

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)

**OMNIBUS CLAIMS OBJECTION OF MICHAEL PHELAN,  
CHAPTER 11 TRUSTEE OF LYDIA CLADEK, INC.**

**NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider this matter without further notice or hearing unless a party in interest files an objection within 30 days from the date of service of this paper. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at 300 North Hogan Street, Suite 3-350, Jacksonville, Florida 32202, and serve a copy on Steven R. Wirth, Esq., Akerman Senterfitt, 50 North Laura Street, Suite 3100, Jacksonville, FL 32202; Michael Phelan, Chapter 11 Trustee, 3613 North 29th Ave., Hollywood, FL 33020; Jon E. Kane, Esq., Burr & Forman, LLP, 450 S. Orange Avenue, Suite 200, Orlando, FL 32801; and Elena L. Escamilla, Esq., United States Trustee, 135 West Central Blvd., Suite 620, Orlando, FL 32806.

If you file and serve an objection within the time permitted, the Court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

**BY THIS OBJECTION, THE CHAPTER 11 TRUSTEE OBJECTS TO EACH PROOF OF CLAIM ON THE EXHIBITS ANNEXED HERETO AND SEEKS THE DISALLOWANCE OF SUCH CREDITORS' CLAIMS, AS SET FORTH IN THIS OBJECTION, PURSUANT TO, *INTER ALIA*, 11 U.S.C. §§ 105(A) AND 502(D). IF A CREDITOR DISAGREES WITH THE CHAPTER 11 TRUSTEE'S OMNIBUS OBJECTION, IN ORDER TO PRESERVE THE RIGHT OF EACH CREDITOR, AND ANY INTERESTED PARTY, TO BE HEARD AND PRESENT EVIDENCE REGARDING THE VALIDITY OF THEIR RESPECTIVE PROOF(S) OF CLAIM, SUCH CREDITOR IS REQUIRED TO FILE A WRITTEN RESPONSE TO THE PROPOSED TREATMENT CONTAINED HEREIN AND FILE SUCH RESPONSE WITH THE COURT WITHIN 30 DAYS OF THE DATE OF SERVICE OF THIS PAPER. UNLESS YOU RESPOND TO THIS OBJECTION, YOUR CLAIMS SHALL BE DISALLOWED IN THEIR ENTIRETY.**

### **VENUE AND JURISDICTION**

1. 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).

2. The statutory predicates for the relief requested herein are sections 105(a) and 502 of title 11 of the United States Code (the "Bankruptcy Code"), as complemented by Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

### **BACKGROUND**

3. On April 2, 2010, several petitioning creditors filed an involuntary Chapter 11 petition against 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").

4. 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").

5. 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].

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

7. The Chapter 11 Trustee is currently operating the Debtor’s business pursuant to sections 1106 and 1108 of the Bankruptcy Code.

8. On June 1, 2010, the Court entered a Notice of Appointment of the Committee [Doc. No. 111].

9. On October 28, 2010, the Committee filed a Disclosure Statement and Plan of Reorganization [Docket Nos. 294 – 295]. In addition, on October 28, 2010, the Committee filed a Motion to Combine Disclosure Statement and Confirmation Hearing [Doc. No. 296] (the “Motion to Combine”).

10. On November 23, 2010, the Trustee filed a Chapter 11 Plan of Liquidation and Disclosure Statement in Support of Plan of Liquidation [Doc. Nos. 347-348].

11. On December 2, 2010, the Committee filed its Amended Disclosure Statement and Amended Plan [Doc. Nos. 354 and 356].

12. On December 3, 2010, the Trustee filed its Amended Disclosure Statement and Amended Plan [Doc. Nos. 361 and 362].

13. On December 3, 2010, the Trustee and Committee filed a joint motion (the “Solicitation Procedures Motion”), pursuant to 11 U.S.C. §§ 105(a), 1125(b), and 1126(b) and Rules 2002, 3003, 3017, 3018, and 3020 of the Federal Rules of Bankruptcy Procedure, for an order (i) conditionally approving the Disclosure Statements and combining the hearing on the Disclosure Statements with the confirmation hearings on the Plans, (ii) approving the dates, procedures, and forms applicable to solicitation, noticing, and implementation process, (iii) approving vote tabulation procedures, (iv) establishing the deadline for filing objections to the Plans, (v) scheduling the hearing to consider confirmation of the Plans, (vi) approving the form of the notice of the confirmation hearings, and (vii) establishing an extended deadline to file proofs of claim with respect to certain parties in interest [Doc. No. 364].

14. On December 6, 2010, a hearing was held on, among other things, the Solicitation Procedures Motion, and on December 7, 2010, the Court entered an order approving that motion (the "Solicitation Procedures Order") [Doc. No. 367]. Upon the ex parte motion of the Committee and the Trustee [Doc. No. 383], the Solicitation Procedures Order was amended by order of this Court dated December 16, 2010 [Doc. No. 388] (the "Amended Solicitations Procedures Order"). Among other things, paragraph 18 of the Amended Solicitation Procedures Order provides a procedure for disallowing the votes of claimants whose claims are subject to a pending objection.

15. Since being appointed, the Trustee has investigated the transfers made by the Debtor in furtherance of the Debtor's operation of a Ponzi scheme. The Trustee has identified hundreds of transfers of funds of the Debtor to Ponzi scheme investors, as well as others, including the recipients of preferential transfers and "net winners" (*i.e.*, investors who received distributions during the 4 years preceding the Filing Date (the "Fraudulent Conveyance Period") which exceeded the principal amount of their investment with the Debtor).

