

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

In re:

LYDIA CLADEK, INC.,

Case No. 3:10-bk-02805-PMG

Debtor.

(Consolidated by Prior Court Order with Case
No. 10-bk-02800-PMG)

**APPLICATION FOR AN ORDER PURSUANT TO SECTION 327(a) OF
THE BANKRUPTCY CODE AUTHORIZING THE RETENTION OF
VIP REALTY GROUP, INC. AS REAL ESTATE BROKERS TO THE
CHAPTER 11 TRUSTEE *NUNC PRO TUNC* AS OF OCTOBER 5, 2010**

Michael Phelan, the Chapter 11 Trustee of the consolidated Chapter 11 cases of Lydia Cladek, Inc. (the "Chapter 11 Trustee"), hereby submits this application (the "Application") for entry of an order authorizing the employment of VIP Realty Group, Inc. ("VIP"), as real estate brokers to the Chapter 11 Trustee *nunc pro tunc* as of October 5, 2010, for the purposes of the marketing and sale of the Sanibel Properties (as defined below), and in support thereof states:

STATEMENT OF FACTS

A. Procedural History

1. On April 2, 2010, several petitioning creditors filed an involuntary Chapter 11 petition against Lydia Cladek, Inc. (the "Debtor"), case styled as In re Lydia Cladek, Inc., Case No. 10-bk-02800-PMG, in the United States Bankruptcy Court, Middle District of Florida, Jacksonville Division (the "Involuntary Case").

2. Subsequently, on April 5, 2010, the Debtor filed the instant voluntary Chapter 11 petition, case styled as In re Lydia Cladek, Inc., Case No. 10-bk-02805-PMG, in the United States Bankruptcy Court, Middle District of Florida, Jacksonville Division (the "Voluntary Case").

3. The Voluntary and Involuntary Chapter 11 cases of the Debtor were subsequently consolidated by Order of this Court dated April 12, 2010, and the Voluntary Case, Case No. 10-02805, was designated the lead case [Doc. No. 32].

4. By Order dated April 14, 2010, this Court approved the appointment of Michael Phelan as Chapter 11 Trustee [Doc. No. 47].

5. The Chapter 11 Trustee is currently operating the Debtor's business pursuant to sections 1106 and 1108 of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

B. Background

6. The Involuntary Case was initially filed after the petitioning creditors learned that Lydia Cladek ("Cladek"), the Debtor's former principal, had utilized the Debtor's business to fraudulently secure investments in fraudulent and/or fictitious installment automobile loans purportedly purchased from used automobile dealerships and that Cladek funneled those investment funds through accounts titled in the name of the Debtor to Cladek personally and to her affiliated alter ego business entities (the "Cladek Entities").

7. In a ten-count Verified Adversary Complaint for Damages and Other Relief (the "Cladek Complaint") filed May 19, 2010, the Chapter 11 Trustee asserted claims against Cladek and the Cladek Entities seeking, among other relief, substantive consolidation of Cladek and the Cladek Entities with and into the estate of the Debtor, an alter ego liability determination, for turnover of property of the estate, to avoid and recover fraudulent transfers from the Debtor to Cladek and the Cladek Entities and for the entry of an order granting preliminary and permanent injunctive relief [Adv. Doc. No. 1].

8. On September 7, 2010, the Court entered a Final Judgment against Cladek [Adv. Doc. 40], among many other things: (i) determining that Cladek is an alter ego of the Debtor and that all assets owned, controlled and/or titled in the name of Cladek are the property of the Debtor's bankruptcy estate; and (ii) ordering Cladek to turnover all property of the Debtor's bankruptcy estate to the Chapter 11 Trustee pursuant to section 542 of the Bankruptcy Code, including but not limited to, any and all real, personal, tangible, intangible and any other property wherever located and in whatever form, titled in the name of or in the possession or control of Cladek, including without limitation, each of the parcels of real property more specifically set forth below (collectively, the "Properties"):

- 189 Sea Colony Parkway, St. Augustine, Florida;
- 5494 Atlantic View, St. Augustine, Florida;
- 349 Jellison Road, St. Augustine, Florida;
- 108 Seagrove Main Street, St. Augustine, Florida;
- 23 Old Mission Avenue, St. Augustine, Florida;
- 25 Old Mission Avenue, St. Augustine, Florida;
- 27 Old Mission Avenue, St. Augustine, Florida;
- 16249 Captiva Drive, Captiva, Florida;
- 16250 Captiva Drive, Captiva, Florida;
- 4443 Waters Edge Lane, Sanibel, Florida;
- 1001 Lindgren Boulevard, Sanibel, Florida; and
- 1061 SW Alaska Way, Greenville, Florida.

9. The Chapter 11 Trustee is in the process of investigating the Properties and, to the extent he determines it to be beneficial to investors and creditors, seeks to liquidate such assets

for the benefit of the bankruptcy estate. In particular, by this Application, the Chapter 11 Trustee seeks to retain VIP as real estate broker *nunc pro tunc* as of October 5, 2010, to market for sale the properties located at 4443 Waters Edge Lane, Sanibel, Florida and 1001 Lindgren Boulevard, Sanibel, Florida (collectively, the "Sanibel Properties").

VENUE AND JURISDICTION

10. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a “core” proceeding within the meaning of 28 U.S.C. § 157(b)(2).

11. The statutory predicates for the relief requested herein are sections 105(a) and 327(a) of the Bankruptcy Code, as complemented by Rules 2014 and 5002 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

RELIEF REQUESTED

12. In order to exercise his rights and perform his duties as Chapter 11 Trustee in a proper, efficient, and economical manner, the Chapter 11 Trustee seeks to retain the services of VIP pursuant to section 327(a) of the Bankruptcy Code *nunc pro tunc* as of October 5, 2010, to provide necessary real estate brokerage services to market and liquidate the Sanibel Properties, as more specifically outlined below.

