

**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)

MICHAEL PHELAN, not individually but as
Chapter 11 Trustee of the estate of the Debtor,
Lydia Cladek, Inc.

Adv. Proc. No. 10-_____

Plaintiff,

v.

LYDIA I. CLADEK; Captiva Island Vacation
Properties, LLC; Land Trust Service
Corporation as Trustee under the Trust AB,
dated October 19, 2004; Land Trust Service
Corporation as Trustee of Trust No. 16259-52;
Land Trust Service Corporation as Trustee of
Trust No. 4443; Trust No. 23 dated September
21, 2005, Land Trust Service Corporation, as
Trustee as to Parcel A; Trust No. 25 dated
September 21, 2005, Land Trust Service
Corporation, as Trustee as to Parcel B; Trust
No. 27 dated September 21, 2005, Land Trust
Service Corporation, as Trustee as to Parcel C;
Trust No. 16250-52, dated May 26, 2006, Land
Trust Service Corporation, as Trustee; Land
Trust Service Corporation, as Trustee of Trust
No. 4443 dated March 9, 2005; and Trust No.
1001 dated August 26, 2005, Land Trust
Service Corporation, as Trustee,

Defendants.

VERIFIED COMPLAINT FOR DAMAGES AND OTHER RELIEF

Michael Phelan, not individually but as the Chapter 11 Trustee (the "Chapter 11 Trustee") of the consolidated Chapter 11 cases of Lydia Cladek, Inc. (the "Debtor"), files this Verified Complaint for Damages and Other Relief against the following Defendants: Lydia I. Cladek ("Cladek"); Captiva Island Vacation Properties, LLC; Land Trust Service Corporation as Trustee under the Trust AB, dated October 19, 2004; Land Trust Service Corporation as Trustee of Trust No. 16259-52; Land Trust Service Corporation as Trustee of Trust No. 4443; Trust No. 23 dated September 21, 2005, Land Trust Service Corporation, as Trustee as to Parcel A; Trust No. 25 dated September 21, 2005, Land Trust Service Corporation, as Trustee as to Parcel B; Trust No. 27 dated September 21, 2005, Land Trust Service Corporation, as Trustee as to Parcel C; Trust No. 16250-52, dated May 26, 2006, Land Trust Service Corporation, as Trustee; Land Trust Service Corporation, as Trustee of Trust No. 4443 dated March 9, 2005; Trust No. 1001 dated August 26, 2005, Land Trust Service Corporation, as Trustee (collectively, the "Cladek Entities");

THE PARTIES, JURISDICTION AND VENUE

1. The Debtor is a corporation organized under the laws of the State of Florida on January 2, 1998 and maintains a principal office at 108 Seagrove Main Street, St. Augustine, Florida 32080. The Debtor was previously engaged in the purchase of automobile retail installment finance contracts which it offered as investments to private third party lenders/investors.

2. Cladek is an individual who resides in St. Johns County, Florida. Cladek is the sole shareholder of the Debtor and, until approximately April 14, 2010, was its President.

3. The Cladek Entities are limited liability companies, limited partnerships, trusts, and/or corporations organized and existing under the laws of the States of Florida and/or other domestic or foreign jurisdictions. The Cladek Entities were not separate and distinct legal entities from the Debtor because their existence was directly attributable to, and entirely dependant upon, the operations of the Debtor. At all times material hereto, the Cladek Entities, among other things, conducted business from the Debtor's office, were funded with monies provided by the Debtor, and utilized the Debtor's personnel and office equipment to conduct business.

4. At all times material hereto, Cladek caused the Debtor to transfer funds to, between and/or among the Debtor, Cladek and the Cladek Entities, while the Debtor, through Cladek, continued to exercise dominion and control of and over such funds, which were thereafter used to acquire real and personal property of substantial value for Cladek and the Cladek Entities. The precise nature, extent and whereabouts of all of the assets of Cladek and the Cladek Entities are not yet fully known, except that certain valuable assets of Cladek and the Cladek Entities were seized by the United States government in or about March 2010.

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") and this Court's *Order Approving Appointment of Chapter 11 Trustee and Setting of Bond* (the "Appointment Order") [Doc. No. 47].

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 157(a), 1334(b), 2201 and 2202.

7. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (B), (C), (E), (H), and (O), and the Chapter 11 Trustee consents to the entry of final orders and judgment by the Bankruptcy Court.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

A. Procedural History

9. On April 2, 2010, several petitioning creditors filed an involuntary Chapter 11 petition against Lydia Cladek, Inc., 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”), in the wake of allegations that Cladek had perpetrated a massive Ponzi scheme.

10. 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”).

11. On April 7, 2010, several creditors filed an *Emergency Motion to Appoint a Chapter 11 Trustee* [Doc. No. 11].

12. On April 7, 2010, several creditors filed an *Emergency Motion to Consolidate the Involuntary and Voluntary Chapter 11 cases of Lydia Cladek, Inc.* [Doc. No. 13].

13. On April 12, 2010, the Court entered its *Order Granting Motion To Consolidate*, consolidating the Voluntary and Involuntary Chapter 11 cases of the Debtor, and providing that the Voluntary Case, Case No. 10-02805, shall be the lead case [Doc. No. 32].

14. On April 13, 2010, the United States Trustee filed its *Appointment of Chapter 11 Trustee and Setting Bond*, and its *Application for Approval to Appoint Michael Phelan as Chapter 11 Trustee* [Doc. Nos. 44 and 46].

15. On April 13, 2010, Michael Phelan filed a *Notice of Acceptance as Chapter 11 Trustee* [Doc. No. 45] and on April 14, 2010, the Court entered the Appointment Order.

B. Background

16. As noted above, the Involuntary Case was initially filed after the petitioning creditors learned that Cladek had utilized the Debtor's business to fraudulently secure investments in 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 the Cladek Entities and Cladek personally.

17. Cladek enticed prospective investors to invest in allegedly collateralized installment automobile finance contracts with promises of a safe investment product with a guaranteed rate of return between 15% to 20%. The Debtor purchased its automobile notes from multiple used car dealers in the Southeast United States and in other states. In order to fund the purchase of the automobile notes, the Debtor issued promissory notes to private third party lenders/investors who, in exchange for their provision of funds to the Debtor, received promissory notes purportedly secured by the automobile notes. However, the Debtor did not have adequate automobile notes to collateralize the investments it offered and thus paid old investors with funds received from new investors, rather than performing automobile loan payments.

18. To accomplish this scheme, Cladek provided each prospective investor with signed and notarized promissory note for a specific term at a specified interest rate of return. The Debtor's promissory notes and investor literature specified that investors could seek a return of their principal investment and earned interest, minus a 1% penalty, if they provided a 60-day written notice to the Debtor. The investor documents also stated that investors' money would

usually be returned in a few business days, but that it may take up to 60 days. In addition, with each promissory note issued to investors, the investors received a collateral listing of the automobile notes that are pledged as security for their investment. The investor documents indicate that if these vehicles were to be repossessed, paid off, or totaled in an accident, the investor's money would be safe and another replacement automobile note would be assigned as collateral from others notes held by the Debtor. The investor documents also state that investor money is not at risk and is safe because "people who have loaned money to Lydia Cladek, Inc. have only made money with the company" and "everyone has been paid on time as agreed."

19. In furtherance of the scheme, the Debtor's form promissory note also enumerated the following standard provisions, among others, which assured the investors that their investments were adequately collateralized and secured: (1) the principal balance and accrued interest will be returned to the investor prior to the earlier of the due date or within 60 days of written notice from the investor; and (2) if any of the following events of default occur, the note and any other obligations of the Debtor to the investor shall become due immediately, without demand and notice: (a) the failure of the Debtor to pay the principal and any accrued interest on or before the due date; (b) the misrepresentation by the Debtor to the investor for the purpose of obtaining or extending credit; and (c) the sale, transfer, assignment or other disposition of any assets pledged as collateral for the payment of a note. Additionally, the form promissory note also states that the investors' money would be secured by a collateral assignment of automobile notes of the same date as the promissory notes.

20. Cladek falsified the existence of the automobile loan collateral, falsified the existence of the automobile loan collateral proceeds, falsified the documents, fraudulently assigned single automobile notes to multiple investors, fraudulently assigned fictitious and/or

non-performing automobile notes to investors, and misappropriated the investor funds to herself and to the Cladek Entities.

21. As part of the scheme, Cladek utilized her position as an officer and owner of the Debtor, her relationship with existing clients of the Debtor and the Debtor's financial institution accounts in order to entice investors to invest in fraudulent and fictitious collateralized installment automobile loans.

22. Cladek would also encourage investors/creditors to defer payments on notes issued by the Debtor by fraudulently representing to these investors/creditors that by doing so it would allow their investments to grow.

23. In sum, Cladek utilized the Debtor to perpetuate a fraudulent scheme by engaging in the sale of non-existent and/or under-collateralized installment automobile loans.

24. Cladek used her staff and the premises of the Debtor as her command center for her fraudulent scheme to benefit herself and the Cladek Entities.

25. Indeed, Cladek's Ponzi scheme provided the monies necessary for the Debtor's operations growth. Moreover, substantially all funds flowed to and through the Debtor's bank accounts to Cladek and the Cladek Entities.

26. Upon information and belief, Cladek bilked investors out of more than \$100,000,000. A recently published article stated the actual figure could be as high as \$200,000,000.

27. Prior to the Debtor's bankruptcy filing, in or about November 2009, the FBI began an investment fraud investigation of the Debtor and its principal, Cladek, involving, among other things, violations of 18 U.S.C. § 1341 (mail fraud) and 18 U.S.C. § 1342 (wire fraud), as well as money laundering transactions in violation of 18 U.S.C. §§ 1956 and 1957. *See Verified*

Complaint For Forfeiture In Rem dated April 8, 2010, at ¶¶6-9, a copy of which is annexed hereto as Exhibit A (the "Forfeiture Complaint"). In or about March 2010, federal authorities executed a search warrant and seized various property and records from the Debtor's offices and from the home of Cladek.

28. On April 8, 2010, the United States of America filed the Forfeiture Complaint seeking the forfeiture of various parcels of real property which were purportedly purchased with millions of dollars drained from the Debtor's business operating account. *See id.* The Forfeiture Complaint alleges that:

- (a) Ms. Cladek operated the Debtor as a "Ponzi Scheme" by enticing new investors to invest in allegedly collateralized installment automobile loans with promises of a safe investment product with a guaranteed rate of return.
- (b) The Debtor did not have adequate automobile notes to collateralize the investments it offered and thus paid old investors with funds received from new investors, rather than performing automobile loan payments.
- (c) Cladek funneled in excess of \$12 Million of investor money from the Debtor's operating account into her personal accounts (as well as directly from the Debtor's operating account). These absconded funds were used to purchase million dollar homes and real estate, to fund mortgage payments for these homes, to pay renovation and landscaping costs for several properties in Southwest Florida, and to purchase multiple luxury vehicles for Cladek's personal use.

(d) Cladek purchased many properties in the names of nominee corporations including Captiva Island Vacation Properties, LLC and Land Trust Service Corporation, both of which are named defendants in this action.

29. The Chapter 11 Trustee has been in regular communication and is cooperating with the United States Attorney and the FBI regarding the forfeiture action.

30. At all material times hereto, Cladek formed, operated or otherwise treated the Debtor and the Cladek Entities as her alter egos and as her mere instrumentality in committing the fraud described hereinabove.

31. For all purposes, Cladek, the Cladek Entities and the Debtor were single economic entities, and the Debtor and the Cladek Entities simply functioned as a façade for Cladek as their dominant shareholder.

32. Pursuant to the Appointment Order, the Chapter 11 Trustee is the duly authorized fiduciary on behalf of the Debtor.

33. All conditions precedent to the filing of this action have been performed, have occurred, have been waived or have otherwise been excused.

COUNT I

**ACTION SEEKING TO SUBSTANTIVELY CONSOLIDATE NON-DEBTOR
CLADEK AND THE NON-DEBTOR CLADEK ENTITIES WITH
AND INTO THE BANKRUPTCY ESTATE OF THE DEBTOR**

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

34. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 33 above as if fully set forth herein.

35. This is an action to substantively consolidate the non-debtor Cladek and the non-debtor Cladek Entities, along with their respective assets and liabilities, with and into the Debtor's bankruptcy estate pursuant to section 105 of the Bankruptcy Code.

36. At all times material hereto, Cladek formed, operated and/or otherwise treated the Debtor and the Cladek Entities as her alter egos, such that substantive consolidation of the assets and liabilities of Cladek and the Cladek Entities with and into the Debtor's bankruptcy estate is necessary and appropriate.

