serve the same upon plaintiffs through their attorney of record within thirty (30) days of the service of these requests. The plaintiff hereby demands that the defendant respond in writing, under oath, to each of the following Request for Admissions pursuant to Federal statutes. **Failure to respond will be treated as an admission by the defendant.** If you dispute a part, but not all of any Request for Admission, you must admit the part you do not dispute and deny only the part in controversy. If you fail to admit any fact that is later proven at trial, the costs of making such proof, including a reasonable attorney's fee, may be awarded against you.

DEFINITIONS

A. "You" or "your" shall refer to the named defendant, Kimberlie A. Gilliland.

B. "Foundation" shall refer to the named plaintiff. Cherokee Nation Education Corporation d/b/a Cherokee Nation Foundation.

C. "Writing" shall refer to any written material, whether typed, handwritten, printed or otherwise, or any photograph, Photostat, microfilm, or any other reproduction thereof, and including, without limitation, each note, memorandum, letter, telegram, circular, release, article, report, analysis, chart, account, book, draft, agreement, contract, order, monthly statement, invoice, pamphlet, correspondence, meeting minutes, interoffice and intra-office communication, ledgers, book of accounts, vouchers, bank check or draft, bank statements, check stubs, deposit slips, charge slips, recorded or written information of whatsoever nature or form and howsoever produces or reproduced.

D. "Identify" of "identification" when used with reference to an individual person, means to state the full name, residential address, present or last known position and business affiliation and telephone number. "Identify" of "identification" when used with reference to a corporation, firm or other entity, means its full name, form of organization and its present or last known address. "Identify" of "identification" when used with reference to a writing, means a description of that writing in a manner sufficient for a subpoena duces tecum or for production, pursuant to Oklahoma statutes. Also give its present location or custodian. If any such writing was, but no longer is, in your possession or control, state what disposition was made of it, the date thereof, the person responsible for making the decision as to such disposition, and the person responsible for carrying out such disposition.

INSTRUCTIONS

Finally, please note that these Request for Admissions are to be regarded as continuing to the extent allowed under Rule 26(e) of the Federal Rules of Civil Procedure as to require additional responses if you acquire additional information between the time the responses are served and the time of trial. Such additional responses shall be under oath, served seasonably, but not later than thirty (30) days after such further information is received.

REQUEST FOR ADMISSIONS

REQUEST FOR ADMISSION NO. 1: Please admit that on December 22, 2008, Principal Chief Chad Smith endorsed a Council resolution confirming your nomination and appointment to serve on the Foundation Board of Directors for a term of four years.

REQUEST FOR ADMISSION NO. 2: Please admit that you served on the Foundation Board of Directors, including a partial term as President, until your voluntary resignation on October 5, 2009, when you assumed the duties and responsibilities as Executive Director of the Foundation.

REQUEST FOR ADMISSION NO. 3: Please admit that under the Foundation bylaws, the Executive Director has the affirmative duty to cause to be deposited all monies, drafts and checks in the name of, and to the credit of the corporation in such banks and depositors as a majority of the whole Board of Directors shall designate.

REQUEST FOR ADMISSION NO. 4: Please admit that under the Foundation bylaws, the Executive Director has the affirmative duty to render to the President and the Directors, whenever required, an account of all transactions by, and/or the financial conditions of the corporation.

REQUEST FOR ADMISSION NO. 5: Please admit that under the Foundation bylaws, the Executive Director has the affirmative duty to be the administrator of the corporation and be charged with the responsibility of managing the business of the corporation in the role of the chief executive officer and shall perform such other duties as maybe prescribed by the Board of Directors or the President.

<u>**REQUEST FOR ADMISSION NO. 6:**</u> Please admit that under the Foundation bylaws, the Executive Director is granted authority to sign checks, receipts, deposit funds, enter into contracts, modify or cancel contracts, on behalf of the Board of Directors, not to exceed the amount of $5,000.00.

<u>**REQUEST FOR ADMISSION NO. 7:**</u> Please admit that the above-described duties and responsibilities of the Executive Director created an affirmative fiduciary relationship between Foundation and you, relating to all of Foundation's business matters and general operations.

<u>**REQUEST FOR ADMISSION NO. 8:**</u> Please admit that this fiduciary relationship continuously existed from your assumption of the duties and responsibilities as Executive Director up until your final departure from Foundation's employment in July of 2013.

<u>**REQUEST FOR ADMISSION NO. 9:**</u> Please admit that you are a citizen of the Cherokee Nation.

<u>**REQUEST FOR ADMISSION NO. 10:**</u> Please admit that during your tenure as executive director of the Foundation you had exclusive control and discretion over all payroll matters, including the approval of timesheets and payroll amounts made through the Paychex Payroll Service.

