

FEB. 26, 2010

STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO: **10-20116-CR-UNGARO/SIMONTON**

18 U.S.C. § 371  
18 U.S.C. § 1546(a)  
18 U.S.C. § 1001(a)(2)  
18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

LYDIA MENOCA and  
OFELIA MACIA,

Defendants.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this indictment:

The Immigration Framework

1. The Department of Homeland Security (DHS) was an agency of the executive branch of the Government of the United States. DHS had jurisdiction over the adjudication of applications for immigration benefits that foreign nationals submitted seeking lawful status and employment in the United States, including student visas (F-1 visas).

2. DHS granted approval to academic and language secondary institutions to admit and enroll non-immigrant students and to issue Forms I-20 (certificates of eligibility for non-immigrant, F-1, student status for academic and language students) directly to foreign nationals wishing to enter or remain in the United States as full time students. The institutions, through the designated school

official, obtained DHS approval by applying for it on Form I-17 applications.

3. The designated school official signed each Form I-20 issued to a foreign national student applying for admission to the academic or language school and stated on the form that the school will comply with all federal regulations, including the regulations governing attendance requirements for foreign national students.

4. Once the DHS-approved institution issued a Form I-20 to a foreign national wishing to enter or remain in the United States as a full time student, the foreign national presented himself along with the Form I-20 and supporting financial documentation to a United States Consulate abroad and applied for issuance of an F-1 student visa.

5. After the foreign national was issued an F-1 student visa at a Consulate abroad, he then presented himself at a port of entry in the United States and was admitted as an F-1 student for "duration of status."

6. "Duration of status" was defined by federal regulations as the time during which an F-1 student was pursuing a "full course of study" at a DHS-approved school for attendance by foreign national students.

7. "Full course of study" was defined by federal regulations as at least eighteen hours of attendance per week.

8. The designated school official was required by DHS to ensure that all enrolled students with an F-1 visa were complying with federal regulations, including the regulations requiring students to attend eighteen hours of classes per week.

9. The designated school official was required to notify DHS to terminate a student's F-1 status if the student's attendance dropped below a full course of study. The designated school

official was required to report to DHS, within twenty-one days, if any of its foreign national students had failed to maintain their status or complete the program. The designated school official was also required to report to DHS any change of the students' address and of the students' legal name.

**Defendants and Other Entity**

10. Florida Language Institute, Inc. (Florida Language) was an academic and language secondary institution approved by DHS to admit and enroll non-immigrant students and to issue Forms I-20 directly to foreign nationals wishing to enter or remain in the United States as full time students. Florida Language was located at 947 Southwest 87th Avenue, Miami, Florida.

11. Defendant **LYDIA MENOCAL**, a resident of Miami-Dade County, was Florida Language's director and sole shareholder.

12. Defendant **OFELIA MACIA**, a resident of Miami-Dade County, was an employee of Florida Language.

**COUNT 1**  
**(18 U.S.C. § 371)**

1. Paragraphs 1 through 12 of the General Allegations of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2007, and continuing through on or about the date of this Indictment, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**LYDIA MENOCAL**  
**and**  
**OFELIA MACIA,**

did knowingly combine, conspire, confederate, and agree with each other, and others known to the

Grand Jury, to commit offenses against the United States, that is, to knowingly make under oath and, as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, to knowingly subscribe as true, a false statement with respect to a material fact in an application and other document required by the immigration laws and regulations prescribed thereunder, that is, Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status—For Academic and Language Students, in violation of Title 18, United States Code, Section 1546(a).

### **PURPOSE OF THE CONSPIRACY**

3. The purpose of the conspiracy was for the defendants to unjustly enrich themselves by issuing certificates of eligibility, that is, Forms I-20, necessary for foreign nationals to obtain student visas, charging the foreign nationals tuition fees for attending the Florida Language school, and falsely and fraudulently certifying on those documents that the foreign nationals would be required to take a full course of study at Florida Language, knowing that the foreign nationals would not be required to attend class as required by federal regulations.

### **MANNER AND MEANS OF THE CONSPIRACY**

The manner and means by which the defendants sought to accomplish the purpose of the conspiracy included, among other things, the following:

4. The defendants, on behalf of Florida Language, filled out a Form I-17 application with the Department of Homeland Security to have the Florida Language school approved to issue Forms I-20 to foreign national students. As part of the application process, the defendants stated that they had read and understood all the pertinent federal regulations governing DHS-approved schools, including those relating to attendance requirements.