37. In addition to the foregoing, and to the extent necessary or appropriate, substantive consolidation is also necessary and appropriate for other reasons which include, but are not necessarily limited to, the following:

- (a) Cladek and the Debtor were both engaged in the same line of business, which included enticing investors to invest in fraudulent and fictitious collateralized installment automobile loans, all of which were part of the ongoing Ponzi scheme;
- (b) Cladek, the Cladek Entities and the Debtor conducted business from the same business location at 108 Seagrove Main Street, St. Augustine, Florida 32080;

- (c) Cladek, the Cladek Entities and the Debtor operated as a single economic unit commingling assets and business functions;
- (d) Assets of the Cladek Entities were purchased with funds Cladek fraudulently obtained through her operation of the Debtor;
- (e) The business affairs of Cladek, the Cladek Entities and the Debtor are inextricably intertwined and entangled;
- (f) Untangling the financial and business affairs of Cladek, the Cladek Entities and the Debtor would be extremely costly, if not impossible to do;
- (g) The separate financial affairs of Cladek, the Cladek Entities and the Debtor were disregarded so significantly pre-petition such that their creditors relied on the breakdown of entity borders and treated them as a single legal entity;
- (h) The Cladek Entities and the Debtor functioned as a façade for Cladek who acted as the dominant shareholder for all business activities;
- (i) The Cladek Entities and the Debtor were not adequately capitalized for their legitimate business operations; the Cladek Entities and the Debtor were not solvent during their business operations; Cladek did not function properly as a shareholder, officer, and director of the Cladek Entities and the Debtor; and Cladek and the Cladek Entities siphoned off the Debtor's corporate funds for their personal use;

- (j) The Cladek Entities were each formed and operated by Cladek for improper purposes, including to operate a massive Ponzi scheme and to otherwise hinder, delay or defraud creditors of the Debtor;
- (k) To the extent applicable, creditors dealt with Cladek, the Cladek Entities and the Debtor as a single economic unit;
- (l) To the extent applicable, creditors did not rely on the separate identity of Cladek, the Cladek Entities and the Debtor in extending credit;
- (m) The benefits of consolidation will far outweigh any harm from consolidation; and
- (n) Separating the assets and liabilities of Cladek, the Cladek Entities and the Debtor would be prohibitively expensive and detrimental to all creditors.

38. Based on the foregoing, substantive consolidation of the non-debtor Cladek and the non-debtor Cladek Entities, along with their respective assets and liabilities, with and into the bankruptcy estate of the Debtor, is necessary and appropriate.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities substantively consolidating each, along with their respective assets and liabilities, with and into the bankruptcy estate of the Debtor, authorizing the Chapter 11 Trustee to liquidate all assets of Cladek and the Cladek Entities, and determining that the substantive consolidation of Cladek and the Cladek Entities with and into the bankruptcy estate of the Debtor be without prejudice to protect and preserve the right of the Debtor, Cladek and the Cladek Entities to commence and prosecute separate claims under Chapter 5 of the Bankruptcy Code

and avoidance claims under applicable law, and for such other relief the Court may deem just and appropriate.

COUNT II

**ACTION TO IMPOSE ALTER EGO LIABILITY
AND PIERCE THE CORPORATE VEIL**

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

39. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 38 above as if fully set forth herein.

40. This is an action to impose alter ego liability upon Cladek and the Cladek Entities for the debts and liabilities of the Debtor, and to pierce the corporate veil of the Cladek Entities for the benefit of the Debtor.

41. Cladek operated and otherwise treated the Debtor and the Cladek Entities as her alter egos and/or as her mere instrumentalities in committing the fraud described above.

42. Among the factors, which existed at all times material hereto, supporting the alter ego liability: (i) the Debtor and Cladek were both engaged in the same line of business, which included enticing investors to invest in fraudulent and fictitious collateralized installment automobile loans, all of which were part of the ongoing Ponzi scheme; (ii) the Debtor, Cladek and the Cladek Entities conducted business from the same business location using the business premises and staff of the Debtor; (iii) the Debtor and the Cladek Entities were not adequately capitalized to conduct legitimate business operations; (iv) the Debtor and the Cladek Entities were insolvent or otherwise not paying their debts as they came due; (v) the Cladek Entities failed to observe proper corporate formalities; and (vi) Cladek caused the Debtor and the Cladek Entities to commingle funds used in and for their operations, and caused substantial funds to be transferred from the Debtor to herself and the Cladek Entities for little or no consideration.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities: (i) piercing the corporate veil of the Cladek Entities; (ii) determining that Cladek and the Cladek Entities are alter egos of one another; (iii) determining that Cladek and the Cladek Entities are alter egos of the Debtor; (iv) determining that Cladek and the Cladek Entities are liable for all of the debts and liabilities of the Debtor; (v) determining that all assets titled in the name of Cladek and the Cladek Entities are property of the Debtor's bankruptcy estate and are subject to the jurisdiction of this Court; and (vi) for such other and for such other relief the Court may deem just and appropriate.

COUNT III

**ACTION SEEKING PRELIMINARY
AND PERMANENT INJUNCTION**

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

43. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 42 above as if fully set forth herein.

44. This is an action requesting the entry of a preliminary and permanent injunction against Cladek and the Cladek Entities as alter egos of the Debtor pursuant to Rule 65 of the Federal Rules of Civil Procedure, as incorporated herein pursuant to Rule 7065 of the Federal Rules of Bankruptcy Procedure.

45. Cladek funneled investment funds through the Debtor's operating and other financial institution accounts to Cladek and the Cladek Entities for her own use.

46. Cladek utilized funds misappropriated from the Debtor to acquire real and personal property of significant value for the benefit of Cladek and the Cladek Entities. The precise nature, extent and whereabouts of all of the assets of Cladek and the Cladek Entities is not yet fully known.

47. Cladek still maintains the ability to exercise dominion and control over at least some of her personal assets as well as the assets of the Cladek Entities (but not the assets of the Debtor) including, but not limited to, the ability to transfer or withdraw balances in financial institution accounts to herself, her affiliates and third parties.

48. If Cladek and the Cladek Entities are permitted to continue to exercise dominion and control over personal assets and the assets of the Cladek Entities, there is a significant likelihood that such assets will be transferred, concealed, dissipated, and/or destroyed.

49. The Debtor, its estate and its creditors would suffer irreparable harm if the personal assets of Cladek and the assets of the Cladek Entities were transferred, concealed, dissipated, and/or destroyed.

50. The Chapter 11 Trustee has a clear legal right to an order enjoining Cladek and the Cladek Entities from transferring, concealing, dissipating, and/or destroying the assets of Cladek and the Cladek Entities.

51. Maintaining the *status quo* is therefore necessary and protective of the interests of all parties.

52. The Chapter 11 Trustee lacks an adequate remedy at law.

53. The public interest would be served by an Order enjoining Cladek and the Cladek Entities from transferring, concealing, dissipating, and/or destroying the assets of Cladek and the Cladek Entities.

WHEREFORE, the Chapter 11 Trustee demands the entry of appropriate orders and a final judgment against Cladek and the Cladek Entities: (i) imposing a preliminary and a permanent injunction against Cladek, the Cladek Entities, and Cladek Entities' members, managers, partners, joint venturers, officers, directors, agents, attorneys, employees,

shareholders, and affiliates, past or present, and all others in custody, possession or control of funds, documents, or other property of the Debtor, Cladek, and the Cladek Entities and the proceeds or products thereof (collectively, the "Enjoined Parties"), from, among other things, (a) taking any action, directly or indirectly, to transfer, conceal, dissipate, destroy, encumber, hypothecate, abandon or otherwise dispose of any and all income, revenue, funds, contracts, licenses, contract rights, real property, tangible and intangible personal property and any other legal or equitable interest or property right (collectively, the "Assets") of, or received, directly or indirectly, from the Debtor, Cladek, and/or the Cladek Entities without the written consent of the Chapter 11 Trustee; (b) restraining and enjoining the Enjoined Parties from authorizing, causing, effectuating or acquiescing in such acts which might have the effect of impairing the value of the assets of the Debtor, Cladek, and/or the Cladek Entities; (c) transferring or withdrawing balances on deposit in financial institution accounts of the Debtor, Cladek, the Cladek Entities, and/or any of their affiliates; and (d) enjoining any and all actions seeking a receivership or commencing an involuntary bankruptcy proceeding against Cladek and the Cladek Entities; and (ii) for such other and further relief as the Court may deem just and appropriate.

COUNT IV

ACTION SEEKING TURNOVER OF PROPERTY TO THE BANKRUPTCY ESTATE AND FOR AN ACCOUNTING

The Chapter 11 Trustee sues Cladek and the Cladek entities and alleges:

54. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 53 above as if fully set forth herein.

55. To the extent the Court grants the relief demanded in Counts I and/or II above, this action seeks the turnover of property of the Debtor's bankruptcy estate pursuant to Section 542 of the Bankruptcy Code, as well as an accounting in connection therewith.

56. At all times material hereto, Cladek caused the Debtor to transfer funds to, between and/or among the Debtor, Cladek and the Cladek Entities, while the Debtor, through Cladek, continued to exercise dominion and control of and over such funds, which were thereafter used to acquire real and personal property of substantial value for Cladek and the Cladek Entities. The precise nature, extent and whereabouts of all of the assets of Cladek and the Cladek Entities are not yet fully known, except that certain valuable assets of Cladek and the Cladek Entities were seized by the United States government in March 2010 and/or are subject to the forfeiture proceeding described above.

57. All of the property held by Cladek and the Cladek Entities was acquired with funds misappropriated from the Debtor and hence constitutes property of the Debtor's bankruptcy estate pursuant to Section 541 of the Bankruptcy Code.

58. The Chapter 11 Trustee is entitled to the immediate turnover of all such property and to an accounting in regard to such property.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities: (i) ordering them to turn over to the Chapter 11 Trustee all funds, property, assets and other things of value acquired with funds misappropriated from the Debtor; (ii) ordering them to account to the Chapter 11 Trustee regarding the status, use and current location of such funds, property and assets; and (iii) for such other and further relief this Court deems just and appropriate.

COUNT V

**ACTION TO AVOID AND RECOVER FRAUDULENT
TRANSFERS PURSUANT TO 11 U.S.C. §§ 544 AND
548 AND CHAPTER 726 OF THE FLORIDA STATUTES**

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

59. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 58 above as if fully set forth herein.

60. This is an action to avoid and recover fraudulent transfers from the Debtor to Cladek and the Cladek Entities (collectively, the "Transfers").

61. Pursuant to 11 U.S.C. § 548 and/or 11 U.S.C. § 544 and Chapter 726 of the Florida Statutes, a chapter 11 trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within two years (under section 548 of the Bankruptcy Code) and four years (under Chapter 726 of the Florida Statutes) before the date of the filing of the petition, if the debtor voluntarily or involuntarily – (A) made such transfer or incurred such obligation with the actual intent to hinder, delay, or defraud any entity to which the debtor was or became, or after the date that such transfer was made or such obligation occurred, indebted; or (B)(i) received less than a reasonably equivalent value in exchange for such transfer or obligation; and (ii)(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation; or (II) was engaged in a business or a transaction, or was about to engage in a business or transaction, for which any property remaining with the debtor was an unreasonably small capital; or (III) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured.

62. Pursuant to 11 U.S.C. § 550, in a fraudulent transfer action commenced under Sections 544 and 548 of the Bankruptcy Code and Chapter 726 of the Florida Statutes, a chapter 11 trustee may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from – (1) the initial transferee of such transfer or the entity for whose benefit such transfer was made; or (2) any immediate or mediate transferee of such initial transferee.

63. The Transfers constitute transfers of an interest in property of the Debtor to Cladek and the Cladek Entities within two years (under Section 548 of the Bankruptcy Code) and four years (under Chapter 726 of the Florida Statutes) prior to the petition date.

64. The Debtor did not receive reasonably equivalent value for the Transfers because it: (i) was insolvent at the time of the Transfers or became insolvent as a result thereof; or (ii) was engaged or was about to engage in a business or transaction for which the remaining assets of the Debtor were unreasonably small in relation to the business or transaction; or (iii) intended to incur, or believed or reasonably should have believed, that it would incur debts beyond its ability to pay as they came due.

65. In addition, the Transfers were made with the actual intent to hinder, delay or defraud creditors of the Debtor, and such Transfers were not received in good faith by Cladek and the Cladek Entities. Among other badges of fraud, at or near the time of the Transfers, the Debtor: (i) was insolvent; (ii) was not paying its debtors as they became due; (iii) did not receive reasonably equivalent value for the Transfers; (iv) made the Transfers to Cladek, the Cladek Entities and entities owned or controlled by Cladek who are "insiders" under the Bankruptcy Code.

66. As a result of these improper acts, the Chapter 11 Trustee can avoid the Transfers pursuant to Sections 544 and 548 of the Bankruptcy Code and Chapter 726 of the Florida Statutes, and recover the value thereof for the benefit of the estate pursuant to Section 550 of the Bankruptcy Code.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities: (i) avoiding the Transfers in amounts to be determined by the Court; (ii) awarding the Chapter 11 Trustee the amount or value of the Transfers, plus pre-judgment interest and costs; (iii) disallowing any claim that Cladek and the Cladek Entities may have against the Debtor until such time the Transfers are re-paid to the Chapter 11 Trustee pursuant to 11 U.S.C. § 502(d); and (iv) awarding such other and further relief as this Court deems just and appropriate.