<u>**REQUEST FOR ADMISSION NO. 11:**</u> Please admit that you have an ownership interest in Cherokee Media Limited a/k/a Cherokee Media Ltd.

<u>**REQUEST FOR ADMISSION NO. 12:**</u> Please admit that you are a partner and/or officer of Cherokee Media Limited a/k/a Cherokee Media Ltd.

<u>**REQUEST FOR ADMISSION NO. 13:**</u> Please admit that Lisa Reed-Smith was your personal housekeeper while also employed by the Foundation.

REQUEST FOR ADMISSION NO. 14: Please admit that you allowed other Foundation employees to sign your name to Foundation checks.

REQUEST FOR ADMISSION NO. 15: Please admit that on or about November 13, 2010, the Foundation received a $5,000.00 donation with a handwritten notation that it was to be used: "*for operations, unrestricted, your 'slush fund'.*"

REQUEST FOR ADMISSION NO. 16: Please admit that leading up to your final departure date, and following your final departure from Foundation employment, you took no action to discontinue or terminate the automatic payments of the execute director's health insurance for the remainder of the 2013 year.

REQUEST FOR ADMISSION NO. 17: Please admit that on or about June 10th and July 1st of 2013 that you and your husband personally took possession of over $10,000.00 of computer equipment from the Apple Store in Tulsa, Oklahoma purchased with Foundation funds.

REQUEST FOR ADMISSION NO. 18: Please admit that when your severance agreement with Foundation was finalized on January 28, 2013, you had made no efforts to inform or notify the Board of Directors of any acts of embezzlement or conversion committed by you relating to Foundation assets or property.

REQUEST FOR ADMISSION NO. 19: Please admit that the Metasoft account information included information of a confidential or proprietary nature, and that your continued unauthorized use of the account after your departure of employment constituted a breach of the severance agreement.

REQUEST FOR ADMISSION NO. 20: Please admit that your numerous acts breaching your fiduciary duties through embezzlement and conversion were willful and wanton, committed with a culpable state of mind involving knowledge of, or gross recklessness in respect to, the proper fiduciary behavior, in complete disregard of the consequences, and other such circumstances and conditions that a reasonable person would know, or have reason to know, that such conduct would, with a high degree of probability, result in harm.

Respectfully submitted,

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keenlaw@windstream.net
Attorney for Plaintiff

fiduciary behavior, in complete disregard of the consequences, and other such circumstances and conditions that a reasonable person would know, or have reason to know, that such conduct would, with a high degree of probability, result in harm.

Respectfully submitted,

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Attorney for Plaintiff

Exhibit 3

Exhibit 3

FILED

2016 JUL 28 AM 8: 14

CHEROKEE NATION DISTRICT COURT

IN THE DISTRICT COURT OF THE CHEROKEE NATION
CRIMINAL DIVISION

CHEROKEE NATION, Plaintiff,	)	
v.	)	CRM-2016- 54
KIMBERLIE A. GILLILAND, D.O.B. 08/13/1969, Defendant.	)	

COMPLAINT AND INFORMATION

IN THE NAME AND BY THE AUTHORITY OF THE CHEROKEE NATION,

comes now, A. Diane Hammons, specially appointed prosecutor acting by the power of the Attorney General for the Cherokee Nation, Todd Hembree, and upon her oath gives this Court reason to know and be informed that **KIMBERLIE A. GILLILAND** did, within the territorial boundaries of the Cherokee Nation including within Indian Country as defined by 18 U.S.C. § 1151, and the laws of the Cherokee Nation , commit the hereinafter described crimes. At all times pertinent hereto, Defendant Kimberlie A. Gilliland was serving as Executive Director of the Cherokee Nation Education Corporation a/k/a Cherokee Nation Foundation ("CNF"), a non-profit corporation organized under the laws of the Cherokee Nation. whose officers are appointed by the Principal Chief and approved by the Tribal Council, and whose principal place of business is in Tahlequah, Oklahoma, and which, at all times pertinent hereto received partial funding from the Cherokee Nation government and Cherokee Nation Businesses, both entities being located on Indian Country within the boundaries of the Cherokee Nation.

COUNT 1: Embezzlement by Officer of Corporation; 21 CNCA § 1452

From a period from January 24, 2012, through February 14, 2012, Kimberlie A. Gilliland, did willfully and knowingly convert, misappropriate, and embezzle funds of CNF for her own and her family's use, to wit: By using CNF funds to pay for a family trip to California for herself, her husband, Andrew Sikora, and their two minor children, S.S. and S.S; said trip taking place from February 9, 2012, through February 13, 2012. Said conversion included the following transactions.

