

**FILED IN OPEN COURT**  
JACKSONVILLE, FLORIDA

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

**NOV 19 2010**

U. S. DISTRICT, COURT  
MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

v.

LYDIA I. CLADEK

CASE NO. 3:10-cr- **077-J-99TJC-TEM**  
Ct. 1: 18 U.S.C. § 1349  
Cts. 2-5: 18 U.S.C. §§ 1343 and 2  
Cts. 6-14: 18 U.S.C. §§ 1341 and 2  
Forfeiture: 18 U.S.C. § 981(a)(1)(C) and  
28 U.S.C. § 2461(c)

**INDICTMENT**

The Grand Jury charges:

**COUNT ONE**

**A. Introduction to Defendant and Entity Involved**

At times material to this Indictment:

1. Lydia Cladek, Inc. ("LCI") was a Florida for profit corporation. LCI was incorporated on January 2, 1998, and has been in existence since that date.

2. LCI's principal place of business was located in St. Augustine in St. Johns County, Florida. LCI's, owner, president and sole shareholder was Lydia I. Cladek ("Cladek").

3. Cladek utilized LCI as a subterfuge to facilitate the fraud, artifice and scheme perpetrated by her and described more fully below.

4. Cladek controlled accounts at Bank of America and Prosperity Bank.

5. Bank of America was a financial institution with offices located throughout the United States, including the State of Florida, and whose accounts were insured by the Federal Deposit Insurance Corporation (FDIC).

6. Prosperity Bank was a financial institution with offices located within the State of Florida, and whose accounts were insured by the Federal Deposit Insurance Corporation (FDIC).

**B. Description of LCI's Business**

7. LCI's asserted primary business model was to engage in the purchase of high interest motor vehicle retail installment finance contracts (herein "car notes"). LCI purchased car notes from multiple used car dealers within the southeast United States and in other states.

8. LCI purchased car notes from automobile dealers at a discounted price. Once purchased, LCI would service the car notes, collect payments from customers, monitor collateral, collect defaulted loans, enforce security interests, repossess automobiles, liquidate collateral, and release liens upon satisfaction of the notes.

9. To fund its purchases of car notes, Cladek would solicit private investments of capital from individuals. In exchange for a "loan" to LCI, Cladek would cause LCI to issue a promissory note to the "private lender." The promissory note was to be secured by the car notes purchased by LCI. Private individuals loaned money to LCI as an investment for terms of one to two years at a guaranteed return rate between 15% to 20%. LCI was supposed to utilize lender/investor (hereinafter investor) money to purchase car notes from independent used car dealers at a discount. These purchased car notes were high interest car loans with interest rates of up to 29%. LCI

held the car titles and serviced these high interest loans from the registered owners of the cars. LCI earned money, including interest, from the borrowers' car payments and passed a percentage of this earned interest onto the investors, typically 15% to 20%. Any remainder was to constitute LCI's profit.

**C. Manner and Means of the Conspiracy**

10. It was the purpose of the conspiracy for Cladek to unlawfully enrich herself by, among other things: (a) using investors funds to support her lifestyle and to acquire personal property; (b) using investors funds to repay other investors to conceal the fraudulent use of the funds; and (c) concealing the false and fraudulent information to benefit and to further the fraudulent scheme.

11. The manner and means by which Cladek and her co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

a. It was part of the manner and means that Cladek used Lydia Cladek, Inc. (LCI) as the corporate umbrella for her scheme.

b. It was further part of the manner and means that Cladek, or others acting at her direction, would locate persons who had money to invest with Cladek through LCI.

c. It was further part of the manner and means that Cladek, and others at her direction, would market, through word of mouth, LCI's services to potential investors and lead the potential investors to believe that their monies would be securely invested in car notes.

d. It was further part of the manner and means that Cladek, herself or others at her direction, would have funds from these investors deposited into accounts that Cladek controlled at Bank of America and Prosperity Bank.

e. It was further part of the manner and means that Cladek, herself or others at her direction, would execute a promissory note wherein Cladek/LCI guaranteed the principal investments and rate of interest.

f. It was further part of the manner and means that Cladek, herself or others at her direction, would use the United States Postal Service, or commercial interstate carriers, to send fraudulent promissory notes to investors in Florida, and other states.

g. It was further part of the manner and means that Cladek, herself or others at her direction, would cause or encourage investors to use the United States Postal Service, or commercial interstate carriers, to send investment capital to herself or to LCI.