COUNT VI

ACTION FOR CONVERSION AGAINST CLADEK AND THE CLADEK ENTITIES

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

67. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 66 above as if fully set forth herein.

68. The Debtor had a possessory right and interest to the funds in its financial institution accounts in the form of withdrawals, wire transfers, debits, checks, payments and other transfers.

69. Cladek and the Cladek Entities converted funds in the Debtor's financial institution accounts in the form of withdrawals, wire transfers, debits, checks, payments and other transfers.

70. The Debtor and its creditors were deprived of the use of the funds converted by Cladek and the Cladek Entities.

71. As a direct and proximate result of this conduct, the Debtor and its creditors have not had the use of the funds converted by Cladek and the Cladek Entities.

72. By reason of the above, the Debtor is entitled to an award of compensatory damages, in an amount to be determined at trial.

73. The conscious, willful, wanton, and malicious conduct of Cladek and the Cladek Entities entitles the Debtor to an award of punitive damages, in an amount to be determined at trial.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities for compensatory damages, special damages, consequential damages and punitive damages, along with an award of pre-judgment interest and costs, and for such other relief and this Court may deem just and appropriate.

COUNT VII

**ACTION FOR UNJUST ENRICHMENT AGAINST
CLADEK AND THE CLADEK ENTITIES**

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

74. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 73 above as if fully set forth herein.

75. The Debtor conferred a benefit upon Cladek and the Cladek Entities when the Debtor transferred its funds and property to Cladek and the Cladek Entities without receiving any value in exchange therefor.

76. Cladek and the Cladek Entities accepted and retained the funds and property transferred by the Debtor and received additional transfers, interest, profits, and other enhancements as a result of these transfers.

77. Equity and good conscience require full restitution by Cladek and the Cladek Entities of the Debtor's funds and property as well as any additional appreciation, interest, profits and other enhancements resulting therefrom.

78. The acceptance and retention of the Debtor's funds and property as well as any additional appreciation, interest, profits, and other enhancements resulting therefrom has unjustly enriched Cladek and the Cladek Entities to the detriment of the Debtor and the Debtor's creditors.

79. The Debtor lacks an adequate remedy at law.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities in an amount equal to the value of the property Cladek improperly and illegally caused the Debtor to transfer to herself and the Cladek Entities, along with an award of pre-judgment interest and costs, and for such other and further relief as this Court deems just and appropriate.

COUNT VIII

ACTION FOR A CONSTRUCTIVE TRUST AGAINST CLADEK AND THE CLADEK ENTITIES

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

80. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 78 above as if fully set forth herein.

81. Through her operation of the Debtor as a fraudulent Ponzi scheme, Cladek caused the Debtor to fraudulently transfer funds and property of the Debtor to Cladek and the Cladek Entities without receiving any value in return.

82. The Debtor made the transfers referenced above with the actual intent to hinder, delay and defraud his creditors.

83. Thus, the transfers made to Cladek and the Cladek Entities were obtained by fraud.

84. Some investors/creditors of the Debtor received fictitious profits, existing customers' original principal and/or money invested by subsequent customers from the Debtor, while others investors/creditors received nothing at all.

85. It is fair and equitable that a constructive trust be imposed on the transfers made to Cladek and the Cladek Entities, so that such funds and property can be distributed among all investors and/or creditors equally.

86. Cladek and the Cladek Entities are in possession of traceable funds and property transferred by the Debtor, which represent fictitious profits, existing customers' original principal, money invested by subsequent customers, and/or funds and property otherwise fraudulently obtained by the Debtor.

87. Cladek and the Cladek Entities were unjustly enriched by the transfers referenced above.

88. Based on the allegations set forth herein, equity requires the imposition of a constructive trust in favor of the Chapter 11 Trustee for the benefit of the bankruptcy estate of the Debtor, against all funds, property and other things of value transferred to Cladek and the Cladek Entities, and the proceeds and products of those transfers.

89. The Chapter 11 Trustee lacks an adequate remedy at law.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities imposing a constructive trust against any funds, property or other things of value transferred to Cladek and the Cladek Entities, and all proceeds and products thereof, and for such other and further relief this Court may deem just and appropriate..

COUNT IX

**ACTION FOR AN ACCOUNTING AGAINST
CLADEK AND THE CLADEK ENTITIES**

The Chapter 11 Trustee sues Cladek and the Cladek Entities and alleges:

90. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 89 above as if fully set forth herein.

91. As set forth above, the Debtor's funds and property have been wrongfully diverted as a result of fraudulent conveyances, breaches of fiduciary duties, conversions, and other wrongdoing of Cladek and the Cladek Entities for Cladek's individual interests and enrichment.

92. To quantify the amount of funds and property converted by Cladek and the Cladek Entities from the Debtor, it will be necessary for Cladek and the Cladek Entities to obtain an accounting of such transfers of funds and property received from the Debtor as well as any additional appreciation, interests, profits, and other enhancements resulting therefrom. Complete information regarding the amount of such transfers converted by Cladek and the Cladek Entities for their own benefit is within their possession, custody, and control.

93. These issues involve complicated and extensive accounts and the remedy at law would not be as full, adequate and expeditious as it is in equity.

94. The Debtor lacks an adequate remedy at law.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek and the Cladek Entities requiring Cladek and the Cladek Entities to provide an accounting of all funds and property received from the Debtor, directly or indirectly, and for such other and further relief this Court may deem just and appropriate.

COUNT X

**ACTION FOR BREACH OF FIDUCIARY
DUTY AGAINST CLADEK**

The Chapter 11 Trustee sues Cladek and alleges:

95. The Chapter 11 Trustee repeats and re-alleges paragraphs 1 through 94 above as if fully set forth herein.

96. The Debtor had the right to trust that Cladek, as its President and sole shareholder, would not use the Debtor's name, assets, and relationships with clients and financial institutions, to convert funds of the Debtor, and to otherwise engage in illegal or improper activities.

97. Cladek breached her fiduciary duties to the Debtor by, among other this, using the Debtor's name, assets, and relationships with clients and financial institutions, to convert funds of the Debtor, and to otherwise engage in illegal and improper activities.

98. The breaches of fiduciary duties by Cladek were the proximate cause of the damages suffered by the Debtor including, but not limited to, compensatory damages, special damages, consequential damages and punitive damages.

WHEREFORE, the Chapter 11 Trustee demands the entry of judgment against Cladek for compensatory damages, special damages, consequential damages and punitive damages, along with an award of pre-judgment interest and costs, and for such other and further relief as this Court may deem just and appropriate.

RESERVATION OF RIGHTS

99. The Chapter 11 Trustee reserves the right to amend this Complaint upon completion of his investigation and discovery in order to assert any additional claims for relief against the Defendants or to add additional defendants which he may identify as may be warranted under the circumstances and as allowed by law. In addition, nothing set forth herein is intended, nor shall be deemed, to modify, limit, release, reduce, or waive any of the Chapter 11 Trustee's rights, claims, remedies, or privileges at law or in equity, all of which are specifically preserved.

Dated this 19th day of May, 2010.

AKERMAN SENTERFITT

By: /s/ Jacob A. Brown

Jacob A. Brown

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Attorneys for the Chapter 11 Trustee

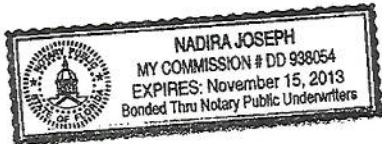
VERIFICATION

BEFORE ME, the undersigned authority, personally appeared Michael Phelan, not individually, but in his capacity a Chapter 11 Trustee of the Debtor, Lydia Cladek, Inc., and upon being duly sworn, states that based upon the investigation conducted by himself and his retained professionals, he is familiar with the matters referred to in the foregoing Verified Complaint, that he has reviewed the same, and that the factual statements contained therein are true, accurate and correct, except for legal conclusions and for those matters that are stated upon information and belief, which he believes to be true.

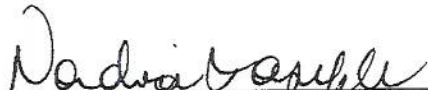

Michael Phelan

STATE OF FLORIDA)
 BROWARD)ss.
COUNTY OF ~~ST. JOHNS~~)

The foregoing pleading was acknowledged before me this 18th day of May 2010, by MICHAEL PHELAN, not individually but in his capacity as Chapter 11 Trustee of the Debtor, Lydia Cladek, Inc., who is personally known to me (or who has produced _____ as identification) and who did take an oath.



(SEAL)


Notary Public, State of Florida

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 3:10-cv-

REAL PROPERTY LOCATED AT
1061 SW ALASKA WAY, GREENVILLE,
MADISON COUNTY, FLORIDA;

REAL PROPERTY LOCATED AT
16250 CAPTIVA DRIVE, CAPTIVA, LEE
COUNTY, FLORIDA

AND

REAL PROPERTY LOCATED AT
4443 WATERS EDGE LANE, SANIBEL,
LEE COUNTY, FLORIDA,

Defendants.

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America, by and through the undersigned Assistant United States Attorney, in a civil cause for forfeiture *in rem*, alleges upon information and belief, and in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure, the following:

NATURE OF THE ACTION

1. This is a civil action *in rem* brought to enforce the provisions of:
 - a. 18 U.S.C. § 981(a)(1)(C) to forfeit the Defendant Properties which constitute or are derived from proceeds traceable to any offense

constituting "specified unlawful activity," as defined in 18 U.S.C. § 1956(c)(7), and thereafter referred to 18 U.S.C. § 1961(1), specifically relating to 18 U.S.C. §§ 1341 (mail fraud) and/or 1343 (wire fraud); and/or

b. 18 U.S.C. 981(a)(1)(A) to forfeit property, real or personal, involved in a transaction or attempted transaction in violation of 18 U.S.C. §§ 1956 and 1957 or any property traceable to such property.

JURISDICTION AND VENUE

2. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355(a).

3. This Court has *in rem* jurisdiction over the Defendant Properties pursuant to:

a. 28 U.S.C. § 1355(b)(1)(A), because pertinent acts or omissions giving rise to the forfeiture occurred in the Middle District of Florida; and

b. 28 U.S.C. § 1355(b)(1)(B), because venue properly lies in the Middle District of Florida pursuant to 28 U.S.C. § 1395.

4. Venue is proper in the District Court for the Middle District of Florida pursuant to 28 U.S.C. § 1395, since the instant civil action accrued in the Middle District of Florida.

THE DEFENDANTS IN REM

5. The Defendant Properties consist of the following:
- a. Real property, including its buildings, appurtenances and improvements thereon, located at 1061 SW Alaska Way, Greenville, Madison County, Florida, being more particularly described in "Exhibit A" of the attached declaration;
 - b. Real property, including its buildings, appurtenances and 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; and
 - c. Real property, including its buildings, appurtenances and improvements thereon, located at 4443 Waters Edge Lane, Sanibel, Lee County, Florida being more particularly described in "Exhibit B" of the attached declaration.

FACTS

6. As set forth in detail in the Declaration of Special Agent Bridgette Trela Frost (SA Frost), attached hereto as "Exhibit C," the Defendant Properties were identified during an investment fraud investigation involving violations of 18 U.S.C. § 1341 (mail fraud) and 18 U.S.C. § 1343 (wire fraud), as well as money laundering transactions in violation of 18 U.S.C. §§ 1956 and 1957.

7. To briefly summarize the facts, as set forth in the attached declaration, from approximately January 1, 2005, through the present, Lydia Cladek (Cladek) committed investment fraud, by and through Lydia Cladek

Investments, Inc. (LCI) by essentially operating LCI as a "Ponzi Scheme." LCI would purchase installment car loans from used car dealerships. Cladek would entice individuals to invest in LCI with promises of a safe investment product with a guaranteed rate of return. The investors believed their investments were secured by a promissory note in the vehicle(s) which were the subject of the installment car loans. However, LCI did not have adequate car notes to collateralize the investments it offered and essentially operated as a "Ponzi Scheme" by paying old investors with funds received from new investors, rather than from performing auto loan payments. Cladek operated this scheme by using mail and wire fraud and engaged in money laundering transactions in violation of 18 U.S.C. §§ 1956 and 1957.

8. Financial analysis has shown that Cladek has drained the business operating account for her personal use by withdrawing millions of dollars which were ultimately used to purchase the Defendant Properties.

CONCLUSION

9. Based upon the facts set forth herein, there is probable cause to believe that the Defendant Properties constitute or are derived from the proceeds of wire and/or mail fraud, and are, therefore, subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C), and/or 18 U.S.C. 981(a)(1)(A), as property, real or personal, involved in a transaction or attempted transaction in violation of 18 U.S.C. § 1957, or any property traceable to such property.

WHEREFORE, the United States of America requests that process of forfeiture be issued against the Defendant Properties; that due notice be given to all interested parties to appear and show cause why the forfeiture should not be decreed; that the Court decree the condemnation and forfeiture of the Defendant Properties to the United States for disposition according to law; and that the Plaintiff have such other and further relief as this case may require.