5. The defendants would then issue Forms I-20 to foreign nationals, which the foreign

nationals would take to United States Consulates in their home countries in order to obtain F-1 student visas.

6. On the Forms I-20 issued to foreign nationals, the defendants would subscribe as true under penalty of perjury that the students would comply with federal regulations, including the regulation that students at the school pursue a full course of study, defined as eighteen hours per week.

7. After receiving payment, the defendants would not require that the foreign nationals who had been issued F-1 visas attend class at Florida Language for at least eighteen hours per week.

8. Despite federal regulations requiring them to report violations of the attendance requirements, the defendants would not report to DHS that the vast majority of foreign nationals who had been issued F-1 visas based on Florida Language's certification were not attending class for the requisite eighteen hours per week.

#### **OVERT ACTS**

In furtherance of the conspiracy, and to accomplish the purpose thereof, at least one of the co-conspirators committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

9. On or about November 14, 2007, during an inspection of Florida Language, **LYDIA MENOCAL** falsely stated to DHS officials that on a normal day 150 students attended classes at the Florida Language school.

10. On or about November 14, 2007, during an inspection of Florida Language, **LYDIA MENOCAL** falsely stated to DHS officials that students were not "pre-signing" for classes, that is, signing the attendance sheet for having attended classes in the future.

11. On or about July 14, 2009, **LYDIA MENOCAL** caused to be prepared and signed a false and fraudulent Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status—For Academic and Language Students, on behalf of Lino Francisco Espinoza.

12. On or around August 7, 2009, **LYDIA MENOCAL** caused to be prepared and signed a false and fraudulent Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status—For Academic and Language Students, on behalf of K.R.

13. On or about November 17, 2009, **LYDIA MENOCAL** sent a letter by facsimile to United States Border Patrol stating that student L.F.E. had not attended classes at Florida Language for nearly two weeks.

14. From in or around September 2009, through in or around November 2009, **LYDIA MENOCAL** and **OFELIA MACIA** failed to report to DHS that L.F.E. and K.R. had failed to attend a full course of study at Florida Language.

All in violation of Title 18, United States Code, Section 371.

**COUNT 2**  
**(18 U.S.C. § 1546(a))**

On or about July 14, 2009, in Miami-Dade County, in the Southern District of Florida, the defendant,

**LYDIA MENOCAL,**

did knowingly make under oath, and as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, did knowingly subscribe as true, a false statement with respect to a material fact, that is, that L.F.E. would be required to pursue a full course of study at Florida Language, when in truth and in fact, and as the defendant then and there well knew, L.F.E. would

not be required to pursue a full course of study at Florida Language, in an application and other document required by the immigration laws and regulations prescribed thereunder, that is, a Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status—For Academic and Language Students, in violation of Title 18, United States Code, Section 1546(a).

**COUNT 3**  
**(18 U.S.C. § 1546(a))**

On or about August 7, 2009, in Miami-Dade County, in the Southern District of Florida, the defendant,

**LYDIA MENOCAI,**

did knowingly make under oath, and as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, did knowingly subscribe as true, a false statement with respect to a material fact, that is, that K.R. would be required to pursue a full course of study at Florida Language, when in truth and in fact, and as the defendant then and there well knew, K.R. would not be required to pursue a full course of study at Florida Language, in an application and other document required by the immigration laws and regulations prescribed thereunder, that is, a Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status—For Academic and Language Students, in violation of Title 18, United States Code, Section 1546(a).

**COUNT 4**  
**(18 U.S.C. § 1001(a)(2))**

On or about November 14, 2007, in Miami-Dade County, in the Southern District of Florida, in a matter within the jurisdiction of the Department of Homeland Security, an agency of the executive branch of the United States Government, the defendant,

**LYDIA MENOCAI,**

did knowingly and willfully make a false, fraudulent, and fictitious statement and representation as to a material fact, in that the defendant represented to DHS officials that one hundred fifty (150) students attended class at Florida Language each day that the school was in session, when in truth and in fact, and as the defendant then and there well know, one hundred fifty (150) students did not attend Florida Language each day that the school was in session, in violation of Title 18, United States Code, Section 1001(a)(2).