16. As a result of the investigation, the Trustee (i) has made demand on all recipients of preferential transfers seeking the return of any funds received within the 90 days preceding the Filing Date (the "Preference Period") and (ii) intends to commence lawsuits to avoid and recover fraudulent transfers made to "net winners" pursuant to, *inter alia*, sections 544, 548 and 550 of the Bankruptcy Code and Chapter 726 of the Florida Statutes.

17. According to the books and records of the Debtor, there are approximately 77 claimants who received preferential transfers and have refused to return those funds to the Trustee for the benefit of all creditors. The total amount of preference claims against these recipients aggregates approximately **\$1,901,937.09**. Additionally, there are approximately 317

"net winner" investor claimants who received distributions during the Fraudulent Conveyance Period which exceeded the principal amount of their investment with the Debtor.<sup>1</sup> The total amount of fraudulent conveyance claims against these "net winner" recipients aggregates approximately **\$7,266,133.89**.

### **RELIEF REQUESTED**

18. As a result of the Debtor's operation as a Ponzi scheme, and in accordance with legal precedent discussing claims distribution in cases wherein a Ponzi scheme was found to exist, the Trustee objects herein to all claims filed by recipients of preferential transfers who have refused to turn over such funds to the Trustee, as well as all "net winners" based upon 11 U.S.C. §§ 105(a) and 502(d) and the equitable principle that the claims of earlier investors should be disallowed to the extent that such investors would profit at the expense of investors who entered the scheme at a later date and received less or nothing at all from the Debtor (the "Objection").<sup>2</sup>

19. Section 502(d) of the Bankruptcy Code provides:

Notwithstanding subsections (a) and (b) of this section, the court shall disallow any claim of any entity from which property is recoverable under section 542, 543, 550, or 553 of this title or that is a transferee of a transfer avoidable under section 522 (f), 522 (h), 544, 545, 547, 548, 549, or 724 (a) of this title, unless such entity or transferee has paid the amount, or turned over any such property, for which such entity or transferee is liable under section 522 (i), 542, 543, 550, or 553 of this title.

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<sup>1</sup> Mary Lou Preston received \$179,570.24 during the Fraudulent Conveyance Period (\$56,810.65 of which was received during the Preference Period), which she has not returned to the estate. Ms. Preston also filed four proofs of claim in this case (Claim Nos. 942 – 945) aggregating \$108,716.52. However, Ms. Preston subsequently filed for chapter 11 protection with this Court on December 3, 2010, and therefore the Trustee has not filed an objection to her claims, nor sought to disallow her vote(s), at this time. The Trustee intends to file a proof of claim in Ms. Preston's chapter 11 case shortly.

<sup>2</sup> The Trustee has also filed contemporaneously herewith (i) a motion to authorize the Trustee to file the within omnibus objection to claims, and (ii) a motion to disallow the votes of all creditors whose claims are subject to the Objection, each of which are incorporated herein by this reference as if fully set forth herein.

11 U.S.C. § 502(d). Section 502(d) “preclude[s] entities which have received voidable transfers from sharing in the distribution of the assets of the estate unless and until the voidable transfer has been returned to the estate.” *In re Mid Atlantic Fund, Inc. (In re America West Airlines, Inc.)*, 60 B.R. 604, 609 (Bankr. S.D.N.Y. 1986); *El Paso City of Texas v. America West Airlines, Inc. (In re America West Airlines, Inc.)*, 217 F.3d 1161, 1168 (9th Cir. 2000); *Jacksonville Airport, Inc. v. Michkeldel, Inc.*, 434 F.3d 729, 732 (4<sup>th</sup> Cir. 2006) (“As long as a party in interest objects to a claim – regardless of the objection’s validity or merit – the claim cannot be deemed allowed.”); *see also Inter-State National Bank of Kansas City v. Luther*, 221 F.3d 382, 389 (10th Cir. 1955) (“claims of creditors who have received or acquired void or voidable preferences are not allowable unless such creditors shall surrender such preferences”).

20. Here, the claims listed on Exhibit A annexed hereto should be disallowed pursuant to section 502(d) of the Bankruptcy Code because those claimants are recipients of preferential transfers who have refused to turn over such funds to the Trustee. In addition, the claims listed on Exhibit B annexed hereto should be disallowed pursuant to 11 U.S.C. § 502(d) and the equitable principle that the claims of earlier investors (*i.e.*, “net winners”) should be disallowed to the extent that such investors profited at the expense of investors who entered the scheme at a later date and received less or nothing at all from the Debtor.<sup>3</sup> These “net winner” investors received a full return of their principal as well as some “profit”, which consisted, in reality, of other customers' investments, and therefore their claims should be disallowed. *See In re Bernard L. Madoff Inv. Securities LLC*, 424 B.R. 122, 132 (Bankr. S.D.N.Y. 2010); *see also*

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<sup>3</sup> “[T]he overriding consideration in bankruptcy ... is that equitable principles govern”, *see In re NWFEX, Inc.*, 864 F.2d 588, 590 (8th Cir. 1988), and bankruptcy courts have broad equitable powers to order relief pursuant to section 105(a) of the Bankruptcy Code. *See, e.g., River Hills Assocs., Ltd. v. River Hills Apartments Fund (In re River Hills Apartments Fund)*, 813 F.2d 702, 707 (5th Cir. 1987); 11 U.S.C. § 105(a) (providing that the Court “may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of this title.”).