- On approximately January 24, 2012, the Defendant purchased American Airlines tickets for herself, her husband, Andrew Sikora, and her two minor children, S.S. and S.S. from Tulsa, Oklahoma, to Los Angeles, California, in the approximate amount of $329.20 per ticket plus $56.00 in airline fees, for a travel date of February 9, 2012, all paid out of CNEC funds with the use of a CNEC business credit card, and;
- From February 9, through February 13, 2012, the Defendant paid $70.54 to Fine Airport Parking out of CNEC funds with the use of a CNEC business credit card, and;
- From February 9, through February 13, 2012, the Defendant paid $157.95 to Enterprise Rent a Car at the Los Angeles International Airport, Los Angeles out of CNEC funds with the use of a CNEC business credit card, and;
- From February 9, through February 10, 2012, the Defendant paid $414.05 to Marriott Hotels and Resorts, Anaheim, California, out of CNEC funds with the use of a CNEC business credit card, and;
- On February 11, 2012, the Defendant paid $47.93 for gasoline purchased at OSD Enterprises Inc, in Anaheim, California, out of CNEC funds with the use of a CNEC business credit card, and;
- On February 11,2012, the Defendant paid $25.86 to a restaurant, Bangkok Bay, in Solana Beach, California, out of CNEC funds with the use of a CNEC business credit card, and;
- On February 11,2012, the Defendant paid $46.94 to Oggis Pizza & Brewing Co. in Garden Gove, California, for four (4) guests, out of CNEC funds with the use of a CNEC business credit card, and;
- On February 12, 2012, the Defendant paid $21.30 to Starbucks, in Carlsbad, California, out of CNEC funds with the use of a CNEC business credit card, and;
- From February 12 through February 13, 2012, the Defendant paid $314.53 to the Renaissance Montura, Los Angeles, CA, out of CNEC funds with the use of a CNEC business credit card, and;

- On February 12, 2012, the Defendant paid $1,408.40 to Continental Airlines for tickets and ticket fees for travel to begin on 2/13/12 for herself, her husband Andrew Sikora, and their minor children, S.S. and S.S., out of CNEC funds with the use of a CNEC business credit card.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used CNF funds for her personal benefit and her family's benefit, and not in the due and lawful execution of her trust.

COUNT II: Embezzlement by Officer of Corporation; 21 CNCA § 1452

During a period from May 17, 2012, through May 19, 2012, Kimberlie A. Gilliland, did willfully and knowingly convert and embezzle funds of CNEC for her own use, to wit: By paying for "American Girl" hotel rooms (containing American Girl doll beds, pink balloons, and cookies) for the benefit of her daughter, and an employee's daughter, in the total amount of $291.54 to the Residence Inn Marriott, Addison, Texas, out of CNEC funds with the use of a CNEC business credit card.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used CNF funds for her personal benefit and her family's benefit, and not in the due and lawful execution of her trust.

COUNT III: Embezzlement by Officer of Corporation; 21 CNCA § 1452

During a period from July 16, 2012, through August 13, 2012, Kimberlie A. Gilliland, did willfully and knowingly convert and embezzle funds of CNF for her own and her family's use, to wit: By using CNF funds to pay for a trip to California for herself and her husband, Andrew Sikora; said trip taking place from August 9, 2012, through August 13, 2012. Said conversion included the following transactions:

- On approximately July 16, 2012, the Defendant purchased Southwest Airlines tickets for herself and her husband, Andrew Sikora, to Burbank, California, in the approximate amount of $257.60 per ticket for a travel date of August 9, 2012, all paid out of CNF funds with the use of a CNF business credit card, and;
- From August 9, 2012 - August 13, 2012 the Defendant paid $194.45 to Fine Airport Parking in Tulsa, Oklahoma (including a $125 car wash charge) all paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 9, 2012, the Defendant paid $51.84 to the Jose Roux Taco Bar at the Sky Harbor International Airport, Phoenix, Arizona, all paid out of CNF funds with the use of a CNF business

credit card, and;