13. VIP is located 1560 Periwinkle Way, Sanibel Island, Florida 33957 and has substantial experience in selling real estate similar to the Sanibel Properties. A listing of VIP's credentials and experience can be located at www.viprealty.com and www.maryloubailey.com.

14. Based on the foregoing experience, the Chapter 11 Trustee has selected VIP to act as its exclusive broker with respect to the marketing and sale of the Sanibel Properties, and VIP

has agreed to act in that capacity in accordance with the Exclusive Right to Sale Listing Agreements (collectively, the "Listing Agreements") annexed hereto as Exhibit A and B.

15. The material terms of the Listing Agreements¹ are as follows:

(i) **Transaction Fee to Broker.**

COMPENSATION: Seller will compensate Broker as specified below for procuring a buyer who is ready, willing and able to purchase the Property or any interest in the Property on the terms of this Agreement or on any other terms acceptable to Seller. Seller will pay Broker as follows (plus applicable sales tax):

(a) 6% of the total purchase price, no later than the date of closing specified in the sales contract. However, closing is not a prerequisite for Broker's fee being earned.

* * *

(d) Broker's fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by sale, lease, exchange, governmental action, bankruptcy or any other means of transfer, regardless of whether the buyer is secured by Broker, Seller or any other person. (2) If Seller refuses or fails to sign an offer at the price and terms stated in this Agreement, defaults on an executed sales contract or agrees with a buyer to cancel an executed sales contract. (3) If, within 120 days after Termination Date ("Protection Period"), Seller transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom Seller, Broker or any real estate licensee communicated regarding the Property prior to Termination Date. However, no fee will be due Broker if the Property is relisted after Termination Date and sold through another broker.

(e) Retained Deposits: As consideration for Broker's services, Broker is entitled to receive 50% of all deposits that Seller retains as liquidated damages for a buyer's default in a transaction, not to exceed the paragraph 6(a) fee.

¹ The following description of the terms of the Listing Agreements are intended solely to provide the Court and interested parties with a brief overview of the significant terms thereof. The Court and interested parties are respectfully referred to the Listing Agreements for the complete terms thereof.

(ii) **Term.**

AUTHORITY TO SELL PROPERTY Seller gives Broker the EXCLUSIVE RIGHT TO SELL the Property, at the price and terms described below, beginning the 5th day of October, 2010, and terminating at 11:59 p.m. the 4th day of April, 2011 (“Termination Date”). Upon full execution of a contract for sale and purchase of the Property, all rights and obligations of this Agreement will automatically extend through the date of the actual closing of the sales contract. Seller and Broker acknowledge that this Agreement does not guarantee a sale. This Property will be offered to any person without regard to race, color, religion, sex, handicap, familial status, national origin or any other factor protected by federal, state or local law. Seller certifies and represents that he/she/it is legally entitled to convey the Property and all improvements.

16. To the best of the Chapter 11 Trustee's knowledge, VIP has no interest adverse to the Chapter 11 Trustee, the Debtor, creditors, or any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, or this estate, in the matter for which VIP is to be engaged. To the best of the Chapter 11 Trustee's knowledge, VIP is disinterested under 11 U.S.C. § 101(14) with regard to the matters upon which it is to be engaged, and VIP's employment is in the best interest of the estate, the Debtor, creditors and other parties in interest. In support of the Application, the affidavit of Mary Lou Bailey, a licensed real estate broker at VIP is annexed hereto as Exhibit C.

WHEREFORE, Michael Phelan, the Chapter 11 Trustee of the consolidated Chapter 11 cases of the Debtor, respectfully requests entry of an order (i) authorizing the retention and employment of VIP to serve as broker for the Chapter 11 Trustee with respect to the sale of the Sanibel Properties *nunc pro tunc* as of October 5, 2010, and (ii) granting the Chapter 11 Trustee such other and further relief as this Court deems just and proper.

Dated: October 5, 2010.

AKERMAN SENTERFITT

By: /s/ Steven R. Wirth

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Attorneys for the Chapter 11 Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished either by electronic notification or U.S. mail, this 5th day of October, 2010 to all parties on the attached Amended Official Service list.

/s/ Steven R. Wirth
Attorney

Lydia Cladek, Inc.
Case No.: 3:10-bk-2805-PMG
AMENDED OFFICIAL SERVICE LIST
(amended as of September 20, 2010)

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c/o Bennett Yell
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St. Augustine, FL 32080

Andrea Levinson &
Michael Egelman
c/o Michael Egelman
127 Bonita Road
St. Augustine, FL 32086

RAD Management Company
c/o Donald R. Radbill
221 N. Forest Dune Dr.
St. Augustine, FL 32080

Internal Revenue Service
Centralized Insolvency Operations
PO Box 21126
Philadelphia, PA 19114-0326

Internal Revenue Service
Special Procedures – Stop 5720
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Jacksonville, FL 32202

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Wm. Patrick Fulford, Esq.
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Altamonte Springs, FL 32701

Florida Department of Revenue
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Tallahassee, FL 32399-0145

U.S. Securities & Exchange
Commission
Reorganization Branch, Atlanta
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3316 Parkridge Rd. #137
Waterloo, IA 50701

Exhibit A

Sale of This Property is Subject to Court Approval
Case No.: 3:10-bk-02805-PMG
Lydia Cladek Inc.

Exclusive Right of Sale Listing Agreement

FLORIDA ASSOCIATION OF REALTORS®



1 This Exclusive Right of Sale Listing Agreement ("Agreement") is between
2 Michael P Phelan, TRUSTEE ("Seller") and
3 VIP Realty Group ("Broker").

