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## Boca hotelier faces charges of bank, wire fraud

Atul Bisaria, an international hotelier from Boca Raton, indicted in Illinois on federal fraud charges in the wake of his company's collapse. The prominent Palm Beach County resident is believed to be in India.

Adolfo Pesquera

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Atul Bisaria, an international hotelier from Boca Raton, will be fighting a bank foreclosure on his Boca Raton hotel next week, but that may be the least of his worries.

The prominent Palm Beach County resident, who is believed to be in India, has been indicted in Illinois on federal charges of bank fraud and wire fraud. The Oct. 9 indictment describes a scheme to obtain construction funds from Harvey, Illinois-based Mutual Bank and Chicago-based Broadway Bank.

From April 2007 to March 2008, Bisaria and a Boca Raton contractor — Contract Purchasing and Design Inc. president Steve Lewis — submitted false invoices and sales orders to make draws from the banks, the indictment states. The funds were intended to repay subcontractors but instead were diverted to other hotel properties, prosecutors charged.

Bisaria borrowed \$16 million from Broadway in April 2007, including \$10 million designated for renovations at a Ramada hotel in Cincinnati and the rest for refinancing. He also borrowed \$28.8 million in February 2008 from Mutual, including \$9 million to add two stories to a DoubleTree hotel in Boca Raton.

The hotelier and contractor "fraudulently obtained money from Broadway Bank and Mutual Bank by falsely representing that the money was to be used to pay for renovations at the Cincinnati Ramada and the Boca Raton DoubleTree when in fact defendants intended to use and used the money for other purposes, including the funding of unrelated real estate projects," the indictment states.

The indictment details a long list of transfers by Lewis requesting draws from the construction portions of the loans.

In one example, a sales order and invoice from the contractor "falsely reflected \$1,995,000 worth of structural steel had been purchased in connection with the purported renovations being performed" at the DoubleTree," the indictment said.

"There was no steel bought. There is no steel there. It was an invoice submitted as if it was purchased," said Michael Popok, the attorney representing Dallas-based United Central Bank in a foreclosure action against the Boca Raton hotel.

He expects Bisaria to miss a deposition that had been tentatively set for this month.

### **Suffered In Downturn**

The contractor submitted the sales order and invoice to Mutual Bank and the bank disbursed \$1.52 million to the contractor's bank, the indictment alleges. The contractor then transferred \$1.1 million to an account controlled by Bisaria.

Since the federal indictment was issued, acting U.S. Attorney Gary S. Shapiro has not sought to declare Bisaria a fugitive.

He has been besieged in recent years by litigation stemming from the failure of hotels in Boca Raton, Pittsburgh, Detroit, Cincinnati, Ohio, and Lincoln, Nebraska.

He has a hearing Oct. 22 before Palm Beach Circuit Judge Lucy Chernow Brown, who must decide whether the receiver in the Detroit hotel case can get Florida to recognize a \$50 million judgment.

Bisaria also faces trial in January in a \$30 million foreclosure lawsuit over the former DoubleTree hotel in Boca Raton, which now operates without a national flag.

"Should Judge Brown recognize the judgment — and that's a no-brainer, she should — the receiver goes after the personal assets of Bisaria and his wife," said Popok, partner in charge of the Coral Gables office of Weiss Serota Helfman Pastoriza Cole & Boniske.

United Central Bank took over the assets of Chicago-based Mutual Bank, a failed institution that made \$60 million in loans to Bisaria to refinance and renovate the landmark Detroit Riverside Hotel and the Boca Raton hotel.

Bisaria's civil attorney, Keith Grumer of Grumer & Macaluso in Fort Lauderdale, maintains his client's innocence.

"He was and remains a successful hotelier who suffered terribly during the economic downtown of 2008, and it was only during that economic crunch that he suddenly became everybody's target," Grumer said.

Bisaria's troubles drew public attention in 2010 when one of his companies, Shubh Hotels Pittsburgh LLC, filed for bankruptcy protection for the 712-room Pittsburgh Grand, the city's largest hotel.

Berger Singerman later helped an undocumented, unsecured creditor win full title to the property in May 2011.

Bisaria, a member on the board at St. Andrews School, a private boarding school in Boca Raton, is a U.S. citizen of Indian descent. He also develops properties in India. In 2005, he penned a deal with Planet Hollywood International to open five Planet Hollywood restaurants on the subcontinent.

#### **Loan terms disputed**

Grumer disputes the facts in the indictment, claiming Mutual Bank did not properly fund the loan for the Boca Raton hotel. The \$28.8 million loan required \$3 million to be paid at closing.

Had that occurred, Grumer said, "None of these circumstances would even see a courthouse."

The \$3 million had no limitations on it and was to be used to maintain cash flow at several properties, he said. Grumer contradicted the assertions in the indictment that funds were committed to specific projects.

"I have the loan documents, and the loan commitment has no such requirement," Grumer said. "It is only the appearance of impropriety that these people can rely upon in trying to overcome the deficiencies in their own case."

Bisaria had a collection of five hotels, and efforts were made to meet franchise requirements depending on which property needed renovations, Grumer said.

Assuming Chernow Brown recognizes the Michigan judgment, the receiver, David Findling of the Findling Law Firm in Royal Oak, Michigan, must get permission from U.S. District Judge Donald Middlebrooks in West Palm Beach to pursue the personal assets of the Bisarias.

Meanwhile, the Illinois indictment has thrown a monkey wrench into Popok's timetable. Bisaria now states through his attorney he will not be back until December.

"We were about to go back to [Circuit Judge Timothy McCarthy's] court to say he violated the order to appear for deposition," Popok said. "Then the indictment happened."

Grumer said Bisaria has every intention of cooperating with the government, "will be turning over tens of thousands of documents, and his name will be cleared."

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