- From August 9, 2012-August 10, 2012 the Defendant paid $398.82 to the Queen Mary Ship, in Long Beach, California, for two nights lodging in one of their rooms known for "paranormalistic activity," all paid out of CNF funds with the use of a CNF business credit card, and;
- From August 9, 2012-August 13, 2012 the Defendant paid $347.33 to Hertz Rental Car in Oakland, California, all paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 10, 2012, the Defendant purchased on the Queen Mary Ship in Long Beach, California, a toothbrush and deodorant for $6.74, two bottles of water for $4.78, and $38.80 paid to the Queen Mary Promenade Café for two guest breakfasts, all paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 11, 2012, the Defendant purchased on the Queen Mary Ship in Long Beach, California, a "Bellhop Bear" for $21.99, a "Stack Logo Keyring" for $5.99, and a video entitled "Ghost Encounters" for $29.99, all paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 11, 2012, the Defendant paid $24.82 on the Queen Mary Ship in Long Beach, California, for food and beverage for two persons all paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 11, 2012, the Defendant paid $56.59 to Shell Oil in Long Beach, California, paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 11, 2012, the Defendant paid $12.11 to Denny's in Kettleman City, California, all paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 11, 2012, the Defendant paid $92.40 to the Best Western Inn and Suites, Kettleman, California, paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 12, 2012, the Defendant paid $49.40 to Exxonmobil, in Kettleman, California and $10.45 to "Yellow Card Services," paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 12, 2012, the Defendant paid $133.02 to the Courtyard by Marriott, in Oakland, California, paid out of CNF funds with the use of a CNF business credit card, and;
- On approximately August 13, 2012, the Defendant paid $5.35 to La Casita, in the Denver, Colorado, airport, paid out of CNF funds with the use of a CNF business credit card.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used said funds for her personal benefit and her family's benefit, and not in the due and lawful execution of her trust.

COUNT IV: Embezzlement by Officer of Corporation; 21 CNCA § 1452

On or about July 16, 2012, the defendant did willfully and knowingly convert and embezzle funds of CNF for her own and her family's use, to wit: purchasing a Southwest Airlines ticket for her husband, Andrew Sikora, in the amount of $367.60 for an August 18, 2012 trip from Portland, Oregon to Tulsa, Oklahoma, paid out of CNF funds with the use of a CNF business credit card.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used said funds for her personal benefit and her family's benefit, and not in the due and lawful execution of her trust.

COUNT V: Embezzlement by Officer of Corporation; 21 CNCA § 1452

On or about August 17, 2012, the defendant did willfully and knowingly convert and embezzle funds of CNF for her own use, to wit: purchasing a "Buckle Bag" for $74.99 and two towels for $46.00 ($23.00 each) from the Pendleton Woolen Mills Employee Sales Room in Portland, Oregon, paid out of CNF funds with the use of her CNF business credit card.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used said funds for her personal benefit, and not in the due and lawful execution of her trust.

COUNT VI: Embezzlement by Officer of Corporation; 21 CNCA § 1452

On or about November 15, 2012, the defendant did willfully and knowingly convert and embezzle funds of CNF for her own use, to wit: paying for a parking ticket from the City of Tulsa that was issued to her 2007 Toyota Camry, tag number ****C5, paid out of CNF funds with a CNF check, signed by defendant, for the amount of $40.00 ($30.00 fine and $10.00 late fee);

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used said funds for her personal benefit, and not in the due and lawful execution of her trust.

COUNT VII: Embezzlement by Officer of Corporation; 21 CNCA § 1452

From a period of time from January, 2011, through April, 2013, the defendant did willfully and knowingly convert and embezzle funds of CNF for her own use, to wit:

paying for courses in an online master's degree program for herself from North Park University, in Chicago, Illinois, in the total amount of $21,100.36 paid out of CNF funds with CNF checks signed by the defendant. and with the use of a CNF business credit card.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used said funds for her personal benefit, and not in the due and lawful execution of her trust.

COUNT VIII: Embezzlement by Officer of Corporation; 21 CNCA § 1452

In June of 2013, defendant unilaterally removed a large Hewlett-Packard Designjet Z3200PS 44" Photo Printer and software disks from the Foundation corporate offices to an unknown location. Said equipment was fully functional and valued in excess of $5,000.00.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used said property for her personal benefit, and not in the due and lawful execution of her trust.

COUNT IX: Embezzlement by Officer of Corporation; 21 CNCA § 1452

On or about June 10, and July 1, 2013, defendant used Foundation funds to purchase and take possession of over $10,000.00 of computer equipment from the Apple Store in Tulsa, Oklahoma.

A substantial portion of said computer equipment purchased with Foundation funds never appeared for use in Foundation's corporate offices, and the whereabouts of the equipment is unknown. The missing items include an AppleTV item, Serial No. F02KGAD4FF54, purchased for $99.00; an Apple laptop computer, Serial No. C02KP36SFFT0, purchased for $2199.00; a MacBook Pro service agreement, No. 970000020608672, purchased for $349.00; two Lightning AV digital adaptors, purchased for $49.00 each; an Apple Thunderbolt to Firewire adaptor, purchased for $29.00; a Thunderbolt Gigabit Ethernet adaptor purchased for $29.00; a light gray iPad Smart Case, purchased for $49.00; and a red iPad Smart Case, also purchased for $49.00.

Said acts being a fraudulent appropriation by Kimberlie Gilliland, who while holding an office of trust in CNF, used said property for her personal benefit, and not in the due and lawful execution of her trust.