4 **1. AUTHORITY TO SELL PROPERTY:** Seller gives Broker the EXCLUSIVE RIGHT TO SELL the real and personal property
5 (collectively "Property") described below, at the price and terms described below, beginning the 5th day of October,
6 2010, and terminating at 11:59 p.m. the 4th day of April, 2011 ("Termination Date"). Upon full execution of a
7 contract for sale and purchase of the Property, all rights and obligations of this Agreement will automatically extend through the date of
8 the actual closing of the sales contract. Seller and Broker acknowledge that this Agreement does not guarantee a sale. This Property
9 will be offered to any person without regard to race, color, religion, sex, handicap, familial status, national origin or any other factor
10 protected by federal, state or local law. Seller certifies and represents that he/she/it is legally entitled to convey the Property and all
11 improvements.

12 **2. DESCRIPTION OF PROPERTY:**

13 (a) Real Property Street Address: 4443 Waters Edge Lane, Sanibel FL 33957

14 Legal Description: Parl In Govt Lot 4 As Desc In OR 0585 PG 0773
15 Strap# 20 46 22 T4 000080160 See Attachment

16 (b) Personal Property, including appliances: Range, refrigerator, microwave, dishwasher, disposal, washer dryer, all window and floor
17 coverings. See Attachment

18 (c) Occupancy: Property is is not currently occupied by a tenant. If occupied, the lease term expires _____
19

21 **3. PRICE AND TERMS:** The property is offered for sale on the following terms, or on other terms acceptable to Seller:

22 (a) Price: _____
23 (b) Financing Terms: Cash Conventional VA FHA Other _____

24 Seller Financing: Seller will hold a purchase money mortgage in the amount of \$ _____ with the
25 following terms:

26 Assumption of Existing Mortgage: Buyer may assume existing mortgage for \$ _____ plus an
27 assumption fee of \$ _____. The mortgage is for a term of _____ years beginning in _____, at an
28 interest rate of _____% fixed variable (describe) _____

29 Lender approval of assumption is required is not required unknown. Notice to Seller: You may remain liable for an assumed
30 mortgage for a number of years after the Property is sold. Check with your lender to determine the extent of your liability. Seller will
31 ensure that all mortgage payments and required escrow deposits are current at the time of closing and will convey the escrow deposit
32 to the buyer at closing.

33 (c) Seller Expenses: Seller will pay mortgage discount or other closing costs not to exceed _____% of the purchase price;
34 and any other expenses Seller agrees to pay in connection with a transaction.

35 **4. BROKER OBLIGATIONS AND AUTHORITY:** Broker agrees to make diligent and continued efforts to sell the Property until a sales
36 contract is pending on the Property. Seller authorizes Broker to:

37 (a) Advertise the Property as Broker deems advisable including advertising the Property on the Internet unless limited in
38 (4)(a)(i) or (4)(a)(ii) below.

39 (Seller opt-out)(Check one if applicable)

40 (i) Display the Property on the Internet except the street address of the Property shall not be displayed on the Internet.

41 (ii) Seller does not authorize Broker to display the Property on the Internet.

42 Seller understands and acknowledges that if Seller selects option (ii), consumers who conduct searches for listings on
43 the Internet will not see information about the listed property in response to their search.

44 MP Initials of Seller.

45 (b) Place appropriate transaction signs on the Property, including "For Sale" signs and "Sold" signs (once Seller signs a sales
46 contract) and use Seller's name in connection with marketing or advertising the Property.

47 (c) Obtain information relating to the present mortgage(s) on the Property.

48 (d) Place the property in a multiple listing service(s) (MLS). Seller authorizes Broker to report to the MLS/Association of Realtors®
49 this listing information and price, terms and financing information on any resulting sale. Seller authorizes Broker, the MLS and/or
50 Association of Realtors® to use, license or sell the active listing and sold data.

51 (e) Provide objective comparative market analysis information to potential buyers; and

52 (f) (Check if applicable) Use a lock box system to show and access the Property. A lock box does not ensure the Property's

53 Seller (MP) and Broker/Sales Associate (____)(____) acknowledge receipt of a copy of this page, which is Page 1 of 5 Pages.

54 security; **Seller** is advised to secure or remove valuables. **Seller** agrees that the lock box is for **Seller's** benefit and releases
 55 **Broker**, persons working through **Broker** and **Broker's** local Realtor Board/ Association from all liability and responsibility in
 56 connection with any loss that occurs. Withhold verbal offers. Withhold all offers once **Seller** accepts a sales contract for
 57 the Property.

58 (g) Act as a single agent of **Seller** with consent to transition to transaction **Broker**.

59 (f) **Virtual Office Websites:** Some real estate brokerages offer real estate brokerage services online. These websites are
 60 referred to as Virtual Office Websites ("VOW"). An automated estimate of market value or reviews and comments about a
 61 property may be displayed in conjunction with a property on some VOWs. Anyone who registers on a Virtual Office Website
 62 may gain access to such automated valuations or comments and reviews about any property displayed on a VOW. Unless
 63 limited below, a VOW may display automated valuations or comments/reviews (blogs) about this Property.

64 **Seller** does not authorize an automated estimate of the market value of the listing (or hyperlink to such estimate) to be
 65 displayed in immediate conjunction with the listing of this Property.

66 **Seller** does not authorize third parties to write comments or reviews about the listing of the Property (or display a hyperlink to
 67 such comments or reviews) in immediate conjunction with the listing of this Property.

68 **5. SELLER OBLIGATIONS:** In consideration of **Broker's** obligations, **Seller** agrees to:

69 (a) Cooperate with **Broker** in carrying out the purpose of this Agreement, including referring immediately to **Broker** all inquiries
 70 regarding the Property's transfer, whether by purchase or any other means of transfer.

71 (b) Provide **Broker** with keys to the Property and make the Property available for **Broker** to show during reasonable times.