*Donell v. Kowell*, 533 F.3d 762, 770-71 (9th Cir. 2008) (holding that transfers to “net winners” pursuant to a Ponzi scheme are both actually and constructively fraudulent).<sup>4</sup>

21. Based on the foregoing statutory law, equitable principles and established Ponzi scheme jurisprudence, the Trustee requests that the Court disallow the claims of all recipients of preferential transfers who have refused to return those funds to the Trustee, as well as all "net winner" recipients of fraudulent conveyances pursuant to sections 502(d) and 105(a) of the Bankruptcy Code.

### **RESERVATION OF RIGHTS**

22. This Objection is made on each of the substantive grounds stated herein and is without prejudice to the right of the Trustee to object to the claims objected to herein on any other grounds and/or to the extent additional bases for objection to any such claims are determined to exist as a result of discovery or any responses filed or other communications received in response to this Objection. The Trustee reserves the right to amend his objections upon completion of his investigation and discovery in order to assert any additional claims for relief or to add additional claimants which he may identify as may be warranted under the circumstances and as allowed by law.

23. Nothing set forth herein is intended, nor shall be deemed, to modify, limit, release, reduce, or waive any of the Trustee's or the estate's rights, claims, remedies, causes of action, or privileges at law or in equity, all of which are specifically preserved. More specifically, but not limiting the foregoing, nothing contained in this Objection or the annexed Exhibits shall be construed as a waiver of any rights that the Trustee may have (i) to bring avoidance actions under the applicable sections of the Bankruptcy Code or applicable law,

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<sup>4</sup> The “clawback” jurisprudence that has developed in Ponzi scheme cases -- both in and outside of bankruptcy -- is designed to equalize the winners and losers, by recovering false profits from the net winners who typically invested early in the Ponzi scheme and distributing such recoveries to the net losers who typically invested later.

including, but not limited to, sections 547, 548 and 550 of the Bankruptcy Code and Chapter 726 of the Florida Statutes, against the holders of claims subject to the Objection, or (ii) to exercise the Debtor's right of setoff against the holders of such claims relating to such avoidance actions.

**CONCLUSION**

WHEREFORE, Michael Phelan, the Chapter 11 Trustee of the consolidated Chapter 11 cases of the Debtor, respectfully requests that the Court (i) grant the Objection, (ii) disallow the claims set forth on Exhibits A and B annexed hereto pursuant to sections 502(d) and 105(a) of the Bankruptcy Code and applicable law, and (iii) grant the Trustee such other and further relief as this Court deems just and proper.

Dated: January 18, 2011.

AKERMAN SENTERFITT

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on January 18, 2011, a true and correct copy of the foregoing was furnished to all parties who have consented to receive electronic notifications in this case and by electronic or U.S. mail to all parties on the attached Amended Official Service list, Net Winners service list, and Preferential Transfers service list.

/s/ Steven R. Wirth  
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Colorado Springs, CO 80905

Meghan Daigneau  
1420 Old N. Main St.  
Laconia, NH 03246

Abbie Danna  
5240 Don Manuel Road  
Elkton, FL 32033

Rudolph Danowski  
127 Hogback Rd.  
Oxford, CT 06478

Irene Delchrico  
109 Marisa Dr.  
St. Augustine, FL 32086

Chad Drury  
605 Poinsettia St.  
St. Augustine, FL 32080

Kevin or Lori Drury  
6424 Putnam St.  
St. Augustine, FL 32080

Rochelle Filler  
2662 San Fernando Road  
Jacksonville, FL 32217

Ron Fisher  
PO Box 127  
Berwick, IA 50032

Brian J. Gannon  
5501 Commerce Dr. Ste 104  
Orlando, FL 32839

Thomas and Marianna Gilligan  
546 Race Place  
Oakdale, NY 11769-1724

Allain Girouard  
1740 Tree Blvd.  
St. Augustine, FL 32084

Peter Glover  
483 North Beach Street  
Ormond Beach, FL 32174

Ruth Goedjen  
Linda Potempa  
c/o Sidney Abelski  
180 N. Michigan Ave., No 1800  
Chicago, IL 60601

Sean Gordon  
1312 Salem Run  
Crownsville, MD 21032

ReAnna Greene  
107 Porpoise Rd.  
St. Augustine, FL 32086

Renee or Taryn Greene  
107 Porpoise Rd.  
St. Augustine, FL 32086

Renee T. or Terry M. Greene  
107 Porpoise Rd.  
St. Augustine, FL 32086

Susan Mitchell Gregory  
PO Box 3485  
St. Augustine, FL 32085

Melinda Gronen  
124 N. Rose  
Palatine, IL 60067

Jeannie Hansen  
128 Water Turkey Ct.  
Daytona Beach, FL 32119

Merle R. Harper  
519 SE Marydale Terrace  
Port St. Lucie, FL 34983

Ben B. Harrell  
2617 35th Street  
Edgewater, FL 32141

Beverly Haugen  
3524 Chapman Court  
Cedar Falls, IA 50613

Lynn Johnson  
931 Lew Blvd.  
St. Augustine, FL 32080

Linda Johnston  
1508 W Street  
Mansfield, MA 02048

Noreen Jones  
7145 A1A South, Unit 14  
St. Augustine, FL 32080

Kathleen Trued Revocable Living  
Trust  
2 Dondanville Rd. #303  
St. St Augustine, FL 32080