ALL OF SAID CRIMES being subject to punishment as defined at 21 CNCA § 10, to wit: a term of imprisonment for not more than one (1) year or a fine of five thousand ($5,000.00) or both and any civil remedies as provided by 21 CNCA § 1760(B) for each separate crime.

FURTHER, that the Defendant is an "Indian" as defined in 25 U.S.C. § 450b(d), being a Citizen of the Cherokee Nation, and that the defendant did, within and without the Cherokee Nation including within Indian Country, commit the above crimes, contrary to the Cherokee Nation statutes cited above, and against the peace and dignity of the Cherokee Nation.

A. Diane Hammons, CNBA 0035
Special Prosecutor
Cherokee Nation Office of the Attorney General
P. O. Box 141
Tahlequah, OK 74465
adianehammons@gmail.com

CHEROKEE NATION) ss.

The undersigned, of lawful age, and being first duly sworn states that she has read the above and foregoing Complaint, and that the statements contained therein are true and correct to the best of her information and belief.

Special Prosecutor

Subscribed and sworn to before me this 25th day of July, 2016.

NOTARY PUBLIC

NOTARY # 14007424 EXP. 08/20/18 PUBLIC STATE OF OKLAHOMA

My Commission Expires: 8/20/18

Witnesses: Heather Sourjohn, former CNF employee, Tahlequah, OK
Jennifer Sandoval, CNF, 800 S. Muskogee Ave., Tahlequah, OK
Marisa Hambleton, CNF, 800 S. Muskogee Ave., Tahlequah, OK

Robert St. Pierre, CPA, North 2nd St., Stilwell, OK
J.D. Carey, CPA, Tahlequah, OK
Sherri Combs, forensic auditor, Tahlequah, OK
Shelley Butler-Allen, former CNF Board member, Tahlequah, OK
Robin Ballenger, former CNF Board member, Tulsa, OK
Susan Chapman-Plumb, CNF Board member, Tahlequah, OK
Tonya Rozell, CNF Board member, Tahlequah, OK
Casey Ross-Petherick, former CNF Board member, Oklahoma City, OK
Jay Calhoun, former CNF Board member, Cherokee Nation Businesses, Tulsa, OK
John Gritts, former CNF Board member, Colorado
Jackson Crain, Apple Store, Woodland Hills Mall, Tulsa, OK

APPOINTMENT OF SPECIAL PROSECUTOR

I, Todd Hembree, the duly sworn Attorney General of the Cherokee Nation, do hereby appoint A. Diane Hammons to act as a Special Prosecutor for my office in the matter of the Cherokee Nation versus Kimberlie A. Gilliland. Ms. Hammons has all the power and authority of a duly appointed Assistant Attorney General in conjunction with the prosecution of this case, and will act under the authority of my office.

Dated this 1st day of June, 2016.

Todd Hembree, Attorney General

Exhibit 4

CHEROKEE NATION EDUCATION CORPORATION BYLAWS

Article I – Name, Location and Purpose

1.1 Name

The name of this corporation shall be the Cherokee Nation Education Corporation : DBA Cherokee Nation Foundation

1.2 Registered Office

The registered office of the Cherokee Nation Education Corporation shall be that of the Cherokee Nation,17675 S. Muskogee, Tahlequah, OK 74464, located 3.5 miles south of Tahlequah, Oklahoma on Highway 62, County of Cherokee, State of Oklahoma. The mailing address is 115 E. Delaware, Tahlequah, Oklahoma 74464, until otherwise established by a vote of the majority of the board of directors in office, and a statement of such change is filed in the manner provided by statute.

1.3 Other Offices

The corporation may have such other offices, within the historic boundaries of the Cherokee Nation, as the directors shall from time to time determine to be necessary.

1.4 Purpose

This corporation is organized exclusively for charitable and educational purposes within the meaning of Section 501c3 of the U.S. Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code. In furtherance of such purpose the corporation may:

a) make distributions to organizations that qualify as exempt organization under section 501c3 of the Internal Revenue Code, or to individuals, or on behalf of community groups under the provisions of the Cherokee Nation Education Corporation within the meaning of section 501c3 of the Internal Revenue Code;

b) encourage and promote the educational opportunities which shall include but not be limited to the provision of instruction, educational services, and scholarships to enrolled adult and minor citizens of the Cherokee Nation and any other federally recognized tribe; and

c) Promote and preserve the culture, history and the revitalization of the language of Cherokee people.

1.5 Non-Profit

The corporation is not organized for pecuniary profit and no part of the net earnings of the corporation shall inure to the benefit of any private member or individual and no part of its activities shall be used for carrying on propaganda or otherwise attempting to influence legislation.