72 (c) Inform **Broker** prior to leasing, mortgaging or otherwise encumbering the Property.

73 (d) indemnify **Broker** and hold **Broker** harmless from losses, damages, costs and expenses of any nature, including attorney's fees,
 74 and from liability to any person, that **Broker** incurs because of (1) **Seller's** negligence, representations, misrepresentations, actions or
 75 inactions, (2) the use of a lock box, (3) the existence of undisclosed material facts about the Property, or (4) a court or arbitration
 76 decision that a **Broker** who was not compensated in connection with a transaction is entitled to compensation from **Broker**. This
 77 clause will survive **Broker's** performance and the transfer of title.

78 (e) To perform any act reasonably necessary to comply with FIRPTA (Internal Revenue Code Section 1445).

79 (f) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily observable or
 80 known by the buyer. **Seller** represents there are no material facts (building code violations, pending code citations, unobservable
 81 defects, etc.) other than the following: _____

82 _____
 83 **Seller** will immediately inform **Broker** of any material facts that arise after signing this Agreement.

84 (g) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting requirements and other
 85 specialized advice.

86 **6. COMPENSATION:** **Seller** will compensate **Broker** as specified below for procuring a buyer who is ready, willing and able to purchase
 87 the Property or any interest in the Property on the terms of this Agreement or on any other terms acceptable to **Seller**. **Seller** will pay
 88 **Broker** as follows (plus applicable sales tax):

89 (a) _____ 6% of the total purchase price plus \$ _____ N/A OR \$ _____, no later than the
 90 date of closing specified in the sales contract. However, closing is not a prerequisite for **Broker's** fee being earned.

91 (b) _____ N/A (\$ or %) of the consideration paid for an option, at the time an option is created. If the option is exercised,
 92 **Seller** will pay **Broker** the paragraph 6(a) fee, less the amount **Broker** received under this subparagraph.

93 (c) _____ N/A (\$ or %) of gross lease value as a leasing fee, on the date **Seller** enters into a lease or agreement to lease,
 94 whichever is soonest. This fee is not due if the Property is or becomes the subject of a contract granting an exclusive right to lease the
 95 Property.

96 (d) **Broker's** fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by sale, lease,
 97 exchange, governmental action, bankruptcy or any other means of transfer, regardless of whether the buyer is secured by **Broker**,
 98 **Seller** or any other person. (2) If **Seller** refuses or fails to sign an offer at the price and terms stated in this Agreement, defaults on an
 99 executed sales contract or agrees with a buyer to cancel an executed sales contract. (3) If, within 120 days after Termination Date
 100 ("Protection Period"), **Seller** transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom
 101 **Seller**, **Broker** or any real estate licensee communicated regarding the Property prior to Termination Date. However, no fee will be
 102 due **Broker** if the Property is relisted after Termination Date and sold through another **Broker**.

103 (e) Retained Deposits: As consideration for **Broker's** services, **Broker** is entitled to receive 50 % of all deposits that **Seller**
 104 retains as liquidated damages for a buyer's default in a transaction, not to exceed the paragraph 6(a) fee.

105 **7. COOPERATION AND COMPENSATION WITH OTHER BROKERS:** **Broker's** office policy is to cooperate with all other
 106 brokers except when not in **Seller's** best interest: and to offer compensation in the amount of 3 % of the
 107 purchase price or \$ _____ to **Buyer's** agents, who represent the interest of the buyers, and not the interest of **Seller** in
 108 a transaction; and to offer compensation in the amount of 3 % of the purchase price or \$ _____ to a
 109 broker who has no brokerage relationship with the **Buyer** or **Seller**; and to offer compensation in the amount of
 110 3 % of the purchase price or \$ _____ to Transaction brokers for the **Buyer**; None of the above (if this is
 111 checked, the Property cannot be placed in the MLS.)

112 **Seller** (mf) (_____) and **Broker/Sales Associate** (_____) (_____) acknowledge receipt of a copy of this page, which is Page 2 of 5 Pages.

113 **8. BROKERAGE RELATIONSHIP:**

114 **SINGLE AGENT NOTICE**

115 **FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND**
 116 **SELLERS THEIR DUTIES.**

117 As a single agent, VIP Realty Group and its

118 associates owe to you the following duties:

- 119 1. Dealing honestly and fairly;
- 120 2. Loyalty;
- 121 3. Confidentiality;
- 122 4. Obedience;
- 123 5. Full disclosure;
- 124 6. Accounting for all funds;
- 125 7. Skill, care, and diligence in the transaction;
- 126 8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 127 and
- 128 9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

129 10/5/10 
 130 Date Signature Michael P Phelan Signature

131 **CONSENT TO TRANSITION TO TRANSACTION BROKER**

132 **FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT**
 133 **TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR**
 134 **THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM**
 135 **OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR**
 136 **WITHOUT YOUR PRIOR WRITTEN CONSENT.**

137 As a transaction broker, VIP Realty Group and its
 138 associates, provides to you a limited form of representation that includes the following duties:

- 139 1. Dealing honestly and fairly;
- 140 2. Accounting for all funds;
- 141 3. Using skill, care, and diligence in the transaction;
- 142 4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
- 143 5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 144 6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of any other information requested by a party to remain confidential; and
- 147 7. Any additional duties that are entered into by this or by separate written agreement.

149 Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up their
 150 rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction
 151 by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when
 152 acting as a transaction broker to both parties.