**CRIMINAL FORFEITURE**  
**(18 U.S.C. § 982)**

1. Upon conviction of any violation or conspiracy to violate Title 18, United States Code, Sections 371, 1001, or 1546, as alleged in Counts 1 through 4 of this Indictment, **LYDIA MENOCAL** and **OFELIA MACIA**, shall forfeit to the United States pursuant to Title 18, United States Code, Sections 982(a)(4) and (a)(6)(A), all property, real or personal, that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of the offense, and all property, real or personal, that was used to facilitate, or was intended to be used to facilitate the commission of the offense.

2. The property subject to forfeiture includes but is not limited to, the following: The sum of \$2,400,000 in United States currency, and all interest traceable thereto, in that such sum in the aggregate constitutes proceeds of the criminal offenses, for which the defendants are jointly and




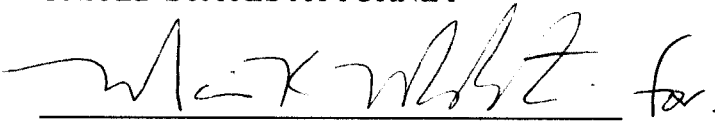
severally liable.

All pursuant to Title 18, United States Code, Section 982.

A TRUE BILL

FOREPERSON

  
\_\_\_\_\_  
JEFFREY H. SLOMAN  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
ROY K. ALTMAN  
ASSISTANT UNITED STATES ATTORNEY

  
\_\_\_\_\_  
ROBERT J. LUCK  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

LYDIA MENOCA and  
OFELIA MACIA,

## CERTIFICATE OF TRIAL ATTORNEY\*

Defendants. \_\_\_\_\_

## Superseding Case Information:

Court Division: (Select One)

X \_\_\_\_\_ Miami \_\_\_\_\_ Key West  
\_\_\_\_\_ FTL \_\_\_\_\_ WPB \_\_\_\_\_ FTPNew Defendant(s) \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_  
Number of New Defendants \_\_\_\_\_  
Total number of counts \_\_\_\_\_

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) Yes  
List language and/or dialect Spanish

4. This case will take 10 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)	(Check only one)
I 0 to 5 days _____	Petty _____
II 6 to 10 days <u>X</u> _____	Minor _____
III 11 to 20 days _____	Misdem. _____
IV 21 to 60 days _____	Felony <u>X</u> _____
V 61 days and over _____	

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes: Judge: \_\_\_\_\_ Case No. \_\_\_\_\_

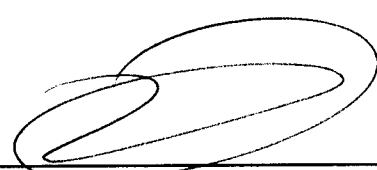
(Attach copy of dispositive order)  
Has a complaint been filed in this matter? (Yes or No) No

If yes: Magistrate Case No. \_\_\_\_\_  
Related Miscellaneous numbers: \_\_\_\_\_  
Defendant(s) in federal custody as of \_\_\_\_\_  
Defendant(s) in state custody as of \_\_\_\_\_  
Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? \_\_\_\_\_ Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? \_\_\_\_\_ Yes X No

  
\_\_\_\_\_  
Roy K. Altman (Court No. A5501271)  
Robert J. Luck (Florida Bar No. 0028065)  
ASSISTANT UNITED STATES ATTORNEYS

\*Penalty Sheet(s) attached

REV 4/8/08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

**Defendant's Name:** LYDIA MENOCAL

**Case No:** \_\_\_\_\_

Count #: 1

Conspiracy to Make False Statements on an Immigration Document

Title 18, United States Code, Section 371

**\* Max. Penalty:** 5 Years' Imprisonment

Counts #: 2-3

Making False Statement on an Immigration Document

Title 18, United States Code, Section 1546(a)

**\*Max. Penalty:** 10 Years' Imprisonment

Count #: 4

False Statement

Title 18, United States Code, Section 1001(a)(2)

**\*Max. Penalty:** 5 Years' Imprisonment

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**PENALTY SHEET**

**Defendant's Name:** OFELIA MACIA

**Case No:** \_\_\_\_\_

**Count #:** 1

**Conspiracy to Make False Statements on an Immigration Document**

**Title 18, United States Code, Section 371**

**\* Max. Penalty: 5 Years' Imprisonment**

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**