Article II – Directors

2.1 General Powers

The property, affairs and business of the corporation shall be managed by the board of directors except those specifically reserved or granted by statute to the Cherokee Nation. The articles of incorporation and these bylaws shall be granted to and vested in the board of directors.

2.2 Number and Qualifications

There shall be a minimum of five (5) directors, and the remaining directors shall not exceed 11, which shall constitute the entire board of directors. There may be an unlimited number of honorary (non-voting) members of the board of directors.

2.3 Appointment, Term, and Removal

Directors shall be nominated by action of the full board of directors to the Principal Chief of the Cherokee Nation and upon approval, shall be appointed by the Tribal Council of the Cherokee Nation. The conditions and terms of office of the directors and honorary members shall be as follows:

a) Directors of the board shall be citizens of the Cherokee Nation or any other federally recognized American Indian tribe and shall not be elected officials of the Cherokee Nation. The directors shall enjoy all rights and privileges of membership and shall be entitled to vote and hold office.

b) Honorary members shall enjoy all rights and privileges of membership but shall neither vote nor hold office, and are not required to be citizens of the Cherokee Nation or any other federally recognized American Indian Tribe. Honorary members shall be appointed in the manner described in Article II, *2.3*.

c) The term of directors and honorary members shall be for four (4) years, beginning in year 2004 or the year these bylaws are ratified by the board of directors. The directors who ratify these bylaws shall serve until a successor board is appointed, except in the event of a director's death, resignation or removal.

d) A director or honorary member may be removed, with or without cause, by a majority vote of the whole board of directors.

2.4 Vacancy

Any vacancy occurring for directors or honorary members shall be filled in the manner described in Article II, 2.3. A director appointed to fill a vacancy shall serve for the unexpired term of his/her predecessor.

2.5 Resignations

All resignations shall be made in writing and addressed to the President and shall be effective upon receipt by the President, who shall note the date and time of receipt of such document.

Article III – Meetings of the Directors

3.1 Place of Board of Directors Meetings
Meetings may be held at any place within or outside the historic boundaries of the Cherokee Nation, designated by the directors and, in the absence of such designation, shall be held at the principal office of the corporation, which is at 115 E. Delaware Street, Tahlequah, Oklahoma 74464.

3.2 Annual Meeting
The annual meeting shall be held during the first or second quarter of each corporate fiscal year, on a day and time designated by the directors. Written notice of the annual meeting of the corporation shall be given to each director, not less than seven (7) days prior to the scheduled date of the meeting. The notice shall include the agenda and a slate of nominees, if any, for membership on the board of directors.

3.3 Special Meetings
Special meetings of the directors may be called by the President at any time or may be called by four directors. Notice shall be given at least three (3) working days before the meeting. The specific purpose of a special meeting shall be described in the notice and no other business shall be transacted at a special meeting except that described in the written notice.

3.4 Regular Meetings
Unless otherwise ordered by the board of directors regular meetings of the directors will be held at least once a year.

3.5 Quorum
The presence of a majority of directors shall constitute a quorum. Once a quorum for a meeting is established, the board may conduct business of the corporation provided that in the event that a quorum once established is lost, no business except for adjournment or recess shall be transacted until a quorum is re-established.

3.6 Notice of Meetings
Notice of all meetings of the board shall be mailed, delivered personally, electronically, by telephone, or by means requested by the directors.

3.7 Action of the Board
Action may be taken by a majority vote at any meeting at which a quorum is present. No director shall give proxy for himself/herself or vote by proxy.

3.8 Conference Communications
Directors may participate in any meeting by means of a conference telephone conversation or other comparable communication techniques whereby all persons can adequately communicate with each other.

3.9 Written Action
Any action, which might be taken at a meeting of the directors, may be taken without a meeting if done in writing and signed by a majority of the Board of Directors.

3.10 Conflict of Interest

A. Definition. "Conflict of interest" means any transaction in which a director has a direct interest or an indirect interest. A director has a direct interest in a transaction if the director or a member of the director's immediate family has either a material financial interest in the transaction or a relationship with the other parties to the transaction that might reasonably be expected to affect his or her judgment. A director has an indirect interest in a transaction if either (i) another entity in which the director has a material financial interest or in which the director is a general partner is a party to the transaction or (ii) another entity of which the director is also a director or is an officer or trustee is a party to the transaction and the transaction is of sufficient importance that it should be considered by the Board of Directors.

B. Disclosure. A director who has a direct or indirect interest in any transaction presented to the board of directors or any committee of the board shall disclose his or her interest.