153 MP I agree that my agent may assume the role and duties of a transaction broker. (must be initialed or signed)

154 10/5/10 
 155 Date Signature Michael P Phelan Signature

156 **TRANSACTION BROKER NOTICE**

157 As a transaction broker, VIP Realty Group and its
 158 associates, provides to you a limited form of representation that includes the following duties:

- 159 1. Dealing honestly and fairly;
- 160 2. Accounting for all funds;
- 161 3. Using skill, care, and diligence in the transaction;

162 Seller (MP) and Broker/Sales Associate () acknowledge receipt of a copy of this page, which is Page 3 of 5 Pages.

- 163 4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
- 164 5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 165 6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept
- 166 a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the
- 167 motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of
- 168 any other information requested by a party to remain confidential; and
- 169 7. Any additional duties that are entered into by this or by separate written agreement.

170 Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up their
 171 rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction
 172 by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when
 173 acting as a transaction broker to both parties.

174 10/5/10 Michael P Phelan Trustee
 175 _____
 176 Date Signature Michael P Phelan Signature

176 9. **CONDITIONAL TERMINATION:** At **Seller's** request, **Broker** may agree to conditionally terminate this Agreement. If **Broker** agrees to
 177 conditional termination, **Seller** must sign a withdrawal agreement, reimburse **Broker** for all direct expenses incurred in marketing the
 178 Property and pay a cancellation fee of \$ _____ plus applicable sales tax. **Broker** may void the conditional termination and
 179 **Seller** will pay the fee stated in paragraph 6(a) less the cancellation fee if **Seller** transfers or contracts to transfer the Property or any
 180 interest in the Property during the time period from the date of conditional termination to Termination Date and Protection Period, if
 181 applicable.

182 10. **DISPUTE RESOLUTION:** This Agreement will be construed under Florida law. All controversies, claims and other matters in question
 183 between the parties arising out of or relating to this Agreement or the breach thereof will be settled by first attempting mediation
 184 under the rules of the American Arbitration Association or other mediator agreed upon by the parties. If litigation arises out of this
 185 Agreement, the prevailing party will be entitled to recover reasonable attorney's fees and costs, unless the parties agree that

186 disputes will be settled by arbitration as follows: **Arbitration:** By initialing in the space provided, **Seller** (MP) (____), Listing
 187 Associate (____) and Listing Broker (____) agree that disputes not resolved by mediation will be settled by neutral binding
 188 arbitration in the county in which the Property is located in accordance with the rules of the American Arbitration Association or other
 189 arbitrator agreed upon by the parties. Each party to any arbitration (or litigation to enforce the arbitration provision of this
 190 Agreement or an arbitration award) will pay its own fees, costs and expenses, including attorney's fees, and will equally split the
 191 arbitrators' fees and administrative fees of arbitration.

192 11. **MISCELLANEOUS:** This Agreement is binding on **Broker's** and **Seller's** heirs, personal representatives, administrators,
 193 successors and assigns. **Broker** may assign this Agreement to another listing office. This Agreement is the entire agreement
 194 between **Broker** and **Seller**. No prior or present agreements or representations shall be binding on **Broker** or **Seller** unless
 195 included in this Agreement. Signatures, initials and modifications communicated by facsimile will be considered as originals.
 196 The term "buyer" as used in this Agreement includes buyers, tenants, exchangors, optionees and other categories of potential or
 197 actual transferees.

198 12. **ADDITIONAL TERMS:**
 199 _____
 200 _____
 201 _____
 202 _____
 203 _____
 204 _____
 205 _____
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 207 _____
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 215 _____

216 Seller (MP) (____) and Broker/Sales Associate (____) (____) acknowledge receipt of a copy of this page, which is Page 4 of 5 Pages.

217 Date: 10/5/10 Seller's Signature: Michael P Phelan Trustee Tax ID No: _____
Michael P Phelan

218 Telephone #'s: Home _____ Work 954-252-1560 Cell _____ Fax: _____

219 Address: 3613 North 39th Ave Hollywood, FL 33020 E-mail: _____

220 Date: _____ Seller's Signature: _____ Tax ID No: _____

221 Telephone #'s: Home _____ Work _____ Cell _____ Fax: _____

222 Address: _____ E-mail: _____

223 Date: _____ Authorized Listing Associate or Broker: _____
Mary Lou Bailey

224 Brokerage Firm Name: VIP Realty Group Telephone: 239-472-5187

225 Address: 1560 Periwinkle Way Sanibel, FL 33957

226 Copy returned to Customer on the _____ day of _____ by: personal delivery mail E-mail facsimile

The copyright laws of the United States (17 U.S. Code) forbid the unauthorized reproduction of this form by any means including facsimile or computerized forms.

227 Seller (MP) and Broker/Sales Associate (____) acknowledge receipt of a copy of this page, which is Page 5 of 5 Pages.

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Exhibit B

Sale of this Property is Subject to Court Approval
Case No.: 3:10-bk-02805-PMG
Lydia Cladek Inc.



Exclusive Right of Sale Listing Agreement

FLORIDA ASSOCIATION OF REALTORS®

1 This Exclusive Right of Sale Listing Agreement ("Agreement") is between
2 _____ Michael P Phelan, TRUSTEE ("Seller") and
3 _____ VIP Realty Group ("Broker").

4 **1. AUTHORITY TO SELL PROPERTY:** Seller gives Broker the EXCLUSIVE RIGHT TO SELL the real and personal property
5 (collectively "Property") described below, at the price and terms described below, beginning the 5th day of October
6 2010, and terminating at 11:59 p.m. the 4th day of April, 2011 ("Termination Date"). Upon full execution of a
7 contract for sale and purchase of the Property, all rights and obligations of this Agreement will automatically extend through the date of
8 the actual closing of the sales contract. Seller and Broker acknowledge that this Agreement does not guarantee a sale. This Property
9 will be offered to any person without regard to race, color, religion, sex, handicap, familial status, national origin or any other factor
10 protected by federal, state or local law. Seller certifies and represents that he/she/it is legally entitled to convey the Property and all
11 improvements.