h. It was further part of the manner and means that Cladek, herself or others at her direction, would cause investors to use interstate wire transfers to send funds from investors' accounts in other states, into Cladek's accounts in Florida.

i. It was further part of the manner and means that Cladek, herself or others at her direction, would encourage investors to roll-over their returns into additional investments rather than take a payout, knowing that adequate funds did not exist to meet the obligations of existing promissory notes.

j. It was further part of the manner and means that Cladek, herself or others at her direction, would fail to make all of the required payments, pursuant to her

contractual obligations as part of the fraudulent scheme, causing the investors to suffer financial losses.

k. It was further part of the manner and means that Cladek and her co-conspirators would perform acts and make statements to hide and conceal, and cause to be hidden and concealed, the purpose of the conspiracy and the acts committed in furtherance thereof.

**D. CHARGE**

12. Beginning on a date unknown to the Grand Jury, but at least from in or around 2003, and continuing through in or about March 2010, in St Johns County, in the Middle District of Florida, and elsewhere,

**LYDIA I. CLADEK,**

the defendant herein, did knowingly and willfully combine, conspire, confederate, and agree with others, both known and unknown to the Grand Jury, to commit the following offenses:

(a) To knowingly, willfully, and with intent to defraud, devise, and intend to devise, a scheme and artifice to defraud persons and investors for the purpose of obtaining money and property by means of false and fraudulent pretenses, representations, and promises and, for the purpose of executing such scheme and artifice, transmitted and caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343 and 2; and

(b) To knowingly, willfully, and with intent to defraud, devise, and intend to devise, a scheme and artifice to defraud persons and investors for the purpose of

obtaining money and property by means of false and fraudulent pretenses, representations, and promises and, for the purpose of executing such scheme and artifice, used and caused to be used the United States Postal Service, or commercial interstate carriers, and deposited and caused to be deposited items to be sent by the United States Postal Service, or commercial interstate carriers, in violation of Title 18, United States Code, Section 1341 and 2.

All in violation of Title 18, United States Code, Section 1349.

## **COUNTS TWO THROUGH FIVE**

### **A. Wire Fraud Introduction**

The allegations contained in paragraphs 1 through 7 of Section A of Count One of this Indictment are hereby re-alleged and incorporated herein by reference.

### **B. Description of LCI's Business**

The allegations contained in paragraphs 8 through 10 of Section B of Count One of this Indictment are hereby re-alleged and incorporated herein by reference.

### **C. Scheme**

From in or about 2003 and continuing through in or about March 2010, in St. Johns County, in the Middle District of Florida and elsewhere,

LYDIA I. CLADEK,

the defendant herein, did knowingly and willfully devise and intend to devise a scheme and artifice to defraud persons and investors and for obtaining money and property by means of material false and fraudulent pretenses and representations.

**D. Manner and Means of the Scheme to Defraud**

The allegations contained in paragraphs 10 and 11 of Section C of Count One of this Indictment are hereby re-alleged and incorporated herein by reference.

**E. Execution Of Interstate Wire Fraud**

On or between the dates set forth below, in St. Johns County, in the Middle District of Florida and elsewhere,

LYDIA I. CLADEK,

for the purpose of executing the scheme and artifice to defraud and for obtaining money and property by means of material false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate commerce the following electronic funds transfers, sent by the investor specified below:

<b>Count</b>	<b>Date</b>	<b>Item</b>	<b>Amount Involved</b>
2	8/4/09 to 8/12/09	Funds from DHB via interstate wire from Charles Schwab and Co., Inc, Wells Fargo Bank, N.A., San Francisco, CA to LCI's account at Bank of America, N.A.	\$140,000
3	9/28/09 to 10/21/09	Promissory Note Number 8542 via interstate wire fax to Equity Trust Company, Elyria, OH, for SH from LCI	\$278,792.39
4	1/09/10 to 1/27/10	Funds from CHB via interstate wire from Stellarone Bank, Christianburg, VA, to LCI's account at Bank of America	\$27,000

5	1/11/10 to 1/25/10	Funds from RB via interstate wire transfer from National Finance Services LLC, JP Morgan Chase Bank, N.A., New York, N.Y. to LCI's Operating account at Bank of America, N.A.	\$200,000
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All in violation of Title 18, United States Code, Section 1343 and 2.

### **COUNTS SIX THROUGH FOURTEEN**

#### **A. Mail Fraud Introduction**

The allegations contained in paragraphs 1 through 7 of Section A of Count One of this Indictment are hereby re-alleged and incorporated herein by reference.