C. Special Requirements. A conflict of interest transaction is not voidable by the board solely because of a director's interest in the transaction (i) if the transaction was fair to the corporation or (ii) if the transaction was authorized, approved or ratified by the affirmative vote of a majority of the directors (not less than two) or by a majority of the members of the appropriate committee who has no direct or indirect interest in the transaction and to whom the material facts of the transaction and of the director's interest in the transaction were disclosed or known. If a majority of directors having no direct of indirect interest in such transaction vote to authorize, approve or ratify the transaction, and a quorum is present for the purpose of taking such action. The presence of the director with a direct or indirect interest in a transaction shall not affect the validity of any action taken in accordance with this paragraph.

Article IV – Committees

4.1 Establish Committees

The board of directors may establish committees and prescribe rules with respect to the membership, term, authority and procedures of such committees, provided that no committee shall be given the authority to amend the articles or bylaws.

4.2 Number

Each committee shall be not less than three persons.

4.3 Executive Committee

In the discharge of its responsibilities the board of directors may establish an executive committee to assist in the conduct of the business of the corporation and offices of the corporation but said committee shall not be given the authority to amend the articles or bylaws.

4.4 Advisory Committee

The advisory committee shall be composed of four (4) elected tribal officials of the Cherokee Nation. The Committee shall be composed of the Principal Chief; the Deputy Chief; one (1) Chair or Co-Chair of the Executive and Finance

Committee; and chair of the Education Committee of the Cherokee Nation Tribal Council. The advisory committee shall serve as the liaison to the Cherokee Nation Offices of the Principal Chief and the Deputy Chief, and the Tribal Council and shall receive all ~~notices,~~ and minutes of the corporation. Members of the advisory committee shall not be directors of the corporation, and shall not vote on actions or matters of the corporation or its committees, other than the advisory committee, nor shall the advisory committee have the authority to amend the articles or bylaws of the corporation. The advisory committee may further define its role and responsibilities and make recommendations to the full board of directors in regard to its duties as the official advisory body of the corporation. Three members of the advisory committee shall constitute a quorum. The advisory committee may select its chairperson. Advisory committee members shall serve so long as they hold an office described above.

4.5 Appointment and Term of Committees
Except the advisory committee, the president shall appoint the chairperson and members of each committee and shall set the term of appointment and purpose.

4.6 Committee Quorum
A majority of the entire general membership of the committee shall constitute a quorum. Once a quorum for a meeting is established, the committee may conduct business of the corporation provided that in the event that a quorum once established, is lost no business except for adjournment or recess shall be transacted until a quorum is re-established.

4.7 Conference Communication
Conference communication may be used for a committee meeting as stated in Article III, *3.8*.

4.8 Written Action
Any action, which might be taken at a meeting of the committee, may be taken without a meeting if done in writing and signed by a majority of the committee members.

4.9 Action of the Committee
Action may be taken by a majority vote at any meeting at which a quorum is present. No committee member may give proxy for himself/herself or vote by proxy.

Article V-Officers

5.1 Number and Qualifications
The four officers of this corporation shall consist of a President, Vice-President Secretary, and Treasurer who shall be elected by a majority vote of the directors of the entire general members of the board of directors. The officers must be general members of the board of directors.

5.2 Term
The officers of the corporation shall serve a four (4) year term or until his/her successor is elected.

5.3 Removal and Vacancies

Any officer may be removed, with or without cause, by a majority vote of the entire board of directors. If there is a vacancy for any officer of the corporation the board of directors shall elect a replacement for the unexpired term.

5.4 Duties

a) President shall preside at all meetings of the directors and the executive committee and shall have such other duties as may be prescribed by the board of directors. He/she is the president of the corporation and shall see that the orders and resolutions of the board of directors are carried into effect by the Executive Director or Chief Executive Officer. The President shall be a member of each of the committees of the board of directors.

b) Vice President shall have such powers and perform such duties as may be specified in the bylaws or prescribed by the board of directors. In the absence or disability of the President, the Vice President shall succeed to his/her powers and duties.

c) Secretary shall attend all meetings of the board of directors and shall cause to be recorded all proceedings of meetings in the minutes book of the corporation. He/She shall cause to give proper notice of meetings of members and directors. He/she shall have such other powers and perform such other duties as may be assigned by the President and Vice President.

d) Treasurer shall keep accurate accounts of all monies of the corporation received and disbursed. He/She shall cause the records and books of accounts of the corporation to be audited at least once in each year and at other times, as the board may deem necessary or appropriate, and shall report the financial condition of the corporation to the board of directors and the Tribal Council of the Cherokee Nation annually.

e) Executive Director shall cause to be deposited all monies, drafts and checks in the name of, and to the credit of the corporation in such banks and depositories as a majority of the whole board of directors shall designate. He/She shall render to the President and the directors, whenever required, an account of all transactions by, and/or the financial condition of the corporation. He/She shall be the administrator of the corporation and charged with the responsibility of managing the business of the corporation in the role of the chief executive officer and shall perform such other duties as may be prescribed by the board of directors or the president.