Respectfully submitted,

A. BRIAN ALBRITTON
United States Attorney

By:




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Assistant United States Attorney
United States Attorney's Office
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VERIFICATION

I, Bridgette Trela Frost, Special Agent, Federal Bureau of Investigation, declare under the penalty of perjury as provided by 28 U.S.C. § 1746, that the foregoing Complaint for Forfeiture is based upon reports and information provided to me in my official capacity and is true and correct to the best of my knowledge and belief.

Executed on this 8 day of April, 2010, at Jacksonville, Florida.


BRIDGETTE TRELA FROST
Special Agent
Federal Bureau of Investigation

"EXHIBIT A"

PARCEL 1

A PORTION OF SECTION 28, TOWNSHIP 1 NORTH, RANGE 8 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 28, THENCE SOUTH 02 DEGREES 14 MINUTES 00 SECONDS EAST A DISTANCE OF 504.70 FEET TO THE NORTHWEST CORNER OF THOSE LANDS DESCRIBED IN O.R. BOOK 473, PAGE 321 OF THE PUBLIC RECORDS OF MADISON COUNTY, FLORIDA; THENCE SOUTH 02 DEGREES 08 MINUTES 08 SECONDS EAST ALONG THE WEST LINE OF SAID O.R. BOOK 473, PAGE 321 A DISTANCE 1761.80 FEET; THENCE SOUTH 01 DEGREES 58 MINUTES 08 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 429.35 FEET TO THE NORTHWEST CORNER AND POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL, SAID POINT BEING THE SOUTHWEST CORNER OF SAID O.R. BOOK 473, PAGE 321; THENCE NORTH 79 DEGREES 31 MINUTES 40 SECONDS EAST ALONG THE SOUTH LINE OF SAID O.R. BOOK 473, PAGE 321 A DISTANCE OF 1850.96 FEET; THENCE NORTH 04 DEGREES 04 MINUTES 15 SECONDS WEST ALONG SAID O.R. BOOK 473, PAGE 321, A DISTANCE OF 20.42 FEET; THENCE NORTH 82 DEGREES 11 MINUTES 30 SECONDS EAST ALONG SAID O.R. BOOK 473, PAGE 321 A DISTANCE OF 472.20 FEET; THENCE NORTH 03 DEGREES 18 MINUTES 53 SECONDS WEST ALONG SAID O.R. BOOK 473, PAGE 321 A DISTANCE OF 411.17 FEET TO THE SOUTH SIDE OF A 50 FOOT FARM SECURITY ADMINISTRATION RIGHT OF WAY (MEASURED 60 FOOT RIGHT OF WAY); THENCE NORTH 77 DEGREES 53 MINUTES 05 SECONDS EAST ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 536.51 FEET; THENCE SOUTH 15 DEGREES 06 MINUTES 39 SECONDS EAST ALONG A LINE 30 FEET WEST OF AS MEASURED AT RIGHT ANGLES TO THE WEST LINE OF THOSE LANDS DESCRIBED IN O.R. BOOK 303, PAGE 15 OF THE PUBLIC RECORDS OF MADISON COUNTY, FLORIDA, A DISTANCE OF 752.41 FEET; THENCE SOUTH 50 DEGREES 54 MINUTES 04 SECONDS WEST A DISTANCE OF 854.74 FEET; THENCE SOUTH 10 DEGREES 49 MINUTES 03 SECONDS EAST A DISTANCE OF 141.20 FEET; THENCE SOUTH 75 DEGREES 07 MINUTES 05 SECONDS WEST A DISTANCE 2225.78 FEET; THENCE NORTH 01 DEGREES 58 MINUTES 08 SECONDS WEST A DISTANCE OF 657.22 FEET TO THE POINT OF BEGINNING CONTAINING 40.330 ACRES. SAID LANDS SITUATE LYING AND BEING IN MADISON COUNTY, FLORIDA.

PARCEL 2

A PORTION OF SECTION 28, TOWNSHIP 1 NORTH, RANGE 8 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 28; THENCE SOUTH 02 DEGREES 14 MINUTES 00 SECONDS EAST A DISTANCE OF 504.70 FEET TO THE NORTHWEST CORNER OF THOSE LANDS DESCRIBED IN O.R. BOOK 473, PAGE 321 OF THE PUBLIC RECORDS OF MADISON COUNTY, FLORIDA; THENCE SOUTH 02 DEGREES 08 MINUTES 08 SECONDS EAST ALONG THE WEST LINE OF SAID O.R. BOOK 473, PAGE 321 A DISTANCE 1761.80 FEET; THENCE SOUTH 01 DEGREES 58 MINUTES 08 SECONDS EAST ALONG SAID WEST LINE A DISTANCE OF 1086.57 FEET; THENCE NORTH 75 DEGREES 07 MINUTES 05 SECONDS EAST A DISTANCE OF 2225.78 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE NORTH 10 DEGREES 49 MINUTES 03 SECONDS WEST A DISTANCE OF 141.20 FEET; THENCE NORTH 80 DEGREES 54 MINUTES 04 SECONDS EAST A DISTANCE OF 854.74 FEET; THENCE SOUTH 15 DEGREES 06 MINUTES 39 SECONDS EAST A DISTANCE OF 253.41 FEET; THENCE SOUTH 80 DEGREES 54 MINUTES 04 SECONDS WEST A DISTANCE OF 573.72 FEET; THENCE NORTH 10 DEGREES 49 MINUTES 03 SECONDS WEST A DISTANCE OF 110.94 FEET TO THE POINT OF BEGINNING.
Containing 5.00 acres, more or less.
SAID LANDS SITUATE LYING AND BEING IN MADISON COUNTY, FLORIDA

Parcel Identification Number: 28-1N-08-2885-002-000

"EXHIBIT B"

From the Northwest corner of Government Lot 4, Section 20, Township 48 South, Range 22 East, run South along the West line of said Government Lot 4, 1218.85 feet; thence North 44 degrees 45' 00" East 206.90 feet; thence South 41 degrees 18' 30" East, 1150 feet along the centerline of a road, to the point of beginning of the lands herein described; thence continue South 41 degrees 18' 30" East along said road centerline, 138 feet; thence South 44 degrees 45' 00" West, 400 feet, more or less, to the waters of the Gulf of Mexico; thence Northwesterly 138 feet, more or less, along said waters to a point bearing South 44 degrees 45' 00" West of, and 400 feet, more or less, from the Point of Beginning; thence North 44 degrees 45' 00" East 400 feet, more or less, to the Point of Beginning, subject to a 30 foot road easement across the Northeasterly side and a 6 foot Utility Easement along the rear and side lot lines.

“EXHIBIT C”

**DECLARATION OF FEDERAL BUREAU OF INVESTIGATION
SPECIAL AGENT BRIDGETTE TRELA FROST**

I, Bridgette Trela Frost, a Special Agent (SA) of the Federal Bureau of Investigation (FBI), United States Department of Justice, declare and state under penalty of perjury, 28 U.S.C. § 1746, that the following is true and correct to the best of my knowledge, information and belief:

1. I have been a Special Agent with the FBI since October 26, 2008. I am currently assigned to the Jacksonville Field Office. My principal duties and responsibilities involve the investigation of fraud matters in violation of federal statutes which include mail fraud (18 U.S.C. § 1341), wire fraud (18 U.S.C. § 1343), and money laundering (18 U.S.C. §§ 1956 and 1957).

2. This declaration is made in support of a civil *in rem* action for forfeiture of the real properties described in the civil *in rem* complaint (real properties) to which this declaration is attached.

3. As set forth below, I have determined that there is probable cause to believe that the real properties were purchased with proceeds of specified unlawful activity and/or were involved in transactions in violation of the federal money laundering statutes.

4. As the FBI case agent for this investigation, I am familiar with all aspects of this investigation and the factual material that is contained in this declaration. The investigation has included the review of voluminous records, interviews of witnesses and physical surveillance. Since this declaration is being

submitted for the limited purpose of supporting a civil *in rem* forfeiture action, I have not included each and every fact concerning the investigation but have included those facts which I believe establish that there is probable cause to believe that the real properties were purchased with proceeds of specified unlawful activity and/or were involved in transactions in violation of the federal money laundering statutes.

**STATUTORY AUTHORITY PROVIDING FOR THE
SEIZURE AND FORFEITURE OF THE REAL PROPERTIES**

5. The real properties are subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) which provides, in part, that any property, real or personal, which constitutes or is derived from proceeds traceable to any offense constituting "specified unlawful activity," as defined in 18 U.S.C. § 1956(c)(7), is subject to forfeiture to the United States.

6. Section 1956(c)(7) defines, in part, the term "specified unlawful activity" as "any act or activity constituting an offense listed in section 1961(1)..."

7. Section 1961(1) specifically lists 18 U.S.C. §§ 1343 (wire fraud) and 1341 (mail fraud) as offenses.

8. Accordingly, property which constitutes or is derived from proceeds traceable to any act in furtherance of a scheme or artifice to defraud, in violation of the federal wire and mail fraud statutes, is civilly forfeitable to the United States.

9. Two of the real properties are also subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(A), which provides, in part, that any property, real or personal, involved in a transaction or attempted transaction in violation of 18 U.S.C. §§ 1956 and 1957, or any property traceable to such property, is subject to forfeiture to the United States.

PROBABLE CAUSE

Fraud Investigation

A. Introduction

10. In an effort to aid in the review of this declaration and to provide an overall understanding of Lydia Cladek Inc. (LCI), the below information sets forth the nature of the investments offered by LCI. This information was obtained from my review of an LCI investor literature booklet obtained by Office of Financial Regulation (OFR) and LCI's public website, www.lydiacladekinc.com and ascertained the following, except where noted otherwise:

a. LCI is a Florida corporation owned by Lydia Cladek located in St. Augustine, Florida. LCI is a business engaged in the purchase of motor vehicle retail installment finance contracts, which are otherwise known as "car notes". LCI purchases its car notes from multiple used car dealers within the Southeast United States and in other states. In order to fund purchases of car notes, LCI issues promissory notes to "private lenders" who, in exchange for their provision of funds to LCI, receive a promissory note secured by the car notes

purchased by LCI. Private individuals loan money to LCI as an investment for terms of one to two years at a guaranteed return rate between 15% to 20%. LCI utilizes lender/investors' (investors) money to purchase car notes from independent used car dealers. These purchased car notes are high interest car loans with interest rates of up to 29%. LCI purchases these car notes at a discount from used car dealers with the investor's money. LCI holds the car titles and services these high interest loans from the registered owners of the cars. LCI earns money, including interest, from the borrowers' car payments and passes a percentage of this earned interest onto the investors, typically 15% to 20%. Any remainder is LCI's profit.

b. LCI's investors receive signed and notarized promissory notes for a specific term at a specified interest rate of return. The LCI promissory notes and LCI investor literature specify that investors can receive a return on their investment and earned interest, minus a one percent penalty, when they provide a 60 day written notice to LCI. These documents state that investors' money will usually be returned in a couple of business days, but that it may take up to 60 days. Additionally, with each promissory note issued to investors, the investors receive a collateral listing of the car notes that are pledged as security for their investment. LCI documents and investor agreements state that if these vehicles are repossessed, paid off, or totaled in an accident, the investor's money is safe and another replacement car note will be

assigned as collateral from other car notes held by the company. LCI investor literature advises investors that their money is not at risk and is a safe investment by stating the following: "people who have loaned money to Lydia Cladek, Inc. have only made money with the company" and "everyone has been paid on time as agreed." Additionally, LCI investor literature directly addresses the "sounds to good to be true" question by stating "Not so with Car Notes."

c. LCI form promissory notes enumerate the following standard provisions, among others, which assure the investors that their investment is adequately collateralized and secure¹: (1) the principal balance and accrued interest will be returned to investor(s) prior to the earlier of the due date, within sixty days of written notice from the investor(s); (2) If any of the following events of default occur, the note and any other obligations of LCI to the investor shall become due immediately, without demand or notice: the failure of LCI to pay the principal and any accrued interest on or before the due date; the misrepresentation by LCI to the investor(s) for the purpose of obtaining or extending credit; and the sale, transfer, assignment or any other disposition of any assets pledged as collateral for the payment of the note. Additionally, the promissory note states the investors' money is secured by a collateral assignment of car notes of the same date as the promissory note.

¹ I have reviewed several variations of LCI promissory notes, provided by investors who I have interviewed, and the language varies slightly but the above elements of the notes remain the same.