#### **B. Description of LCI's Business**

The allegations contained in paragraphs 8 through 10 of Section B of Count One of this Indictment are hereby re-alleged and incorporated herein by reference.

#### **C. Scheme**

From in or about 2003 and continuing through in or about March 2010, in St. Johns County, in the Middle District of Florida and elsewhere,

LYDIA I. CLADEK,

the defendant herein, did knowingly and willfully devise and intend to devise a scheme and artifice to defraud persons and investors and for obtaining money and property by means of materially false and fraudulent pretenses and representations.

#### **D. Manner and Means of the Scheme to Defraud**

The allegations contained in paragraphs 10 and 11 of Section C of Count One of this Indictment are hereby re-alleged and incorporated herein by reference.

**E. Execution of Mail Fraud**

On or between the dates set forth below, in St. Johns County, in the Middle District of Florida and elsewhere,

LYDIA I. CLADEK,

for the purpose of executing the scheme and artifice to defraud and for obtaining money and property by means of material false and fraudulent pretenses, representations, and promises, deposited and caused to be deposited the below items, to be sent and delivered by the United States Postal Service, or commercial interstate carriers, to the addresses listed below:

<b>Count</b>	<b>Date</b>	<b>Item Mailed</b>	<b>Amount Involved</b>
6	9/28/09 to 10/21/09	Check Number 0639333 from SH from Equity Trust Company, 225 Burns Rd., Elyria, OH, via Federal Express Mail Service to LCI, 108 Seagrove Main Street, St. Augustine, FL	\$278,792.39
7	10/13/09 to 11/09/09	Check Number 277 from CA from Jerico, VT, via U.S. Postal Service to LCI, 108 Seagrove Main Street, St. Augustine, FL	\$40,000
8	11/23/09 to 12/31/09	Two checks (Numbers 938 and 937) from CA and DH via U.S. Postal Service to LCI, 108 Seagrove Main Street, St. Augustine, FL	\$70,000
9	11/20/09 to 12/15/09	Check Number 179 from NDB from Lorton, VA, via U.S. Postal Service to LCI, 108 Seagrove Main Street, St. Augustine, FL	\$150,000

10	11/18/09 to 12/15/09	Promissory Note Number 7663 to MHS and DS, St. Augustine, FL via U.S. Postal Service from LCI, at 108 Seagrove Main Street, St. Augustine, FL	\$200,000
11	9/26/08 to 1/31/10	Promissory Note Number 8389 to JB and JB, Deltona, FL via U.S. Postal Service from LCI, at 108 Seagrove Main Street, St. Augustine, FL	\$73,500
12	1/11/10 to 1/28/10	Promissory Note Number 2358 to TH and KH, Stillwater, MN via U.S. Postal Service from LCI, at 108 Seagrove Main Street, St. Augustine, FL	\$60,000
13	1/12/10 to 1/31/10	Promissory Note Number 2167 to JR and LR, Miami, FL via U.S. Postal Service from LCI, at 108 Seagrove Main Street, St. Augustine, FL	\$30,000
14	1/14/10 to 1/30/10	Promissory Note Number 8751 to DD and RD, St. Augustine, FL, via U.S. Postal Service from LCI, 108 Seagrove Main Street, St. Augustine, FL	\$10,000

All in violation of Title 18, United States Code, Sections 1341 and 2.

### **FORFEITURES**

1. The allegations contained in Counts One through Fourteen of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. From her engagement in the violations alleged in Counts One through Fourteen of this Indictment, punishable by imprisonment for more than one year, the defendant,

**LYDIA I. CLADEK,**

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all of her interest in any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations, including:

- a. A sum of money equal to at least \$113,235,968.02 in United States currency, representing the amount of gross proceeds obtained from 2004 - present, as a result of the offenses, Title 18, United States Code, Section 1341 (Mail Fraud) & Title 18, United States Code, Section 1343 (Wire Fraud), for which the defendant is liable;
- b. Real property, including its buildings, appurtenances, improvements thereon, located at 1061 SW Alaska Way, Greenville, Madison County, Florida;
- c. Real property, including its buildings including its buildings, appurtenances, improvements thereon, located at 16250 Captiva Drive, Captiva, Lee County, Florida being more particularly described as follows:  
  
