

Defendants Take the Money and Run

The morning after the election, after learning that Aaron Payment had defeated Defendant Bouschor, the seven Key Employees met at a restaurant in Sault Ste. Marie, handed out the checks and ran to the bank to cash them. The bank records show that they started cashing them at 9:07 a.m., right after the bank opened. They did not just cash the checks — they had them converted into cashier's checks. Jolene Nertoli admitted that they converted the money into cashier's checks so the Tribe could not stop payment. Then, they deposited the money in different banks all around the Upper Peninsula and in Petoskey.

At about 10:30 a.m., Defendant Bouschor announced that he had terminated the seven Key Employees because he wanted to "clear the way for Mr. Payment." He did not mention that they had been paid "severance pay." About three hours later, at 1:30 p.m., someone went back into the Tribe's computer and entered the ledgers they had deleted on June 8.

Defendants do not deny these facts. Instead, they claim (among other things) that Defendant Bouschor was authorized to enter into the severance agreements vis-a-vis a 2001 resolution passed by the Tribal Board. Resolution No. 2001-07, authorized "the Tribe, through its Chairman to enter into Employment Agreements with Key Employees, on such conditions and terms as he deems appropriate, and to perform its obligations thereunder."

But shortly after this resolution was passed, a problem arose because Defendant Bouschor refused to inform the Board to whom he was giving the contracts or even how many he had executed — potentially creating a huge liability for the Tribe. As a result, about 18 months after the Tribal Board authorized the contracts, it voted to revoke the Chairperson's authority "on employment contracts" and required that "all future employee contracts must be approved by the Board of Directors."