B. OFR Investigation

11. Beginning December 9, 2009, I have been in contact with OFR Investigator Innamorato regarding an investigation into LCI. Through discussions with Investigator Innamorato, I have learned the following:

a. The OFR is the regulatory agency that licenses, charters, examines and regulates depository and non-depository financial institutions and financial service companies in the State of Florida. Within the OFR is the Bureau of Financial Investigations which is a state criminal justice agency as outlined in section 20.121, Florida Statutes and defined in Chapter 943, Florida Statutes. The Bureau of Financial Investigations is responsible for, among other things, criminal and administrative investigations falling under the jurisdiction of Chapter 517, Florida Statutes, known as the "Florida Securities and Investor Protection Act."

b. I have reviewed OFR investigation documentation and I have learned, that in 2005, the OFR conducted an investigation of LCI after receiving a complaint which alleged that LCI was offering securities without having first registered them with the OFR. There were no allegations of fraud made in the complaint. The OFR investigation concluded that, at the time, LCI did appear to be selling an unregistered security, but arguably met a private placement exemption as there was no evidence of general solicitation in the sale of the securities and the total known investors at that time were approximately

150 within and outside the state of Florida. During the initial investigation, the OFR interviewed several promissory note holders who offered little insight into their investing relationship with LCI. None of the investors interviewed had any complaints about their investment experience and were all satisfied. All investors reported that they learned about the investment through word of mouth from other investors.

c. According to Investigator Innamorato, in April 2008, the OFR received a referral from the United States Securities and Exchange Commission (SEC), after the SEC had received an anonymous complaint. I have reviewed this complaint which alleges that LCI was operating as a "Ponzi Scheme." The complainant claimed to personally know the owner, Lydia Cladek, yet claimed that he/she was not an investor. The complainant informed the SEC that LCI did not have adequate car notes to collateralize the investments it was offering and essentially operated their scheme illegally. According to Investigator Innamorato, the SEC referred their investigation to the OFR citing LCI's lack of assets and potential violations of state securities laws.

d. According to Investigator Innamorato, LCI has been licensed by the OFR since May 02, 2002, to purchase motor vehicle retail installment finance contracts in accordance with Chapter 520, Florida Statutes and the promissory notes issued by LCI, have not been registered as securities within the state of Florida.

e. According to Investigator Innamorato, the OFR initiated its current investigation after the SEC referral, and was granted access to SEC records through an access letter. Upon review of the SEC records provided by the OFR, the OFR mailed a questionnaire/survey to thirty-seven known LCI investors in December 2008. The OFR received little written response to the questionnaires it mailed out but received several telephone calls from investors concerned about the OFR's investigation. In January 2009, OFR sent a second questionnaire/survey to 475 investors, whom were all known individual investors at that time. The questionnaire survey was not forwarded to those note holders whose addresses indicated they were related to IRA holding companies or other holding companies. The second mailing again garnered several telephone calls (approximately 20% of investors) but resulted in little investor willingness to cooperate with the state's investigation. Less than five actual questionnaires were received by the OFR.²

f. According to Investigator Innamorato, the OFR has regularly requested documents from LCI as part of their investigation. Part of these requests included copies of all promissory notes issued by LCI for the years

² Based on investigative experience, I know that victims of financial crimes, particularly investment fraud schemes, will rarely contact or willingly cooperate with law enforcement officials until they have exhausted all possibilities of recouping their investments.

2004 through 2008 (inclusive). The OFR's request, among other things, specifically asked for:

Investor Promissory Notes for all Lydia Cladek Inc. note holders. The term 'Promissory Note' includes the Note itself, all Addendums, all Collateral Assignments, any Schedules and all Updated Collateral Assignments for the period January 1, 2004 through December 31, 2008.

g. According to Investigator Innamorato, LCI attorneys have represented to OFR that all records have been provided in response to this request.

h. According to Investigator Innamorato, OFR reviewed documents provided by LCI and determined that few investors have received any updated collateral from LCI despite rolling over their investments (past the maturity date) for several years.

i. Based on a review of documents provided by LCI to OFR, the amount of promissory notes issued between 2007 and 2008 appears to be much higher. This suggests that many investors purchased more than one promissory note from LCI. Based on records received in November 2009 from LCI by OFR pursuant to the above described records request, 749 promissory notes were sold to non-Florida investors, 26 notes were sold to international investors, and 643 notes were sold to Florida investors during 2007 and 2008. The OFR has reviewed the promissory notes it received for 2007 and 2008 and all subsequent documents requested and has found no evidence that LCI ever

documented the assignment of updated or new collateral to any note holder after the initial investment unless specifically asked by the investor. The failure to assign subsequent collateral to its investors represents a material misrepresentation in the sale of the notes to its investors. The OFR reviewed a limited number of promissory notes and found that some collateral assigned to investors were no longer income producing, due to repossessions, loan satisfaction, sale of vehicle or other reasons. Some investors were so under-collateralized that the car notes were no longer valid, and no new collateral was assigned. Investor interviews by OFR have determined that a small number of investors did receive new collateral assignments, but only when they confronted the business and specifically asked for new collateral. Interviews with investors have also revealed that many initially received quarterly statements from LCI and now receive statements on a semi-annual basis, at best.

C. FBI Investigation

12. In November 2009, the FBI initiated an investigation into LCI's activities. Set forth below are some of the results of this investigation:

Victim Investors³

a. David Kunz

FBI TFO Murphy and I interviewed David Kunz on November 9, 2009, related to his investment with LCI. Kunz also provided documentation in January 2010, related to his investment with LCI. Kunz has been contacted several times subsequently by TFO Murphy from November 2009 until March 17, 2010, for additional information related to his investment with LCI. Based on the interview with Kunz and my review of the documents Kunz provided, I learned the following:

1. Kunz has been an investor in LCI since 2007. Kunz was referred to Cladek by a friend and coworker who invested in LCI, Wayne Zeigler.
2. Kunz stated that he received an LCI investor literature packet from Zeigler that outlined how the investment was secured. Kunz visited the LCI office on 108 Sea Grove Main Street, St. Augustine on February 7, 2007, and he received a personal tour of their offices from Cladek. During this tour Kunz had personal conversations with Cladek regarding the investment plan and its security.

³ I have reviewed investor lists provided by LCI to OFR, as well as conducted interviews with several LCI employees. I have identified over 500 investors from LCI documentation; however, several LCI employees have stated that there are currently over 700 investors. The OFR and the FBI have had contact with 18 investors who are having difficulty getting their money back from LCI. Three of those investors are detailed herein; however, the other investors' experience with LCI has been strikingly similar.

3. Kunz had a solid understanding of how his investment money would be spent and collateralized. Based upon the information provided by Zeigler, Cladek, and LCI's investor literature, Kunz decided his money was safely and securely invested with LCI.

4. In February 2007, Kunz personally visited the LCI office to deliver his investment check of \$75,000.00. Kunz received a signed promissory note with LCI for \$75,000.00 for a one year term at the rate of 15% percent annually with interest only payments of \$937.50 per month. Attached to that promissory note was a collateral assignment listing eleven cars with purchase dates, loan dates, balance amounts, and vehicle descriptions.⁴

5. In March 2007, Kunz personally delivered an additional \$10,000.00 to LCI and he was given an attachment to his previous promissory note titled "Additional loan on Promissory Note of February 8, 2007."

6. Kunz's promissory note, dated February 7, 2007 and March 9, 2007, states in part, "The unpaid principal and accrued interest shall be due and payable in full on February 8, 2009, or may be renewed at the direction of the Payee." For the term of his promissory note, Kunz received his monthly interest payments on time and in full. Kunz received his monthly interest payments from LCI through the U.S. Postal mail service.

⁴ I reviewed these documents, including the promissory notes and collateral listings, that Kunz provided related to his investment with LCI.

7. When the term of his promissory note expired, the principal rolled over automatically. However, Kunz did not recall requesting LCI to do so, nor did he sign a new promissory note. Kunz did not receive any notice from LCI regarding the expiration of his promissory note, but he continued to receive the same monthly interest payments, and he assumed that his contract with LCI was renewed under the same conditions including terms, interest rate, and guarantees. Kunz did not receive an updated collateral listing at any time during the term of his original promissory note nor when the note was renewed. However, based on the investment literature, Kunz relied on LCI's assertions that when collateral is no longer good or income producing it will be reassigned. Therefore, Kunz believed his investment remained secure.

8. Kunz relied on the agreement in his promissory note that also stated in part, "If any of the following events of default occur, this note and any other obligations of the Promisor to the Payee, shall become immediately (sic), without demand or notice: (1) the failure of the Promisor to pay the principal and any accrued interest on or before the Due Date."

9. In January 2009, Kunz requested, via registered letter, that his promissory note not be renewed and that his principal balance be returned from LCI. However, Cladek telephonically contacted Kunz and convinced him to keep his investment with the company. Cladek verbally agreed to return his money by October 2009. As of December 2009, Kunz had received

partial payment but not his entire principal balance. Cladek provided Kunz, via an email communication, a new agreement that his principal would be returned in several installments and paid in full by February of 2010. As of January 2010, Cladek was behind on the promised installment payments to Kunz. During this time period, LCI continued to mail Kunz his monthly interest checks for the same amount, even though his principal balance was being paid down.

b. Stephen Howard

FBI TFO Murphy and I interviewed Stephen Howard on January 14, 2010, related to his investment with LCI. Howard also provided documentation on January 27, 2010, related to his investment with LCI. I re-contacted Howard on March 14, 2010, for additional information related to his investment with LCI. Based on the interview with Kunz and my review of the documents Kunz provided, I learned the following:

1. Howard is a current investor with LCI. Howard knew Cladek through their mutual involvement with animal rescue charities and stated that Cladek was well respected in the community.

2. In January 2006, Howard was referred to Cladek by his neighbor and LCI investor, Marla Bollings. Howard received LCI investor literature that explained the investment and how his money would be collateralized. Based upon the information provided by Bollings, Cladek's

reputation, and LCI's investor literature, Howard decided his money would be safely and securely invested with LCI.

3. On or about January 25, 2006, Howard invested \$20,000.00 and received a promissory note with a one year term that was collateralized by a collateral listing of two vehicles, dated February 13, 2006.⁵ Howard received interest payments of \$250.00 from LCI through the US Postal mail service.

4. The success of Howard's investment lead him to invest more money. Each of Howard's new investments was also secured with a promissory note and collateral listing of vehicle notes as follows: \$30,000.00 on April 25, 2006, \$15,000.00 on July 17, 2006, \$10,000.00 on July 19, 2007, and \$75,000.00 on December 13, 2007.

5. Howard mailed several of his investment checks to LCI through the US Postal Service. Howard received his promissory notes with attached collateral listings through the US Postal Service from LCI.

6. Each of Howard's notes were for a one year term with monthly interest pay outs. At the expiration of each note, Howard let his principal balance stay invested with Cladek with the understanding that his money was still guaranteed under the same terms.

⁵ I reviewed these documents, including the promissory notes and collateral listings, that Howard provided related to his investment with LCI.

7. Based on the LCI investment literature, Howard relied on LCI's assertions that when collateral was not income producing it would be reassigned and his investment would remain secure.

8. On October 10, 2009, via a hand delivered letter, Howard gave LCI a 60-day notice for return of his principal balance, which was approximately \$140,000.00. Kay Osgatharp, a LCI employee, informed Howard that LCI would need 90 days to return his money.

9. During the waiting period for his principal, Howard continued to receive his interest payments; however, in December 2009, he did not receive all of his monthly interest. Howard complained to Cladek in person at the LCI office. Cladek told Howard it was an oversight and it would be taken care of right away. Howard later received an interest check for the January 2010 interest payment but not for December 2009.

10. Howard relied on the agreement in his promissory note that also stated in part, "If any of the following events of default occur, this Note and any other obligations of the Promisor to the Payee, shall become immediately (sic), without demand or notice: (1) the failure of the Promisor to pay the principal and any accrued interest on or before the Due Date."

11. On January 9, 2010, Howard did not receive his principal balance payment as promised. Howard went to LCI to get his money and Cladek personally assured him that his money was safe and things should be worked out by April of 2010.

12. Howard has not received the money he is owed and stated all the red flags are there indicating it is a "Ponzi scheme."

c. **Bernard Reller**

TFO Dwight Murphy, OFR CI Innamorato, and I interviewed Bernard Reller on February 3, 2010. Reller also provided documentation related to his investment with LCI. I re-contacted Reller several times through March 14, 2010, for additional information related to his investment with LCI. Based on the interview with Reller and my review of the documents Reller provided related to his investment with LCI, I learned the following:

1. Reller is a current investor with LCI. Prior to his initial contact with Cladek in early 2006, Reller was referred to Cladek by a friend and an LCI investor, Anita Spring.

2. After Spring described the nature and terms of the investment to Reller, Reller spoke with Cladek and visited her office as part of his due diligence in determining if it was a sound investment.

3. Reller received an investment booklet from LCI through the US Postal mail service which contained assurances of the investment's security. Reller additionally, researched LCI through public records and did not locate any adverse filings with the state.

4. Based upon the information provided by Spring, the LCI investment literature, Cladek, and the results of his own research, Reller decided his money would be safely and securely invested with LCI.

5. Reller's first two investments, \$113,000.00 in 2006 and \$300,000.00 in May 2007, had one year terms and he received amortized pay outs without any problems. Reller did not recall going to the LCI office in 2007 and believed he mailed through the US Postal mail service his \$300,000.00 investment to LCI. Reller received his promissory note and collateral listing from LCI through the US Postal mail service.⁶

6. Based on the success of his prior investments with LCI, Reller believed that LCI had proven to be a reliable and secure investment. Therefore, Reller invested additional funds, \$68,258.29 and \$425,000.00 both invested in January 2008, with compounding interest for one year terms each.