Suzi Kelly  
932 1st Street North #601  
Jacksonville, FL 32250

Linda M. Langley  
78 Fells Road  
Portsmouth, NH 03801

Latin King Restaurant  
2200 Hubbell Avenue  
Des Moines, IA 50317-2594

Nadine Leavitt  
2 Cerrado Road  
Santa Fe, NM 87508

Doug and Colleen Lucas  
4335 Wickerfield Dr.  
St. Louis, MO 63128

Leonard Lybbert  
1964 Kamille Court  
Waterloo, IA 50701

Charles A. or Susan Mandeville  
56 Fairway View  
Peterstown, WV 24963

Robert Matzke  
20 Andalusia Court  
St. Augustine, FL 32086

Peggy Medick  
106 Terrapin Road  
St. Augustine, FL 32086

Miles Moore  
108 Christian Peterson Ave.  
Gilbert, IA 50105

Moss Family Trust  
200 Malaga Street, Suite One  
St. Augustine, FL 32084

Hannah Murray  
380 Valverde Lane  
St. Augustine, FL 32086

Neighborhood Realty Inc.  
401(k) Profit Sharing Paln & Trust,  
fbo James N. McGarvey Jr.,  
432 Osceola Ave.  
Jacksonville Beach, FL 32250

Brigitte or Steven Neiswender  
14 King Elder Way  
Taylors, SC 29687

Steve Neiswender  
14 King Elder Way  
Taylors, SC 29687

Mary or Earl Newton  
4 Lydia Lane  
St. Augustine, FL 32080

John D. Nock  
PO Box 3227  
St. Augustine, FL 32085

Sean O'Brien  
3285 Sequoyah  
Jacksonville, FL 32259

Kevin O'Dwyer  
1429 Oak Forest Drive  
Ormond Beach, FL 32174

Donald or Frances Page  
634 South 87th Way  
Mesa, AZ 85208

Barbara A. Palmes  
104 Majestic Oak Drive  
Dahlonega, GA 30533

Frank Pelaggi, Trustee  
26 Great Quarter Road  
Sandyhook, CT 06482

David Peterson  
6134 218th Ave  
Bristol, WI 53104

Hannelore Peterson  
617 Casa Fuerta Lane  
St. Augustine, FL 32080

Anne M. Quarles  
894 Mac Ewen Dr.  
Osprey, FL 34229

Morgan Saliny  
500 E. Grant St.  
Minneapolis, MN 55404-1421

Janet Schaaf  
1 Pavillion Court  
Palm Coast, FL 32137

Jeffrey Seidman  
5519 McDonough Rd.  
Hoffman Estates, IL 60192

Bradley or Debra Sharp  
5125 Ave D  
St. Augustine, FL 32095

Anna Sheaffer  
18 Lydale Place  
Meriden, CT 06450

Kathleen Sinnott  
1934 Kamille Court  
Waterloo, IA 50701

D.L. Spaulding  
256 Redfish Creek Dr.  
St. Augustine, FL 32095

Barbara Stafford  
607 Mulligan Way  
St. Augustine, FL 32080

Diana Starke  
1835 US 1 S, Suite 119-177  
St. Augustine, FL 32084

James Starke  
1835 US 1 S, Suite 119-177  
St. Augustine, FL 32084

Eric Swanson  
1355 English Blvd.  
Marion, IA 52302

The Jane D. Weiss Family  
Foundation, Inc.  
127 Hogsback Road  
Oxford, CT 6478

Jane D Weiss Trust  
127 Hogsback Rd  
Oxford Ct 06478

Gertrude Thomas  
832 East Allman St.  
Medford, WI 54451

David and Rachel Thompson  
317 South Forest Dune Dr.  
St. Augustine, FL 32080

Marian Thompson  
3793 Flamingo St.  
St. Augustine, FL 32080

Susan Thompson  
380 Valverde Lane  
St. Augustine, FL 32086

Barry Tully  
4255 A1A South, Suite 11  
St. Augustine, FL 32080

Robert Tursi  
2200 Hubbell Ave  
Des Moines, IA 50317-2594

Dale or Connie Weatherford  
3337 Millwood Way  
St. Augustine, FL 32086

Thomas Webb  
5155 Atlantic View  
St. Augustine, FL 32080

Lauren Wisner  
1328 Rainbow Dr.  
Waterloo, IA 50701

James Young  
2293 Pellicer Rd.  
St. Augustine, FL 32092

Robert Schleifer  
PO Box 205  
Gillsville, GA 30543

Stephen M. Solomon  
434 Primrose Drive  
Hudson, IA 50643

Edith Davis  
c/o Clark M. Davis  
1425 Gray Bluff Trail  
Chapel Hill, NC 27514

Carol Reina  
134 Phoenetia Drive  
St. Augustine, FL 32086

Susan Noble  
c/o Gerard Keating  
318 Silver Beach Ave  
Daytona Beach, FL 32118