5.5 Compensation

The officers or the directors of the corporation shall receive no compensation for their services to the corporation. They may be reimbursed for expenses incurred on behalf of the corporation and authorized in advance by the board.

Article VI – Employees and Assistants

6.1 Employment
The board of directors may appoint or hire one or more persons and pay reasonable compensation to carry out the business and purposes of the corporation.

Article VII - Finances, Parliamentary Authority, and Amendment

7.1 Books and Records
The board of directors of the corporation shall cause to be kept: 1) a correct and complete book of accounts; and 2) minutes of proceedings of meetings of the directors, the executive committee, advisory committee and any other committee.

7.2 Signatures and Bonding
The Executive Director shall have the authority to sign checks, receipts, deposit funds, enter into contracts, modify or cancel contracts, on behalf of the board of directors, except in amounts over $5,000 which shall be required to have the signature of one officer. All persons who have authority to sign checks, receipts, deposit funds, enter into contracts, modify or cancel contracts, on behalf of the board of directors shall be bonded.

7.3 Examination by Director
Any director of the corporation and the advisory committee shall have the right to examine in person, or by agent or attorney, at any reasonable time, for any proper purpose, and at the place where usually kept, all books and records of the corporation and to make copies of them.

7.4 Fiscal Year
The fiscal year of the corporation shall be January 1 through December 31 annually unless otherwise fixed by resolution of the board of directors.

7.5 Parliamentary Authority
All meetings of the corporation shall be conducted in accordance with the bylaws and *Robert's Rules of Order, Revised* and/or any other modifications or revisions to such rules as deemed appropriate and necessary by a majority of the members present.

7.6 Amendments of By-Laws
The bylaws may be amended at any regular meeting or any special meeting of the entire board of directors called for that purpose by a two-thirds vote of the entire directors of the board, provided that the amended language has been submitted in writing to each director at least seven (7) working days before the meeting in which it is to be discussed.

Article VIII- Indemnification

8.1 Indemnification
Each director or officer of the corporation or future director or officer of the corporation, whether or not in office, and the executors, administrator or other legal representative of any such director of officer, shall be indemnified by the corporation against all reasonable costs and expenses (Including the cost of

reasonable settlements made with a view of curtailment of the cost of litigation, but exclusive of any amount paid to the corporation in settlement) and counsel fees paid or incurred in connection with, or arising out of, any action, lawsuit or proceeding to which any such director or officer or his/her executors, administrators, or other legal representative may hereafter be made a party by reason of his/her being or having been a director or officer of the corporation; provide that: 1) in the action, lawsuit or proceedings and shall not be finally adjudged that he/she has been derelict in the performance of his/her duties as such director or officer, or 2) the action, lawsuit or proceeding shall be settled or otherwise terminated as against such director or officer or his/her executor, administrator or other legal representative without a final determination on the merits, and it shall be determined that such director or officer had not in any substantial way been derelict in the performance of his/her duties as charged in such action, lawsuit or proceeding, such determination to be made by a majority of the members of the board of directors who were not parties to such action, lawsuit or proceeding, although less than a quorum, or by any one or more disinterested persons to whom the question may be referred by the board of directors. Notwithstanding any provision in the articles or these bylaws, neither the board of directors nor any individual director or officer of the corporation shall have any authority to waive the corporation's sovereign immunity from lawsuit unless expressly authorized by the Cherokee Nation by way of duly adopted legislative act or tribal resolution. Any such unauthorized waiver of immunity from lawsuit shall be null and void and without effect.

AMENDMENTS

Bylaws were amended by a vote of 4 for, 0 against, and 0 abstain, at the Cherokee Nation Education Corporation regular meeting of the board of directors held on October 26, 2007

Bylaws were amended by a vote of 4 for, 0 against, and 0 abstain, at the Cherokee Nation Education Corporation special meeting of the board of directors held on December 17, 2005.

These bylaws were amended by a vote of 3 for, 0 against, and 0 abstain, of the Cherokee Nation Education Corporation board of directors at the meeting held on January 7, 2002.

These bylaws were amended by a vote of 5 for, 0 against, and 0 abstain, of the Cherokee Nation Education Corporation board of directors at the meet held on November 17, 2004

Bylaws were amended by a vote of 4 for, 0 against and 0 abstain at the Cherokee nation Education Corporation regular meeting held on March 12, 2010.

Bylaws were amended by a vote of 6 for, 0 against and 0 abstain by electronic vote of the board members of the Cherokee Nation Education Corporation on May 20, 2010