7. In January 2009, Reller contacted LCI when the term of his two January 2008 investments were due to expire. Reller relied on the terms of his promissory notes which stated in part, "The unpaid principal and accrued interest shall be due and payable in full on January 8, 2009, and January 10, 2009, (for the latter investment) or may be renewed at the direction of the Payee." Reller was informed by LCI that they would be unable to pay his principal balance plus his accrued interest.

8. Reller relied on the agreement in his promissory note that also stated in part, "If any of the following events of default occur, this Note

⁶ I reviewed these documents, including the promissory notes and collateral listings, that Reller provided related to his investment with LCI.

and any other obligations of the Promisor to the Payee, shall become immediately (sic), without demand or notice: (1) the failure of the Promisor to pay the principal and any accrued interest on or before the Due Date."

9. Cladek offered Reller an agreement for an amortized payout of his balance. Reller agreed to his new payout plan.

10. As of February 2010, Cladek was in default of this new payout plan. Reller personally spoke with Cladek on the telephone and she assured him that his investment was safe and he would get paid.

11. According to Reller, to further secure his investment, Reller filed his promissory note and collateral listing with the Uniform Commercial Code (UCC)⁷ through the Florida Secured Transaction Registry on January 26, 2009. Reller understood that when money is loaned and then secured by collateral, a UCC filing that registry should be made to protect your claim to that collateral. When filing with the registry, Reller was required to identify the collateral he was assigned and attached it to his filing.

12. Reller relied on LCI's assertions in the investment literature that when collateral is no longer good or income producing it will be reassigned and his investment was secure. To further protect himself, Reller has

⁷ I have personally reviewed Reller's UCC filings at www.floridaUCC.com, as well as the UCC filings of several other LCI investors.

also filed with the registry to ensure that LCI does not duplicate assignment of collateral to him and another investor.

13. Reller realized that some of his assigned collateral car notes would have been paid off since his note was rolling over after it expired. Therefore, Reller requested that LCI provide an updated collateral listing and has continued to request updated collateral listings routinely between February 2009 until the present.

14. At his request, Reller received updated collateral listings from LCI. Reller subsequently updated his filing with the registry.

15. As of February 2010, LCI still owed Reller \$300,000.00 and he was expecting to be paid out in a year.

Employee interviews

a. Craig Brink

TFO Dwight Murphy and I interviewed Craig Brink,⁸ a former LCI employee, on January 13, 2010, and March 10, 2010. I learned the following from Brink regarding his employment and knowledge of LCI:

1. Brink was a financial analyst for LCI and responsible for accounting on the car note installment contract side of the business. Brink worked from LCI from 2006 through March 2010.

⁸ One witness interviewed, Brenda Wintzell, advised Brink was involved in an embezzlement from a car dealership. Investigators have no other information regarding this and Brink has never been charged with any crime.

2. Brink was aware that LCI does not purge car notes that are no longer collectable from their financial books, such as cars that are repossessed, frozen by personal bankruptcies or totaled by an insurance company. LCI continues to keep that bad collateral assigned to investor's promissory notes, even though it is no longer producing income.

3. Brink knows that money comes into LCI through the car loan payments. Brink stated that there was approximately ten million dollars worth of bad collateral and ten million dollars worth of good collateral as of January 2010.

4. Brink believes that LCI started as a legitimate investment company but grew too quickly. Brink believes LCI has become a Ponzi scheme.

5. Brink was aware that car notes that were no longer collectable were still assigned as collateral to active promissory notes. Brink was also aware that there were numerous instances, involving several different investors' promissory notes, where a single income producing car note was assigned to multiple promissory notes.

6. Brink handles financial records that involved the car loans. According to Brink, the following is the most recent (approximate) revenue received by LCI from car loan payments: \$750,000.00 in December 2009, \$800,000.00 in January 2010, and \$1,000,000 in February 2010.

7. Brink was aware that in December 2009, there were approximately 2,200 incoming producing car loan contracts. In March 2010, the number had declined to approximately 1,700 due to customers paying off their loans.

8. Brink has observed a significant decrease in LCI's purchasing of car loans since late 2008.⁹ In his position at LCI, Brink continued to observe a more significant decline in the purchasing of car notes in 2009, and Brink is knowledgeable regarding the number of car notes that LCI had recently purchased. In February 2010, LCI purchased approximately 30 to 50 new loans and in early March 2010, they had purchased only 2-4 loans. Brink explained that collections on car note payments vary over the course of a year due to car note holders' payment habits. At LCI, Brink observed a trend that car note collections increased in the beginning quarter of the year due to car note holders' receipt of IRS tax refunds. Many LCI customers would pay off their loans at this time or catch up on payments.

b. Interview of Confidential Source

TFO Dwight Murphy and I interviewed a Confidential Source (CS), who I know to be reliable in the context of this investigation in that the

⁹ A review of the financial records provided by LCI in response to a request by OFR verifies Brink's information. These records show that retail installment contracts purchased by LCI were approximately \$1.73 million in October 2008, \$1.15 million in November 2008, and \$863,390.66 in December 2008.

information provided has been corroborated by documentary evidence and the statements of other witnesses. From the CS, I learned the following:

1. LCI employees prepare the promissory notes for investors. When a promissory note expires, typically at the end of one year, they automatically renew with the same terms. LCI does not issue new promissory notes or an updated collateral listing unless the investor specifically requests a new note.

2. Due to the relatively short term of the car notes, typically less than 2 years, some of the car notes securing the loan would be paid off and therefore no longer producing income for LCI. When this occurs the investor is not aware that their promissory note is no longer properly secured by income producing collateral. LCI does not notify the investor that their collateral is no longer income producing and their promissory note is unsecured.

3. LCI utilizes the US Postal Service for these mailings.

4. LCI employees have occasionally been able to make new collateral assignments from LCI held unassigned collateral.¹⁰ However, LCI maintained a very limited amount of unassigned collateral, approximately 15 to 20 loans. It is not unknown when LCI would have unassigned collateral; however, as of March 2010, it no longer had any unassigned collateral. This

¹⁰ A review of LCI investor literature received from OFR asserts that LCI maintains a listing of unassigned collateral for when investors' collateral (car notes) is no longer collectable and they have pool of car notes that can be assigned.

amount of unassigned collateral has not been adequate to cover the active promissory notes that are unsecured. Therefore, LCI must reassign collateral from one investor's promissory note to another investor's promissory note thereby assigning the same collateral to secure the promissory notes of multiple investors.

5. LCI employees have been directed by Cladek to reassign collateral from one investor to a new investor without replacing the collateral assigned to the former investor. This was done because LCI did not have enough collateral to back up the incoming investor funds. The new investor is not aware that the collateral has already been assigned to secure a previous investor's promissory note. The former investor is also not aware that their collateral has been reassigned to another investor because they are not sent an updated collateral list.

6. On or about April or May 2009, Cladek directed an LCI employee to move collateral assigned to several investors' promissory notes in order to secure a new promissory note assigned to LCI investor Reller for a new investment. At the time LCI did not have sufficient collateral to secure Reller's promissory note; however, LCI accepted his investment payment. The LCI employee did the necessary research to assure that all the collateral moved from other investors' notes were still income producing collateral. However, the LCI employee did not and could not reassign collateral to other investors' notes that were now rendered unsecured because LCI did not have available collateral.

Those investors were unaware that their promissory notes were no longer secured.

7. After that time Reller started demanding updated collateral listings on a regular basis. Reller also informed LCI that he would be filing his collateral listing with the UCC registry and, therefore, LCI ensured that he was only assigned good collateral and that collateral was not moved from another investor's note after that initial time.

8. Reller's updated collateral listings were mailed via the US Postal Service by LCI employee Janice Bosworth.

9. Investors who requested return of their money were paid according to payment plans negotiated by Cladek and Bosworth. Investors are not currently refunded their money as stated in the investor's promissory notes because LCI does not have the funds available to refund the investors' principals within 60 days.

10. Since January 2010, there has been a marked increase in the number of investors who want their money returned from LCI. Approximately 75% of the over 1000 investors are demanding their principal balance be returned. As of March 2010, angry investors seeking return of their money have contacted LCI by means of numerous daily calls, visits, and letters.

11. Cathy Goerner is an investor who was attempting to liquidate her approximately \$250,000.00 to \$300,000.00 investment with LCI

which is managed through an IRA out of Ohio. Cladek set up an amortized payment schedule for Goerner of \$8,300.00 per month beginning in December 2009. Based on this agreement, LCI issued a check for \$8,300.00 to Goerner but an LCI employee was directed by either Cladek or Bosworth not to send the check to Goerner and voided the check due to lack of funds.

12. The job responsibilities of an LCI employee involved receiving investor money and sending out investor interest payments through U.S. mail carriers and occasionally a wire transfer, including interstate wire transfers, from LCI's Bank of America (BOA) operating account.¹¹

13. Two interstate wire transfers were made between LCI and investors. On or about January 15, 2010, LCI wired money to Caroline Diani in Almont, Colorado from LCI's BOA account as a partial principal balance payoff. On or about January 18, 2010, Kathy Butterworth, an investor from Virginia, wired a \$27,000.00 investment to LCI's BOA account.

14. The CS believes Cladek may have diverted investor funds improperly. Several years ago, Cladek sold property for \$800,000.00 and she gave an LCI employee the proceeds to deposit into the company account. The CS believes the property was in the Sanibel/Captiva area of southwest Florida.

¹¹ FBI FA Kyle Stevens and I reviewed LCI banking records, obtained by OFR, and confirmed deposits, withdrawals and wire transfers in LCI's BOA accounts that support this type of money activity.

15. Cladek owns the 108 Sea Grove Main Street building and LCI pays Cladek \$25,350.00 a month in rent. An LCI employee writes the rent check out of the BOA operating account to Cladek, and Cladek signs the check. Several times, Cladek told an LCI employee to write her a rent check for \$25,350.00 numerous times in one month without an explanation¹².

16. The CS estimates that in March 2010, LCI's daily obligations to investors were approximately \$40,000.00 per day. However, LCI had only been paying \$15,000.00 per day due to lack of cash flow.

17. In spite of LCI's inability to meet their obligations to investors, LCI and Cladek have continued to solicit money from investors. New investment funds were being received, though dwindling as compared to previous years.

18. LCI accepted new investor funds of approximately \$800,000.00 in December 2009, \$750,000.00 in January 2010, \$400,000.00 in February 2010, and \$100,000.00 as of early March 2010.

19. The CS was knowledgeable about LCI's tactics for soliciting more investment money by targeting current investors through email and telephone communications touting new programs for investment. Though investors are being targeted with new investment programs, the new investment

¹² FBI FA Kyle Stevens and I reviewed Cladek's Prosperity Bank statements in March 2010. The statements verified that in September 2009, Cladek deposited numerous LCI checks for \$25,350.00 into her personal account, sometimes up to five such checks on one day.

money has been invested in the same fashion as previous investments with the promissory notes purportedly being secured with car notes as collateral.

20. Cladek is making personal appeals to people to invest as well as encouraging current investors to refer other people to invest through a local St. Augustine women's group with which she is associated.

21. New investor money is NOT primarily being used to purchase new car notes, but instead to pay already existing investors interest payments.¹³ The CS described LCI's current business practices as that of a Ponzi scheme.

22. LCI's priority was paying new investors first to ensure that the newer investors get paid their interest on time for at least the first six interest payments to show good faith. The intent of LCI is clearly to keep those investors happy in order to entice them to invest more money.¹⁴

23. Additionally, Cladek is connected to an animal rescue charity, Goliath and BeBe's World. Cladek has had an LCI employee write weekly \$5,000.00 checks to this charity out of the company's BOA operating account. A paid employee of this charity is an LCI investor, Donna Markiewicz, who is also the wife of LCI's Chief Operating Officer, Dennis Markiewicz. An

¹³ I know from my investigative experience and training that this tactic of using new investor funds to pay other investor's interest payments is typical of a Ponzi fraud scheme.

¹⁴ I know from my investigative experience and training that this tactic of satisfying the newer investors in order to solicit them for more investments is typical of a Ponzi fraud scheme.

employee and an investor of LCI, Lori Zemlo, operates this charity out of LCI office space during her regular office hours as an LCI employee.^{15 16}

24. An LCI employee was asked by Janice Bosworth, sometime at the end of April or beginning of March 2010, to research the total amount of principal owed to current LCI investors. The LCI employee conducted the research utilizing the LCI investor records and discovered that LCI owes approximately \$85 million in principal and approximately \$104 million in principal plus interest. The LCI provided a summary of these figures to Bosworth on or about the week of March 15, 2010. Bosworth appeared shocked when she saw the figures and commented that she did not realize their financial situation was of that magnitude.

c. **Mary Saey**

TFO Dwight Murphy, CI Innamorato and I have interviewed (both separately and jointly) Mary Saey, an LCI employee for 9 months, on several occasions beginning on February 25, 2010 through March 15, 2010. I learned the following from Saey regarding her employment and knowledge of LCI:

¹⁵ I reviewed LCI investor information obtained by OFR in 2008, and it confirmed that Lori and John Zemlow had approximately \$95,000.00 invested with LCI, and Dennis and Donna Markiewic had jointly invested approximately \$345,050.00.