12 **2. DESCRIPTION OF PROPERTY:**

13 (a) Real Property Street Address: _____ 1001 Lindgren Blvd, Sanibel FL 33957

14 _____
15 Legal Description: _____ Shell Harbor Bk 2 PB 23 PG 79 Lot 63
16 _____ Strap# 20 46 23 T4 039020630 See Attachment

17 (b) Personal Property, including appliances: Range, refrigerator, dishwasher, disposal, microwave, washer, dryer, all window and floor
18 coverings. _____
19 _____ See Attachment

20 (c) Occupancy: Property is is not currently occupied by a tenant. If occupied, the lease term expires _____.

21 **3. PRICE AND TERMS:** The property is offered for sale on the following terms, or on other terms acceptable to Seller:

22 (a) Price: _____

23 (b) Financing Terms: Cash Conventional VA FHA Other _____

24 Seller Financing: Seller will hold a purchase money mortgage in the amount of \$ _____ with the
25 following terms: _____

26 Assumption of Existing Mortgage: Buyer may assume existing mortgage for \$ _____ plus an
27 assumption fee of \$ _____. The mortgage is for a term of _____ years beginning in _____, at an
28 interest rate of _____% fixed variable (describe) _____

29 Lender approval of assumption is required is not required unknown. Notice to Seller: You may remain liable for an assumed
30 mortgage for a number of years after the Property is sold. Check with your lender to determine the extent of your liability. Seller will
31 ensure that all mortgage payments and required escrow deposits are current at the time of closing and will convey the escrow deposit
32 to the buyer at closing.

33 (c) Seller Expenses: Seller will pay mortgage discount or other closing costs not to exceed _____% of the purchase price;
34 and any other expenses Seller agrees to pay in connection with a transaction.

35 **4. BROKER OBLIGATIONS AND AUTHORITY:** Broker agrees to make diligent and continued efforts to sell the Property until a sales
36 contract is pending on the Property. Seller authorizes Broker to:

37 (a) Advertise the Property as Broker deems advisable including advertising the Property on the Internet unless limited in
38 (4)(a)(i) or (4)(a)(ii) below.

39 **(Seller opt-out)(Check one if applicable)**

- 40 (i) Display the Property on the Internet except the street address of the Property shall not be displayed on the Internet.
- 41 (ii) Seller does not authorize Broker to display the Property on the Internet.

42 Seller understands and acknowledges that if Seller selects option (ii), consumers who conduct searches for listings on
43 the Internet will not see information about the listed property in response to their search.

44 _____, MP Initials of Seller.

45 (b) Place appropriate transaction signs on the Property, including "For Sale" signs and "Sold" signs (once Seller signs a sales
46 contract) and use Seller's name in connection with marketing or advertising the Property.

47 (c) Obtain information relating to the present mortgage(s) on the Property.

48 (d) Place the property in a multiple listing service(s) (MLS). Seller authorizes Broker to report to the MLS/Association of Realtors®
49 this listing information and price, terms and financing information on any resulting sale. Seller authorizes Broker, the MLS and/or
50 Association of Realtors® to use, license or sell the active listing and sold data.

51 (e) Provide objective comparative market analysis information to potential buyers; and

52 (f) (Check if applicable) Use a lock box system to show and access the Property. A lock box does not ensure the Property's

53 Seller MP (_____) and Broker/Sales Associate (_____) (_____) acknowledge receipt of a copy of this page, which is Page 1 of 5 Pages.

54 security; Seller is advised to secure or remove valuables. Seller agrees that the lock box is for Seller's benefit and releases
 55 Broker, persons working through Broker and Broker's local Realtor Board / Association from all liability and responsibility in
 56 connection with any loss that occurs. Withhold verbal offers. Withhold all offers once Seller accepts a sales contract for
 57 the Property.

58 (g) Act as a single agent of Seller with consent to transition to transaction Broker.

59 (f) Virtual Office Websites: Some real estate brokerages offer real estate brokerage services online. These websites are
 60 referred to as Virtual Office Websites ("VOW"). An automated estimate of market value or reviews and comments about a
 61 property may be displayed in conjunction with a property on some VOWs. Anyone who registers on a Virtual Office Website
 62 may gain access to such automated valuations or comments and reviews about any property displayed on a VOW. Unless
 63 limited below, a VOW may display automated valuations or comments/reviews (blogs) about this Property.

64 Seller does not authorize an automated estimate of the market value of the listing (or hyperlink to such estimate) to be
 65 displayed in immediate conjunction with the listing of this Property.

66 Seller does not authorize third parties to write comments or reviews about the listing of the Property (or display a hyperlink to
 67 such comments or reviews) in immediate conjunction with the listing of this Property.

68 **5. SELLER OBLIGATIONS:** In consideration of Broker's obligations, Seller agrees to:

69 (a) Cooperate with Broker in carrying out the purpose of this Agreement, including referring immediately to Broker all inquiries
 70 regarding the Property's transfer, whether by purchase or any other means of transfer.

71 (b) Provide Broker with keys to the Property and make the Property available for Broker to show during reasonable times.

72 (c) Inform Broker prior to leasing, mortgaging or otherwise encumbering the Property.

73 (d) Indemnify Broker and hold Broker harmless from losses, damages, costs and expenses of any nature, including attorney's fees,
 74 and from liability to any person, that Broker incurs because of (1) Seller's negligence, representations, misrepresentations, actions or
 75 inactions, (2) the use of a lock box, (3) the existence of undisclosed material facts about the Property, or (4) a court or arbitration
 76 decision that a Broker who was not compensated in connection with a transaction is entitled to compensation from Broker. This
 77 clause will survive Broker's performance and the transfer of title.

78 (e) To perform any act reasonably necessary to comply with FIRPTA (Internal Revenue Code Section 1445).