Jimae, Inc.  
16715 SW 80th Ave  
Miami, FL 33157

Stuart Leavitt  
2 Cerrado Road  
Santa Fe, NM 87508

Kimberly G. Schafer  
382 Casuarina Cir.  
St. Augustine, FL 32086

Dulcy Freeman  
PO Box 4508  
St. Augustine, FL 32085

Monica George  
4546 Simmons Rd.  
Orlando, FL 32812

William Schleifer  
PO Box 205  
Gillsville, GA 30543

Shirley Ambrose  
5361 Soundview Ave  
St. Augustine, FL 32080

Dolores Mongan  
210 Evans Rd. #207  
Evansdale, IA 50707

Dennis Schmidt  
3 Arenta Street  
St. Augustine, FL 32084

David Kunz  
95 Hawks Lane  
Flagler Beach, FL 32136

R. Brock Langley  
2312 Montclair Street  
Austin, TX 78704

Tracey Amelung  
4836 Pennsylvania Ave  
St. Louis, MO 63111

J. William Sinnott  
PO Box 1918  
Waterloo, IA 50704

Diana Grill  
8331 Pebbeldowne Drive  
Houston, TX 77064

Todd Wolf  
14 Vincent Place  
Oakdale, NY 11769

Nicholas Danna  
658 Mackenzie Circle  
St. Augustine, FL 32092

Ralph Crandall  
330 Fidlers Point Drive  
St. Augustine, FL 32080

Michael Brownsberger  
511 Gardner Street  
Castle Rock, CO 80104

Herbert Wingo  
1858 West Cobblestone Ln  
St. Augustine, FL 32092

Marie Meitin  
134 Phoenetia Dr.  
St. Augustine, FL 32086

Elaine Smith  
PO Box 861176  
St. Augustine, FL 32086

Sheila Levin  
PO Box 1409  
Viegues, PR 00765

Stephanie Moore  
1 Maybeck Pl  
Elsah, IL 62028

Diana Starke  
1835 US 1 S, Suite 119-177  
St. Augustine, FL 32084

Greg Paumen  
Karen Guido  
104 Southwind Cir  
St. Augustine, FL 32080

Kayla Daigneau  
1420 Old N. Main St.  
Laconia, NH 03246

Albert Thorpe  
PO Box 155  
Bunnell, FL 32110

Tara Shelley  
4488 Golf Ridge Drive  
Elkton, FL 32033

James Russell  
3793 Flamingo St.  
St. Augustine, FL 32080

Alyssa Rivera  
13726 Guidhall Cir  
Orlando, FL 32828

Roberto Rivera  
13726 Guidhall Cir  
Orlando, FL 32828

Hunter Lee Bryan  
9104 Caycee Drive  
Davidson, NC 28036

James Hoffman  
3314 Curtis Dr.  
Apopka, FL 32703

Leah Russell  
3793 Flamingo St.  
St. Augustine, FL 32080

Leonor T. Rivera  
203 Pine Arbor Circle  
St. Augustine, FL 32084

Thomas Hayes  
61 Georgian Lane  
Williamsville, NY 14221

Carmen Iris Martinez  
14422 SW 108th Terrace  
Miami, FL 33186

Daniel Schaefer  
c/o Richard J. Schaefer  
7505 W. Yale Ave #1804  
Denver, CO 80227

Sam or Bonnie Dennis  
PO Box 1202  
Cordova, TN 38088

Joshua Almeida  
294 Litchfield Apt 1  
New Milford, CT 06776

Laura Langley  
2312 Montclair St.  
Austin, TX 78704

Helen Lucas Memorial Fund  
c/o Connie M. Weatherford  
13770 Beach Blvd., Suite 8  
Jacksonville, FL 32224

# **Exhibit A**

Preferential Transfers

Name		Preference Payment	Proof of Claim #	Amount (Unsecured)	Amount (Secured)	Amount (Priority)
Anastasia Lakes, Inc.	100 S.E. 6th Street	\$12,340.48	391	\$825,000.00		
Barnes, John Robert	221 North Krome Avenue	\$12,378.55	465	\$125.00	5,000.00	
Berardo, Donna	2432 MW 14th Place	\$6,230.62	941	\$207,679.45		
Berry, Daniel	P. O. Box 3165	\$20,229.34	859	\$342,296.60		
Beswick, David or Janie	5324 Turtle Point Lane	\$16,250.00	450	\$643,088.86		
Brown, L. Edwin	41 White Court	\$8,386.98	166	\$200,000.00		
Bugarin, Patrocínio or Arlene	1162 Regiment Drive NW	\$7,875.00	719	\$0.00		
Bugarin, Patrocínio or Arlene			1055	\$56,029.76		
Business & Banking Institute	640 Hillside Drive East	\$20,900.00	759	\$52,131.35		
Caldwell, Charles A.	43 Dolphin Drive	\$8,000.00	1014	\$196,258.51		
Cynthia Anderson Living Trust, The	c/o Eric L. Hearn, Esq. Mosely, Prichard, et al. 501 West Bay St.					
Diani, John or Caroline	1 No Name Road	\$7,500.00	314	\$308,175.00		
Eaton Development Company LLC	1749 Lee Jauzen Dr.	\$26,675.68	47	\$404,437.09		
Eberle, Eric C.	742 Fox Run Drive	\$6,250.00	884	\$256,300.00		
Ekstrom, Ann L.	1041 Stone Lake Drive	\$6,100.00	45	\$25,448.13		
Ford, Tim or Barbara	29 Bermuda Run Way	\$20,000.00	534	\$46,896.74		
Forrester, Ken	997 Oxford Drive	\$6,000.00	313	\$414,669.99		
Global Reach, LLC	841 Prudential Drive, 12th Floor	\$8,641.64	134	\$52,608.64		
Goerner, David or Catherine	Jacksonville, FL 32207	\$28,740.36	51			\$8,480.76
Goerner, David or Catherine			257			
Goerner, David or Catherine	219 Buena Vista Street	\$10,041.10	(Catherine)	\$450,556.03		
Goerner, David or Catherine			259 (David)	\$410,568.06		
Hartwick, Kim	821 Tournament Rd.	\$15,000.00	26	\$272,000.00		
Hartwick, Kim			59	\$277,115.00		
Hayes, Thomas	61 Georgian Lane	\$46,881.32	702	\$164,746.97		
Helping Hand HFS, Inc., A	1008 Whitehouse Blvd.	\$34,252.50	236	\$62,654.17		
Holverson, Sharell	2974 Paccetti Rd., Lot C	\$15,000.00	827	\$1,104,389.90		
Hoppe, Nancy	58 Weeden Street	\$11,700.00	749	\$1,950.00		
Inclan, Gary	905 Fairhope Lane	\$13,380.78	517	\$1,042,406.73		
Joslin, Jeffrey	4396 Club Dr. N.E.	\$7,500.00	786	\$154,396.22		
Jourard, Leonard	2721 Second Street #106	\$10,781.64	99	\$53,000.00		
Jourard, Leonard			119	\$53,000.00		
Kunz, David	95 Hawks Lane	\$34,066.17	221	\$43,529.42		
Lieberman, Al	200 Summer Breezeway, Apt. 130	\$7,024.48	993 (Abbott Lieberman and Global Market)	\$30,000.00		
Lucas, Walter or Cheryl	402 Brooks Glen Court	\$7,500.00	7 (Walter and Cheryl)	\$98,679.76		