¹⁶ Markiewicz and Zemlo resigned from LCI after the information was provided from the CS.

1. Saey has worked at LCI in finance since July 2009. Saey's responsibilities include handling accounts payable and reconciling bank statements. Saey also works with the accounting for funds from interest only investor accounts.

2. Saey created an accounting database for LCI in Microsoft Access to assist with her job duties. This accounting database is saved on Saey's LCI computer hard drive as well as on an LCI network drive with limited access. This database's access is limited to LCI employees Brink, Reyes and Saey.

3. Saey knew that Cladek continues to solicit funds from new investors. Saey has seen the accounting of LCI receiving new investor funds, including approximately 1.6 million in August 2009, 1.36 million in September 2009, 1.3 million in October 2009, 1.46 million in November, 1.02 million in December 2009 and \$500,000.00 in February 2010.

4. When Saey started at LCI as a new employee she was encouraged to invest her own money and told that LCI could guarantee her a 20% return on her investment. Saey did not invest in LCI.

5. Saey assisted with preparing mailings of the 2009 tax year 1099 IRS tax forms for investors. Saey saw LCI prepared approximately 1500 1099 IRS tax forms for investors.

6. Saey has seen paperwork that Cladek made a \$15,000.00 charitable contribution to the Hunger Project in December 2009, even though the company was experiencing severe cash flow problems and was unable to pay employees on time.

7. Saey knew that Cladek pays for the Goliath and Be Be's World charity out of LCI's funds. Goliath and Be Be's World is run out of LCI office space by an LCI employee who is also a large investor, Lori Zemlow.

d. Additional Witness Interview

On March 25, 2010, TFO Murphy contacted me and advised me that on March 24, 2010, he interviewed Brenda Wintzell, a former LCI sales and marketing employee and contractor. Wintzell advised TFO Murphy of the following information:

1. Wintzell recently advised Cladek during a meeting at the LCI offices in St. Augustine, in the context of a discussion about returned checks, that what Cladek was doing was a Ponzi scheme and Cladek was going to go to prison. Cladek agreed that she knew her activities were illegal.

Financial Analysis

13. Based on a financial analysis and review of bank account records held by LCI and Cladek conducted by FA Kyle Stevens, I have learned the following:

a. A detailed analysis and review of bank account records held by LCI and Cladek for the period January 1, 2005, through February 28, 2010, was conducted to determine the sources of funds deposited into and uses of funds disbursed from known accounts. To date, analysis has determined that Cladek held bank accounts in the names of "Lydia Cladek Inc." and "Lydia I. Cladek" at Bank of America (BOA) and Prosperity Bank (Prosperity), respectively.

b. Further analysis determined that BOA account number XXXXXXXX3325 (Operating Account) held by LCI was the main operating account for this company. After reviewing the deposits posted to this account, it was determined that numerous checks from investors were being deposited in the Operating Account to invest in car notes secured by promissory notes from LCI.

c. A review of documents obtained by OFR from BOA, including bank statements from January 1, 2006, through December 31, 2008, and deposit tickets with offsets (checks from investors) attached from February 9, 2007, through December 26, 2007, has determined that deposits in excess of \$20 million were received from investors into the Operating Account.

d. FBI FA Stevens has reviewed BOA and Prosperity bank records for the Operating Account, as well as personal accounts of Cladek¹⁷ held by BOA and Prosperity (XXXXXXXX8267 and XXXXXX5608, respectively). From this review, I have learned that the funds were being transferred from the Operating Account via "Online Banking transfers" and "Overdraft Protection transfers" into BOA account number XXXXXXXX3947 held by LCI (LCI Account). In total, in excess of \$12 million was transferred from the Operating Account into the LCI Account during a five year period beginning January 1, 2005, and ending February 28, 2010. Further financial analysis of the LCI Account determined that this account was not utilized for legitimate business expenses, with a few minor exceptions. Further, Cladek utilized the LCI Account to funnel money into her BOA and Prosperity personal accounts numbers XXXXXXXX8267 (Cladek Personal BOA Account) and XXXXXX5608 (Cladek Personal Prosperity Account).

e. From the review of these documents, I have learned that during the five year period analyzed, approximately \$13.6 million was disbursed via checks written from the LCI Account. These funds were disbursed as follows: three checks totaling \$84,721.00 were written payable to Arnold/Sanders Engineers, Inc.; one check in the amount of \$67,168.03 was written payable to

¹⁷ BOA account number XXXXXXXX8267 is a joint account also held by Heather I. Saalfeld. I have learned from LCI employee interviews that Saalfeld is Cladek's personal assistant and cook.

Bill Branch Chevrolet; one check in the amount of \$25,000.00 was written payable to Coldwell Banker Escrow; one check in the amount of \$600,000.00 was written payable to Captiva Island Vacation Properties; two checks totaling \$700,000.00 were written payable to Karen Baker; one check in the amount of \$350,000.00 was written payable to Karen or Edward Baker; one check in the amount of \$47,321.18 was written payable to Lee County Tax Collector; one check in the amount of \$120.00 was written payable to Legacy Carpet; one thousand two hundred and two (1,202) checks totaling \$11,577,798.50 were written payable to Lydia Cladek; two checks totaling \$44,131.81 were written payable to Miranda Architects; six checks totaling \$63,525.00 were written payable to R.S. Walsh Landscaping; one check in the amount of \$50,000.00 was written payable to Tully Builders Inc.; and two charges totaling \$727.80 were posted to this account for ADP Payroll Fees. As identified above, the majority of funds was disbursed to Lydia Cladek. In fact, 1,202 checks drawn on the LCI Account were written payable to Cladek. The total dollar amount of these checks was \$11,577,789.50.

f. From further review of the checks written payable to Cladek drawn on the LCI Account, I learned that the majority of these checks were written for the same dollar amount (\$8,950.00). A review of these checks determined that Cladek would write herself a check for an amount of \$8,950.00 almost on a daily basis. These checks would then be deposited into Cladek's

Personal Prosperity Account. There was a notable delay before the checks written by Cladek to herself were deposited into her personal account held at Prosperity. These checks were deposited in bundles of four to six checks approximately two months after they were dated. For example, Cladek wrote herself check numbers 2785 dated September 25, 2006; 2786 dated September 26, 2006; 2787 dated September 27 2006; 2788 dated September 28, 2006; and 2789 dated September 29, 2006, each for an amount of \$8,950.00. These five checks were deposited into Cladek's Personal Prosperity Account (which was a checking account) held at Prosperity on January 3, 2007.¹⁸

g. A review of the disbursements from Cladek's Personal Prosperity Account and Cladek's Personal Bank of America Account was conducted to determine where these funds were disbursed. Analysis of bank account records identified that funds were being disbursed to purchase million dollar homes and real-estate, fund mortgage payments for these homes, and pay renovation costs and landscaping costs for several properties in Southwest Florida, and to purchase luxury vehicles for personal use. In total, Cladek

¹⁸

The Cladek Personal Prosperity Account was closed by the institution in September, 2009, thereafter, Cladek opened the Cladek Personal BOA Account, which was held in the name of Lydia Cladek and her cook, Heather Saalfeld. Cladek resumed writing daily checks for \$9,500.00 from the LCI Account and deposited them into the Cladek Personal BOA Account. Fifty-three checks were written in this way totaling \$375,000.00 were written from September 2009 through February 28, 2010.

currently owns twelve properties valued at approximately \$10 million located in the St. Augustine and Southwest Florida area for which investors' funds have been utilized to purchase these properties and/or make monthly mortgage payments. In addition, investors' funds were utilized to purchase multiple luxury vehicles.

h. Based on public records searches, it has been identified that Cladek currently owns multiple properties valued in excess of \$10 million located in the St. Augustine and Southwest Florida area. From the analysis of the aforementioned bank account records, it has been determined that investors' funds have been utilized to purchase these properties and/or make monthly mortgage payments, rather than fund purchases of new car notes.

i. In March 2010, I reviewed personal bank account statements of Cladek obtained during my investigation. From this review, BOA and Prosperity bank account statement used Cladek's home address of 189 Sea Colony Parkway, St. Augustine; therefore, this is the address which they would have been mail.

j. From a review and analysis of bank account records by FBI FA Kyle Stevens, I have learned that fraud proceeds from LCI investor monies have been deposited into Cladek's BOA and Prosperity Personal accounts. An analysis of these accounts has determined that in excess of \$6 million was disbursed to several financial institutions and individual private mortgages

holders. These disbursements were principal and monthly mortgage payments for real estate purchased by Cladek, including her primary residence at 189 Sea Colony Parkway, St. Augustine.

Real Properties Subject to Forfeiture

14. Based upon the facts set forth herein, I believe that all three of the real properties which are the subject of the civil *in rem* complaint represent proceeds of mail and wire fraud and, thus, is subject to forfeiture pursuant to 18 U.S. C. §981(a)(1)(C). Specifically, the investigation has revealed that in excess of \$20 million in investor money, which was the proceeds of the investment scheme involving mail and wire fraud, was received into the Operating Account. Cladek funneled in excess of \$12 million in investor money from the Operating Account into her personal accounts at Prosperity Bank and at Bank of America. From these accounts, she made substantial balloon payments toward the principal owing, as well as paying monthly mortgage payments, on the luxury homes and real properties described below. Additionally, some of these payments came directly from the Operating Account and the LCI Account.

15. Further, the properties described below as 16250 Captiva Drive, Captiva, Florida and 4443 Waters Edge Lane, Sanibel, Florida, were involved in one or more financial transactions intended to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of the specified unlawful activity, in violation of 18 U.S.C. §1956(a)(B)(1), and are,

therefore subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A). Specifically, the proceeds of the mail fraud and wire fraud were transmitted into the Operating Account and then either to the LCI Account or to the Cladek Personal Prosperity Account or the Cladek Personal BOA Account before payments were made to purchase the real properties. Then the two properties were placed in the name of Land Trust Service Corporation to further disguise Lydia Cladek's ownership of the properties. Further, 16250 Captiva Drive, Captiva, Florida and 4443 Waters Edge Lane, Sanibel, Florida were each involved in a monetary transaction in proceeds of a specified unlawful activity of a value greater than \$10,000.00 in violation of 18 U.S.C. §1957 and are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

a. **1061 SW Alaska Way, Greenville, Florida**

Real property located at 1061 SW Alaska Way, Greenville, Madison County, Florida, was purchased by Lydia Cladek for \$269,000.00 on March 23, 2004. An analysis of the disbursements from Cladek's Personal Prosperity Bank Account identified payments made to the lender, Bank of America, N.A. More specifically, for the approximate time period of January 1, 2006 through September, 2009, Cladek caused forty-five (45) authorized payments totaling approximately \$86,672.17 to be automatically withdrawn from the Cladek Personal Prosperity Bank Account and made payable to Bank of America, as lender for this property. The authorized withdrawals from the

Cladek Personal Prosperity Bank Account were made on a monthly basis and consisted of amounts ranging from \$1,402.06 to \$2,322.65. An analysis of the disbursements from the Cladek Personal BOA Account identified a payment to Bank of America, as lender for this property. Specifically, on or about December 7, 2009, Lydia Cladek caused a check in the amount of \$1,871.38 to be drawn on the Cladek Personal BOA Account, and made payable to Bank of America, as lender for this property. These payments represent mortgage payments for the above described property. (For a visual representation of the details described in this narrative, refer to "Attachment 1" to this declaration). The current principal balance owed on February 16, 2010 is \$196,775.13.

b. **16250 Captiva Drive, Captiva, Florida**

Based on records reviewed during this investigation, real property located at 16250 Captiva Drive, Captiva, Lee County, Florida, is owned by Captiva Island Vacation Properties, LLC and Land Trust Service Corporation. Investigation has determined that the Land Trust Service Corporation is a tool utilized by Cladek to obscure her actual ownership of the property. A mortgage dated June 1, 2004, lists Edison National Bank, as the mortgagor with Captiva Island Vacation Properties, LLC, listed as the mortgagee. An Agreement for Deed dated June 1, 2006, initiates a transfer of equity in the property from Captiva Island Vacation Properties, LLC to the Trust No. 16250-52 with Land Trust Service Corporation listed as Trustee based on receipt of payments from

Lydia Cladek, as Guarantor for Land Trust Service Corporation, Trust No. 16250-52. The Purchase Price listed in the Agreement for Deed is \$4,395,000.00.