79 (f) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily observable or
 80 known by the buyer. Seller represents there are no material facts (building code violations, pending code citations, unobservable
 81 defects, etc.) other than the following: _____
 82 _____

83 Seller will immediately inform Broker of any material facts that arise after signing this Agreement.

84 (g) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting requirements and other
 85 specialized advice.

86 **6. COMPENSATION:** Seller will compensate Broker as specified below for procuring a buyer who is ready, willing and able to purchase
 87 the Property or any interest in the Property on the terms of this Agreement or on any other terms acceptable to Seller. Seller will pay
 88 Broker as follows (plus applicable sales tax):

89 (a) _____ 6% of the total purchase price plus \$ _____ N/A _____ OR \$ _____, no later than the
 90 date of closing specified in the sales contract. However, closing is not a prerequisite for Broker's fee being earned.

91 (b) _____ N/A (\$ or %) of the consideration paid for an option, at the time an option is created. If the option is exercised,
 92 Seller will pay Broker the paragraph 6(a) fee, less the amount Broker received under this subparagraph.

93 (c) _____ N/A (\$ or %) of gross lease value as a leasing fee, on the date Seller enters into a lease or agreement to lease,
 94 whichever is soonest. This fee is not due if the Property is or becomes the subject of a contract granting an exclusive right to lease the
 95 Property.

96 (d) Broker's fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by sale, lease,
 97 exchange, governmental action, bankruptcy or any other means of transfer, regardless of whether the buyer is secured by Broker,
 98 Seller or any other person. (2) If Seller refuses or fails to sign an offer at the price and terms stated in this Agreement, defaults on an
 99 executed sales contract or agrees with a buyer to cancel an executed sales contract. (3) If, within 120 days after Termination Date
 100 ("Protection Period"), Seller transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom
 101 Seller, Broker or any real estate licensee communicated regarding the Property prior to Termination Date. However, no fee will be
 102 due Broker if the Property is relisted after Termination Date and sold through another Broker.

103 (e) Retained Deposits: As consideration for Broker's services, Broker is entitled to receive 50 % of all deposits that Seller
 104 retains as liquidated damages for a buyer's default in a transaction, not to exceed the paragraph 6(a) fee.

105 **7. COOPERATION AND COMPENSATION WITH OTHER BROKERS:** Broker's office policy is to cooperate with all other

106 brokers except when not in Seller's best interest: and to offer compensation in the amount of 3 % of the
 107 purchase price or \$ _____ to Buyer's agents, who represent the interest of the buyers, and not the interest of Seller in
 108 a transaction; and to offer compensation in the amount of 3 % of the purchase price or \$ _____ to a
 109 broker who has no brokerage relationship with the Buyer or Seller; and to offer compensation in the amount of
 110 3 % of the purchase price or \$ _____ to Transaction brokers for the Buyer; None of the above (if this is
 111 checked, the Property cannot be placed in the MLS.)

112 Seller (WP) (_____) and Broker/Sales Associate (_____) (_____) acknowledge receipt of a copy of this page, which is Page 2 of 5 Pages.

113 8. BROKERAGE RELATIONSHIP:

114 SINGLE AGENT NOTICE

115 FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND
116 SELLERS THEIR DUTIES.

117 As a single agent, VIP Realty Group and its
118 associates owe to you the following duties:

- 119 1. Dealing honestly and fairly;
- 120 2. Loyalty;
- 121 3. Confidentiality;
- 122 4. Obedience;
- 123 5. Full disclosure;
- 124 6. Accounting for all funds;
- 125 7. Skill, care, and diligence in the transaction;
- 126 8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 127 and
- 128 9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

129 10/5/10 Michael P Phelan Trustee
 130 Date Signature Michael P Phelan Signature

131 CONSENT TO TRANSITION TO TRANSACTION BROKER

132 FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT
133 TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR
134 THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM
135 OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR
136 WITHOUT YOUR PRIOR WRITTEN CONSENT.

137 As a transaction broker, VIP Realty Group and its
138 associates, provides to you a limited form of representation that includes the following duties:

- 139 1. Dealing honestly and fairly;
- 140 2. Accounting for all funds;
- 141 3. Using skill, care, and diligence in the transaction;
- 142 4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
- 143 5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 144 6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept
145 a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the
146 motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of
147 any other information requested by a party to remain confidential; and
- 148 7. Any additional duties that are entered into by this or by separate written agreement.

149 Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up their
150 rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction
151 by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when
152 acting as a transaction broker to both parties.

153 MP I agree that my agent may assume the role and duties of a transaction broker. (must be initialed or signed)
 154 10/5/10 Michael P Phelan Trustee
 155 Date Signature Michael P Phelan Signature

156 TRANSACTION BROKER NOTICE

157 As a transaction broker, VIP Realty Group and its
158 associates, provides to you a limited form of representation that includes the following duties:

- 159 1. Dealing honestly and fairly;
- 160 2. Accounting for all funds;
- 161 3. Using skill, care, and diligence in the transaction;

162 Seller (MP) () and Broker/Sales Associate () () acknowledge receipt of a copy of this page, which is Page 3 of 5 Pages.

- 163 4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
- 164 5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
- 165 6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept
- 166 a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the
- 167 motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of
- 168 any other information requested by a party to remain confidential; and
- 169 7. Any additional duties that are entered into by this or by separate written agreement.

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 171 rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction
 172 by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when
 173 acting as a transaction broker to both parties.

174 10/5/10 _____ *Michael P Phelan* _____
 175 Date Signature Michael P Phelan Signature

176 **9. CONDITIONAL TERMINATION:** At Seller's request, Broker may agree to conditionally terminate this Agreement. If Broker agrees to
 177 conditional termination, Seller must sign a withdrawal agreement, reimburse Broker for all direct expenses incurred in marketing the
 178 Property and pay a cancellation fee of \$ N/A plus applicable sales tax. Broker may void the conditional termination and
 179 Seller will pay the fee stated in paragraph 6(a) less the cancellation fee if Seller transfers or contracts to transfer the Property or any
 180 interest in the Property during the time period from the date of conditional termination to Termination Date and Protection Period, if
 181 applicable.