# **Exhibit B**

## "Net Winners"

Last Name	First Name	Claim Number	Proof of Claim Amount	Scheduled Amount	Net Winner Amount
Abarbanel	Jack	1063	\$ 28,390.58	\$ 28,390.58	45,259.86
Allemano	Irene	305	\$ 10,000.00	\$ 7,834.26	5,746.82
Allen	William or Sherri	609	\$ 51,111.00	\$ 51,111.52	8,725.00
Almeida	Joshua			\$ 24,932.29	100.00
Ambrose	Shirley	869	\$ 57,640.83	\$ 57,640.83	3,350.00
Amelung	Tracy L.			\$ 354.20	2,478.99
Bartin	Cindy L. Bartin	901	\$ 10,765.48	\$ 10,765.48	7,833.69
Beswick	Janie	450	\$ 643,088.86	\$ 614,745.49	18,000.00
Brown	Leslie	1041	\$ 9,282.21	\$ 9,282.21	7,615.77
Brownsberger	Claudia	304	\$ 89,136.06	\$ 93,575.38	27,189.35
Brownsberger	Michael	492	\$ 3,341.56	\$ 3,341.56	2,000.00
Bryan	Hunter Lee	580	\$ 31,888.01	\$ 31,888.01	450.00
Byerly, Trustee	Trudy Ann	411	\$ 94,500.00	\$ 94,261.69	15,300.00
Caldwell	Donna	1014	\$ 196,258.51	\$ 7,057.52	22,993.32
Carlton	Sue	658	\$ 11,032.81	\$ 11,032.81	24,815.24
Chip Caldwell and Assoc LLC		1014	\$ 196,258.51	\$ 81,860.40	294,310.78
Cisar	Shirley	29	\$ 360,427.72	\$ 362,875.08	82,276.33
Cisar	Paul	204	\$ 20,000.00	\$ 20,966.73	16,049.64
Cisar	Shirley	409	\$ 362,875.08		
Comiskey	Yolanda and Timothy			\$ 20,981.23	21,618.61
Crandall	Ralph	345	\$ 16,022.52	\$ 16,022.52	2,100.00
Dague	Donna	983	\$ 10,375.00	\$ 10,490.61	5,304.17
Daigneau	Meghan	479	\$ 10,509.45		5,190.37
Daigneau	Kayla	479	\$ 10,509.45	\$ 10,509.45	1,125.00
Danna	Abbie	703	\$ 10,464.75	\$ 10,464.75	12,569.10
Danna	Nicholas	706	\$ 16,176.15	\$ 16,176.15	2,321.71
Danowski, Trustee	Rudolph	973	\$ 158,476.14	\$ 158,476.14	20,580.91
Davis	Edith	772	\$ 3,222.67	\$ 4,126.75	4,880.62
Delchrico	Irene	282	\$ 70,570.71	\$ 70,570.71	10,125.00
Dennis	Sam or Bonnie	437	\$ 1,543.12	\$ 1,543.12	163.61
Drury	Chad A.	1029	\$ 52,450.39	\$ 46,278.02	39,216.61
Drury	Kevin or Lori			\$ 26,881.64	50,776.86
Filler	Rochelle	871	\$ 122,315.24	\$ 122,315.24	54,540.53
Fisher	Ron	167	\$ 347,235.16	\$ 345,933.69	27,500.00