Lot 2, Block B, FRANK H. TICHENOR'S SILVER KING SUBDIVISION, according to the Map or Plat thereof, Recorded in Plat Book 4, Page 56 of the Public Records of Lee County, Florida, having been transferred or sold to, or deposited with, a third party, and funds being held in escrow;
- d. Real property, including its buildings including its buildings, appurtenances, improvements thereon, located at 4443 Waters Edge Lane, Sanibel, Lee County;

- e. \$25.00 representing contents of Bank of America Account No. 003447943947 (LCI account #1), in the name of Lydia Cladek, Inc. (LCI);
- f. \$2,761.32 representing contents of Bank of America Account No. 898030310260 (LCI account #2), in the name of Lydia I. Cladek, Inc. (LCI);
- g. \$2,332.41 representing contents of Bank of America Account No. 898033718267, in the name of Lydia I. Cladek and Heather I. Saalfeld (BOA personal account);
- h. a 2009 Ford Super-Duty F250, VIN NO. 1FTSW21519EA75481, registered to Lydia I. Cladek;
- i. a 2001 Mercedes-Benz, VIN NO. WBDNG70J51A167340, registered in the name of Lydia Cladek, Inc. (LCI);
- j. Painting - by Tony Curtis - "Marilyn Monroe";
- k. Painting - by Dunn-Ewing - "Beach/Dunes scene";
- l. Painting - by Dunn-Ewing - "Roof Tops";
- m. Painting - by Nieroa - "Masai";
- n. Painting - by Ed Takacs - described as "Otters";
- o. Painting - by Ed Takacs - described as "Pelican";
- p. Painting - by Ed Takacs - " African Elephant II";
- q. Painting - by Ed Takacs - "Great Egret";
- r. Painting - by Rachel Thompson - "Leopard";
- s. Painting - by Rachel Thompson - "Gloxinia";
- t. Painting - by Rachel Thompson - "Rubber Plant Leaves";
- u. Painting - by Rachel Thompson - "Tropical Leaves";
- v. Painting - artist unknown - "Panther: Watercolor and Gauche";
- w. Painting - artist unknown - "Elephant holding red flower";

- x. Painting - artist unknown - "Purple Giraffes";
- y. Painting - artist unknown - "Orange Giraffes";
- z. Painting - artist unknown - "Tiger";
- aa. Sculpture (bronze) - by Tom Corbin - "Horse Study #1";
- bb. Sculpture (bronze) - by William Schaaf - "Dixie Brick Horse";
- cc. Sculpture - by William Schaaf - "Wishing Horse";
- dd. Artwork (print) - by Joe Andoe - "Mid Continent (Trips)" 2006;
- ee. Artwork (print) - by Joe Andoe - "Two Horses";
- ff. Artwork (serigraph print) - by Joe Andoe - "Cherokee Village";
- gg. Artwork (monoprint) - by Joe Andoe - "Untitled";
- hh. Artwork (etching) - by Joe Andoe - "Untitle for BAM";
- ii. Artwork (print) - by Joe Andoe - "Rolling Hills";
- jj. Artwork (Giclee) - by Bruce Andrews - "Fade Away";
- kk. Artwork (Print) - artist unknown - "Rolling Thunder";
- ll. Artwork (color photo) - artist unknown - "Deer";
- mm. Artwork (black and white photo) - artist unknown - "Tree";
- nn. Men's SS Explorer II Rolex watch;
- oo. Black pocket knife/wood box;
- pp. Rolex Daytona watch described as "White Gold on Strap White/Black";
- qq. Jewelry described as one (1) pair of diamond stud earrings;  
and
- rr. Steinway and Sons baby grand piano with matte black finish.

3. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL,

  
Foreperson

~~ROBERT E. O'NEILL  
United States Attorney~~

By:

  
JAY TAYLOR  
Assistant United States Attorney

By:

  
JULIE HACKENBERRY SAVELL  
Assistant United States Attorney  
Chief, Jacksonville Division

No.

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**UNITED STATES DISTRICT COURT**

Middle District of Florida  
Jacksonville Division

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THE UNITED STATES OF AMERICA

vs.

LYDIA I. CLADEK

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**INDICTMENT**

Violations:

Ct. 1: 18 U.S.C. § 1349  
Cts. 2-5: 18 U.S.C. §§ 1343 and 2  
Cts. 6-14: 18 U.S.C. §§ 1341 and 2

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A true bill,

  
Foreperson

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Filed in open court this 19<sup>th</sup> day

of November, 2010.

  
Clerk

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Bail \$ \_\_\_\_\_