182 **10. DISPUTE RESOLUTION:** This Agreement will be construed under Florida law. All controversies, claims and other matters in question
 183 between the parties arising out of or relating to this Agreement or the breach thereof will be settled by first attempting mediation
 184 under the rules of the American Arbitration Association or other mediator agreed upon by the parties. If litigation arises out of this
 185 Agreement, the prevailing party will be entitled to recover reasonable attorney's fees and costs, unless the parties agree that

186 disputes will be settled by arbitration as follows: **Arbitration:** By initialing in the space provided, Seller (MP) (____), Listing
 187 Associate (____) and Listing Broker (____) agree that disputes not resolved by mediation will be settled by neutral binding
 188 arbitration in the county in which the Property is located in accordance with the rules of the American Arbitration Association or other
 189 arbitrator agreed upon by the parties. Each party to any arbitration (or litigation to enforce the arbitration provision of this
 190 Agreement or an arbitration award) will pay its own fees, costs and expenses, including attorney's fees, and will equally split the
 191 arbitrators' fees and administrative fees of arbitration.

192 **11. MISCELLANEOUS:** This Agreement is binding on Broker's and Seller's heirs, personal representatives, administrators,
 193 successors and assigns. Broker may assign this Agreement to another listing office. This Agreement is the entire agreement
 194 between Broker and Seller. No prior or present agreements or representations shall be binding on Broker or Seller unless
 195 included in this Agreement. Signatures, initials and modifications communicated by facsimile will be considered as originals.
 196 The term "buyer" as used in this Agreement includes buyers, tenants, exchangors, optionees and other categories of potential or
 197 actual transferees.

198 **12. ADDITIONAL TERMS:**
 199 _____
 200 _____
 201 _____
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216 Seller (MP) (____) and Broker/Sales Associate (____) (____) acknowledge receipt of a copy of this page, which is Page 4 of 5 Pages.

217 Date: 10/5/10 Seller's Signature: Michael P Phelan Tax ID No: _____
Michael P Phelan

218 Telephone #'s: Home _____ Work 954-252-1560 Cell _____ Fax: _____

219 Address: 3613 north 29th Ave Hollywood, FL 33020 E-mail: _____

220 Date: _____ Seller's Signature: _____ Tax ID No: _____

221 Telephone #'s: Home _____ Work _____ Cell _____ Fax: _____

222 Address: _____ E-mail: _____

223 Date: _____ Authorized Listing Associate or Broker: _____
Mary Lou Bailey

224 Brokerage Firm Name: VIP Realty Group Telephone: 239-472-5187

225 Address: 1560 Periwinkle Way Sanibel, FL 33957

226 Copy returned to Customer on the _____ day of _____, _____ by: personal delivery mail E-mail facsimile

The copyright laws of the United States (17 U.S. Code) forbid the unauthorized reproduction of this form by any means including facsimile or computerized forms.

227 Seller (____)(MP) and Broker/Sales Associate (____)(____) acknowledge receipt of a copy of this page, which is Page 5 of 5 Pages.
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Exhibit C

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

LYDIA CLADEK, INC.,

Case No. 3:10-bk-02805-PMG

Debtor.

(Consolidated by Prior Court Order with Case
No. 10-bk-02800-PMG)

**RULE 2014 AFFIDAVIT IN SUPPORT OF CHAPTER 11
TRUSTEE'S APPLICATION TO EMPLOY VIP REALTY GROUP, INC.**

The undersigned hereby declares under penalty of perjury:

1. My name is Mary Lou Bailey, and I am licensed real estate broker in the Sanibel Island, Florida office of VIP Realty Group, Inc. ("VIP"). VIP is located 1560 Periwinkle Way, Sanibel Island, Florida 33957 and has substantial experience in selling real estate similar to the Sanibel Properties.¹ I make this Affidavit from personal knowledge and am competent to do so.

2. VIP has been asked to represent Michael Phelan, as the Chapter 11 Trustee (the "Chapter 11 Trustee") of the consolidated Chapter 11 cases of Lydia Cladek, Inc. (the "Debtor"), in this Chapter 11 case as real estate brokers the Chapter 11 Trustee for the purposes of marketing the Sanibel Properties for sale. To the best of my knowledge, information and belief, VIP has no professional, business, or other connection with the above-captioned Debtor, its attorneys, creditors, or any party-in-interest in this case. To the best of my knowledge, information and belief, VIP represents no interest which would be adverse to the estate of the Debtor in connection with the matters upon which VIP is to be engaged by the Chapter 11 Trustee.

¹ Capitalized terms used but not specifically defined herein shall have the respective meanings ascribed to them in the *Application for an Order Pursuant to Section 327(a) of the Bankruptcy Code Authorizing the Retention of VIP Realty Group, Inc. as Real Estate Brokers to the Chapter 11 Trustee* (the "Application").

3. VIP has not received and will not receive any payments from any source and has not been promised any payment except from the funds of this estate upon proper application to the Court. Except as otherwise set forth in the Application, no understanding or agreement exists between VIP and/or any other entity for the sharing of the compensation to be received for services rendered in or in connection with this case.

4. VIP intends to represent the Chapter 11 Trustee in the areas as described in the Application and Exhibits annexed thereto, to which this Affidavit is included.

5. Employment of VIP as real estate broker to the Chapter 11 Trustee is appropriate under 11 U.S.C. § 327(a) and Bankruptcy Rules 2014 and 5002.