## "Net Winners"

Last Name	First Name	Claim Number	Proof of Claim Amount	Scheduled Amount	Net Winner Amount
Freeman	Dulcy	70	\$ 10,375.00	\$ 10,569.92	4,430.95
Gannon	Brian J.			\$ 3,404.84	8,131.70
George	Monica	442	\$ 101,250.00	\$ 102,044.74	3,750.00
Gilligan	Thomas and Marianna	484	\$ 56,348.59		
Gilligan begins 1/2/04	Tom or Marianna	390	\$ 89,672.93	\$ 54,308.41	46,707.61
Girouard	Allain	371	\$ 252,747.77	\$ 41,389.01	196,227.58
Glover	Peter	803	\$ 65,000.00	\$ 63,772.62	13,444.79
Goedjen or Linda Potempa	Ruth	585	\$ 50,000.00	\$ 52,849.59	11,875.00
Goedjen or Linda Potempa	Ruth	587	\$ 50,000.00		
Gordon	Sean	1048	\$ 165,000.00	\$ 167,787.66	44,940.07
Greene	ReAnna L.	709	\$ 5,911.54	\$ 5,911.54	5,000.00
Greene	Renee or Taryn	710	\$ 6,329.99	\$ 6,329.99	5,000.00
Greene	Renne T. or Terry M.	711	\$ 5,957.59	\$ 5,957.59	5,000.00
Gregory	Susan Mitchell	722	\$ 108,956.88	\$ 103,002.36	18,344.83
Grill	Diana	875	\$ 20,554.00	\$ 21,033.45	2,427.72
Gronen	Melinda	100	\$ 45,750.01	\$ 48,557.39	10,413.93
Hansen	Jeannie			\$ 65,991.16	52,064.60
Harper	Merle R.	298	\$ 18,240.27	\$ 18,416.47	9,638.45
Harrell	Ben B.	378	\$ 105,000.00	\$ 106,293.38	166,739.58
Haugen	Beverly	542	\$ 25,000.00	\$ 26,245.09	8,750.00
Hayes	Thomas	702	\$ 164,746.97	\$ 164,746.97	209.62
Helen Lucas Memorial		1051	\$ 4,324.15	\$ 4,613.70	39.78
Hoffman	James	1079	\$ 5,148.95	\$ 5,148.95	408.93
Jimae, Inc.		908	\$ 16,527.30	\$ 15,852.30	4,635.00
Johnson	Lynn	699	\$ 860.19		13,970.57
Johnson	Lynn	700	\$ 209,548.22	\$ 209,548.22	
Johnston	Linda	821	\$ 57,770.53	\$ 57,770.53	111,661.82
Jones	Noreen	144	\$ 195,238.00	\$ 199,741.70	47,455.43
Kathleen Trued Revocable Living Trust					
Kelly	Suzi	750	\$ 5,505.12	\$ 5,505.12	47,200.38
Kunz	David	221	\$ 43,529.42	\$ 43,876.92	9,424.98
Langley	Linda M.	1012	\$ 1,713.90	\$ 1,713.90	2,582.82
Langley	R. Brock	1008	\$ 41,598.91	\$ 41,598.91	11,645.69
					2,500.00

## "Net Winners"

Last Name	First Name	Claim Number	Proof of Claim Amount	Scheduled Amount	Net Winner Amount
Langley	Laura	1011	\$ 1,447.99	\$ 1,447.99	50.31
Latin King Restaurant ESOP		533	\$ 330,284.95	\$ 330,284.95	130,000.00
Leavitt	Stuart	1071	\$ 32,110.85	\$ 32,110.85	4,607.07
Leavitt	Nadine	1072	\$ 27,301.25	\$ 27,301.25	48,814.96
Levin	Sheila	27	\$ 51,737.91	\$ 52,367.07	1,550.53
Levin	Sheila	1025	\$ 50,858.00		
Lucas	Doug and Colleen	83	\$ 6,000.00	\$ 6,371.32	21,928.07
Lybbert	Leonard	595	\$ 70,713.38	\$ 70,713.05	22,079.80
Mandeville	Charles A. or Susan	358	\$ 861,089.45	\$ 1,081,847.05	315,544.75
Martinez	Carmen Iris	153	\$ 827.20	\$ 870.53	200.00
Matzke	Robert	651	\$ 137,275.47	\$ 137,275.47	11,710.40
Medick	Peggy	563	\$ 64,351.73	\$ 64,351.73	9,500.00
Meitin	Marie	666	\$ 52,841.00	\$ 52,708.48	1,658.81
Mongan	Dolores	376	\$ 15,000.00	\$ 18,527.67	3,145.04
Moore	Miles	355	\$ 10,043.83	\$ 10,043.83	5,367.81
Moore	Stephanie			\$ 1,410.09	1,500.00
Moss Family Trust		1076	\$ 25,546.52	\$ 25,546.52	158,184.25
Murray	Hannah	415	\$ 19,546.91	\$ 19,546.91	7,600.00
Neighborhood Realty, Inc.		564	\$ 181,106.21	\$ 181,944.69	41,703.55
Neiswender	Brigitte or Steven	660	\$ 738,210.98	\$ 604,981.85	84,712.81
Neiswender	Steve	660	\$ 738,210.98	\$ 133,229.13	39,504.98
Newton, M&E	Mary or Earl	470	\$ 489,831.87	\$ 173,508.99	52,851.12
Noble 1/26/04, 2805	Susan	582	\$ 256,955.59	\$ 256,955.59	4,759.70
Nock	John	921	\$ 66,492.00	\$ 54,967.82	480,297.03
O'Brien	Sean	958	\$ 314,239.44	\$ 314,239.44	108,745.27
O'Dwyer	Kevin	426	\$ 50,000.00	\$ 53,356.05	25,750.00
Page	Donald or Frances	1057	\$ 17,506.86	\$ 17,506.86	11,652.79
Page	Donald or Frances	1059	\$ 17,500.00		
Palmer	Barbara A.	234	\$ 84,402.12	\$ 89,222.61	15,107.98
Paumen	Gregg or Karen Guido			\$ 15,599.80	1,311.55
Pelaggi, TTEE	Frank	874	\$ 375,000.00	\$ 367,195.23	46,832.41
Peterson	David	244	\$ 39,561.29	\$ 11,010.19	16,430.18
Peterson	Hannelore	934	\$ 123,785.84	\$ 123,785.84	15,000.00
Quarles	Anne M.	949	\$ 16,209.88	\$ 16,209.88	14,500.00