An analysis of the disbursements from the Operating Account identified several large payments to Captiva Island Vacation Properties. More specifically, Cladek caused funds in the amount of \$600,000.00 to be wired from the Operating Account to Captiva Island Vacation Properties, LLC on or about November 27, 2006, and funds in the amount of \$550,000.00 to be wired to Captiva Island Vacation Properties, LLC on or about January 24, 2007. Cladek also caused check number 3319 in the amount of \$600,000.00 to be written payable to Captiva Island Vacation Properties, LLC on or about March 21, 2008. This check was drawn on Bank of America, N.A. account number XXXXXXXX3947 held by LCI, which cleared the account on May 27, 2008. The total amount of these three payments to Captiva Island Vacation Properties, LLC is \$1,750,000.00. According to the terms of a Modification, dated November 24, 2006, of an original fixed rate promissory note, dated June 1, 2006, these payments were required to be paid and were designated as payments which would reduce the principal balance owed on the property.

In addition to the above principal payments, Cladek made monthly mortgage payments to Captiva Island Vacation Properties, LLC. An analysis of the disbursements from Cladek's Personal Prosperity Bank Account identified sixty-one (61) payments, made during the time period June, 2006 through

September, 2009, totaling approximately \$584,699.27 paid to Captiva Island Vacation Properties, LLC. These monthly mortgage payments consisted of amounts ranging from approximately \$3,000.00 to \$9,000.00. An additional seven (7) checks totaling \$91,164.11, consisting of mortgage payments, were disbursed to Captiva Island Vacation Properties, LLC from Cladek's Personal Bank of America Account, during the approximate time period of September, 2009 through the present. The total amount disbursed to Captiva Island Vacation Properties, LLC from Lydia Cladek was \$2,425,863.38. (For a visual representation of the details described in this narrative, refer to "Attachment 2" of this declaration).

c. **4443 Waters Edge Lane, Sanibel, Florida**

Records indicate that real property located at 4443 Waters Edge Lane, Sanibel, Lee County, Florida, is owned by Trust No. 4443 and Land Trust Service Corporation. Investigation has determined that the Land Trust Service Corporation is a tool utilized by Cladek to obscure her actual ownership of the property. The purchase price was \$3,000,000.00, and the purchase date was April 6, 2005. The mortgage is privately held by Karen J. Hyde Baker.

An analysis of the disbursements from the LCI Account identified several large payments to Karen Baker or Edward Baker. At closing on April 6, 2005, Cladek caused funds in the amount of \$258,168.10 to pay the down payment and costs associated with closing. The funds were wired to Henderson, Franklin, Starnes, & Holt, the closing settlement agent on this property. Later, Cladek

caused check number 2600, dated April 4, 2006, in the amount of \$350,000.00 to be paid to Karen Baker or Edward Baker. Cladek caused check number 2858, dated April 8, 2007, for an amount of \$350,000.00 to be paid to Karen Baker. Cladek also caused check number 3229, dated April 3, 2008, for an amount of \$350,000.00 to be paid to Karen Baker. These three payments were balloon payments required to be made each year and reduced the principal amount owing on the property. The total amount of these three principal payments (not to include the \$250,000.00 down payment) was \$1,050,000.00.

In addition to the above principal payments, Cladek made monthly mortgage payments to Karen and/or Edward Baker. An analysis of the disbursements from Cladek's Personal Prosperity Bank Account identified sixty-six (66) checks totaling approximately \$454,419.25, for the time period April 2005 through on or about September 2009, to be written payable to Karen and/or Edward Baker. Lydia Cladek also caused four (4) checks totaling \$37,333.32, drawn on Bank of America, N.A. account number XXXXXXXX8267 to be written payable to Karen Baker during the time period October 2009 through the present. The total amount disbursed to Karen and/or Edward Baker was \$1,541,752.57. (For a visual representation of the details described in this narrative, refer to "Attachment 3" to this declaration).


CONCLUSION

16. Based upon the facts set forth herein, there is probable cause to believe that Lydia Cladek was involved in investment fraud by utilizing LCI, in violation of 18 U.S.C. §§1341 and 1343. Based on a review of investment literature and investor interviews, LCI through their literature and personal appeals promised investors a safe, secure, and adequately collateralized investment. LCI promised that investment money was secured by promissory notes backed by income producing car notes. LCI investment literature assured investors that if any car note that was securing their promissory note is no longer income producing they will be reassigned new collateral.

17. Based on current and former employee interviews, LCI was not honoring their promises and are defrauding investors by inadequately collateralizing promissory notes. LCI did not have enough collateral to cover the investor's promissory notes and moved collateral from one promissory note to another without replacing the collateral for the first note, thus leaving the first note unsecured. Based on employee interviews and investor interviews, investors were not notified by LCI that their promissory notes were no longer secured. The investor funds received pursuant to this fraud scheme were deposited into LCI's operating account at Bank of America, N.A., account number 001041613325. From that account funds were disbursed directly or moved to other bank accounts and disbursed to purchase the real properties.

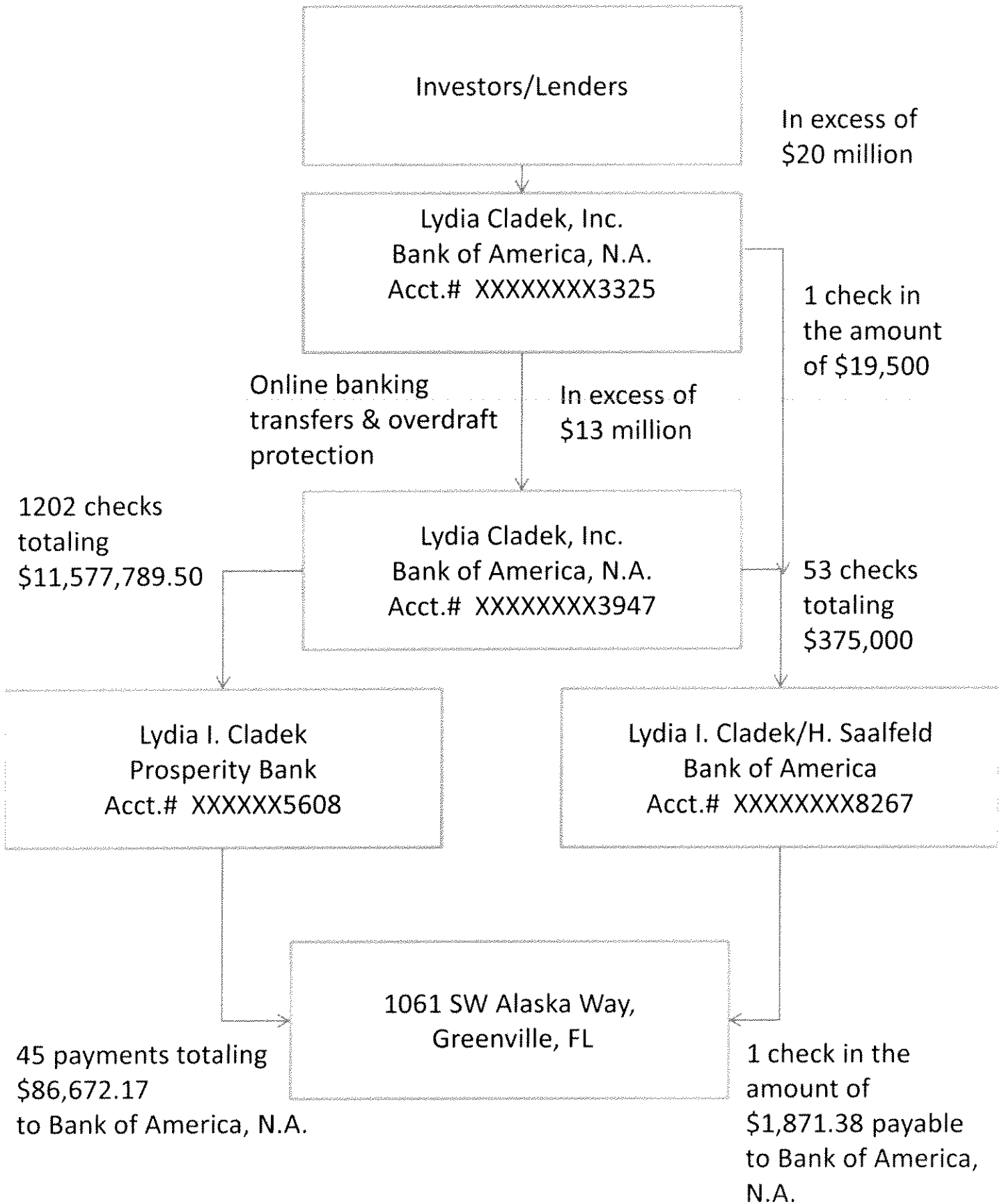
18. Based upon the facts set forth herein, I believe that the real properties represent proceeds of the mail and wire fraud and are subject to forfeiture pursuant to Title 18 U.S.C. § 981(a)(1)(C). Additionally, the properties represent proceeds of specified unlawful activity involved in a financial transaction with the intent to promote the carrying on of the specified unlawful activity; designed to conceal or disguise the nature, location, the source, the ownership or control of the proceeds of the specified unlawful activity; or involved in a monetary transaction in criminally derived property of a value greater than \$10,000.00 and are subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

Further declarant sayeth naught.

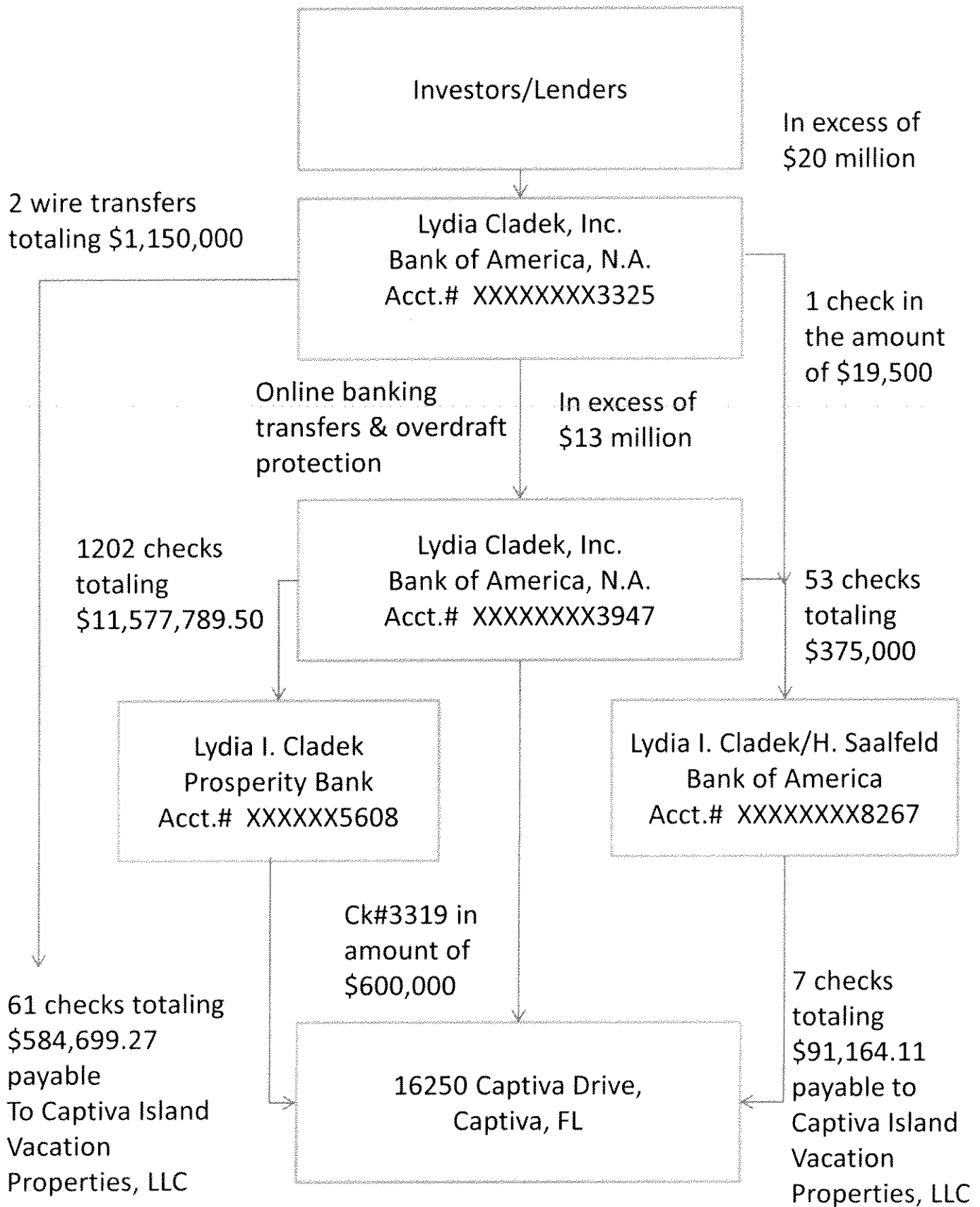

BRIDGETTE TRELA FROST
Special Agent
Federal Bureau of Investigation

Executed in Jacksonville, Florida this
8 day of April, 2010.

“ATTACHMENT 1”



"ATTACHMENT 2"



"ATTACHMENT 3"