## "Net Winners"

Last Name	First Name	Claim Number	Proof of Claim Amount	Scheduled Amount	Net Winner Amount
Reina	Carol	672	\$ 2,364.04	\$ 2,399.50	4,801.83
Rivera	Alyssa	1000	\$ 5,512.26	\$ 4,119.86	700.07
Rivera	Roberto	999	\$ 5,512.26	\$ 4,119.86	700.07
Rivera	Leonor T.	165	\$ 6,342.49	\$ 6,342.49	300.00
Russell	James	448	\$ 3,767.24	\$ 3,772.80	750.00
Russell	Leah	446	\$ 1,997.56	\$ 2,000.51	400.00
Sally	Morgan	431	\$ 42,791.97	\$ 43,287.32	32,000.00
Schaaf	Janet	737	\$ 119,121.71	\$ 101,121.71	22,679.34
Schaefer	Daniel	926	\$ 9,498.83	\$ 9,622.71	188.65
Schafer	Kimberly	1017	\$ 30,000.00	\$ 31,554.27	4,556.48
Schleifer	Robert			\$ 2,386.08	4,963.72
Schleifer	William	592	\$ 2,366.91	\$ 2,316.43	3,448.41
Schmidt	Dennis	634	\$ 17,794.10	\$ 17,049.77	2,890.55
Schmidt	Dennis	1068	\$ 17,794.10		
Seidman	Jeffrey	324	\$ 62,750.00	\$ 67,098.26	32,730.81
Sharp	Bradley or Debra			\$ 4,926.58	5,491.71
Sheaffer	Anna	838	\$ 5,300.59	\$ 34,105.01	12,113.42
Sheaffer	Anna	860	\$ 3,158.69		
Sheaffer	Anna	861	\$ 15,920.45		
Sheaffer	Anna	862	\$ 9,725.28		
Shelley	Tara	915	\$ 4,008.10	\$ 4,008.10	800.00
Sinnott	J. William	no claim		\$ 26,856.43	2,450.00
Sinnott	Kathleen	no claim		\$ 26,717.28	9,125.00
Smith	Elaine	146	\$ 61,800.00	\$ 61,863.37	1,641.73
Solomon	Stephen M.	1026	\$ 5,000.00	\$ 5,379.81	4,941.27
Spaulding	D.L.	73	\$ 614,353.00	\$ 645,770.61	12,075.84
Stafford	Barbara			\$ 10,575.04	16,583.20
Starke	James	125	\$ 126,209.33	\$ 127,558.43	61,022.03
Starke	Diana	126	\$ 137,567.15	\$ 138,998.74	58,021.05
Starke	Diana	126	\$ 137,567.15	\$ 138,998.74	1,399.65
Swanson	Eric	903	\$ 87,980.32	\$ 87,980.32	26,704.36
The Jane D. Weiss Family Foundation		975	\$ 157,710.84		24,621.00
The Weiss Trust				\$ 940,848.77	231,954.56
Thomas	Gertrude	557	\$ 52,586.85	\$ 52,586.85	8,463.03

## "Net Winners"

Last Name	First Name	Claim Number	Proof of Claim Amount	Scheduled Amount	Net Winner Amount
Thompson	David and Rachel			\$ 363,449.90	184,000.13
Thompson	Marian	447	\$ 284,670.45	\$ 284,716.36	72,157.52
Thompson	Susan	361	\$ 481,676.04	\$ 406,276.44	11,776.06
Thorpe	Joan and Albert	287	\$ 5,000.00	\$ 5,526.53	1,098.86
Tully	Barry	434	\$ 20,592.66	\$ 20,592.66	22,494.12
Tursi	Robert	535	\$ 76,727.86	\$ 76,727.86	148,605.04
Weatherford	Dale or Connie	5	\$ 356,803.10	\$ 74,371.93	355,877.33
Weatherford	Dale or Connie	1052	\$ 356,803.10		
Webb	Thomas	725	\$ 80,151.85	\$ 80,151.85	166,977.61
Webb	PD fr Tom Webb #3887				5,775.00
Webb	Thomas or Judy			\$ 80,151.85	1,568.51
Webb	Thomas	731	\$ 212,509.87		
Wingo	Herbert			\$ 526.43	2,000.00
Wisner	Lauren	894	\$ 11,000.00	\$ 11,187.85	6,162.50
Wisner	Lauren	964	\$ 11,000.00		
Wolf	Todd	532	\$ 4,000.83	\$ 4,000.83	2,336.86
Young	James			\$ 5,854.16	9,764.47