

1 of 1 DOCUMENT

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HEADLINE: South Beach hotels in Ch. 11

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HIGHLIGHT:

The 50% owner of the Breakwater and Edison hotels is negotiating with its lender to resolve a dispute.

BODY:

The name Hilton has usually signaled success in the hotel industry, but for the owners of two Miami Beach hotels, it has only resulted in bankruptcy.

A dispute with lenders prompted both the petition of South Beach Hotel Investors LLC on March 24, and parent South Beach Investors LLC on May 10, 2005, in the U.S. Bankruptcy Court for the Southern District of Florida in Miami.

Hotel heiress Nicky Hilton had been linked to the two entities, namely because they were going to rename the two properties and one in Chicago after her.

Los Angeles investment firm Oaktree Capital Management LLC, which controls the lenders to South Beach, had scheduled a March 26, auction of the Breakwater and Edison hotels in Miami Beach under Article 9 of the Uniform Commercial Code, according to debtor counsel in the current case, Steven Mishan of Law Offices of Steven Mishan PA.

The procedure allows secured creditors to cause the sale of their collateral and take any sale proceeds to pay down their debt. All junior liens are divested.

South Beach Investors, backed by Robert Falor, and entities linked to local hotelier Jonas Mimoun each ultimately own 50% of the art deco hotels and their restaurants. Falor and Mimoun plan to convert the properties' 145 units into 95 larger units in a single condominium hotel with restored facades and an extra floor, court documents said.

Hilton was to lend her name to the project and to a similar conversion by Falor under way on the Hotel Blake in Chicago. But the plan to christen the properties with the Nicky O (for Hilton's middle name, Olivia) brand have been dropped, reports said.

Robert Falor Investments LLC and Grand USA Hotel Supply & Restaurant LLC had sued Hilton and agent Paul Fisher Feb. 12 in the U.S. District Court for the Northern District of Illinois in Chicago, alleging the heiress hadn't fulfilled an April 2006 agreement to promote the redevelopment of the Hotel Blake.

Judge Samuel Der-Yeghiayan dismissed the case March 14, however, on the request of the plaintiffs.

Hilton counsel David P. Beitchman of Beitchman & Zekian PC said the parties had settled all differences, although he declined to detail the agreement.

Falor counsel Rafey Balabanian of Cohon Raizes & Regal LLP also declined comment.

Mishan said South Beach is negotiating with Oaktree, which provided a \$20 million senior loan and a \$20.35 million mezzanine loan.

The talks will largely determine whether the debtor and affiliates SBBR 1 LLC, SBBR 2 LLC, SBHI 1 LLC, SBHI 2 LLC and South Beach Breakwater Restaurant LLC need a debtor-in-possession loan, the attorney said.

"Plans are to get the hotel up and running and employ a bunch of people down here and get it going," Mishan said.

He added that there was a lot of interest in the hotels, which date to the 1930s, and that the South Miami Beach-based debtor may have to consider offers.

An Oaktree representative did not return a call for comment.

Falor specializes in conversions of properties into condo hotels -- buildings where the owners of individual units can rent them out as hotel rooms.

The Hotel Blake, Solis Chicago and Cheeca Lodge & Club in Islamorada, Fla., are three of Robert Falor Investments' planned or current condo hotels.

The company acquired the 179-unit Mayfair Hotel & Spa in Coconut Grove, near Miami, with Colony Capital LLC. And Robert Falor Investments' Royal Palm Resort, like the Edison and Breakwater, combines two art deco properties in the South Beach section of Miami Beach -- the Royal Palm and the Shorecrest -- into one renovated hotel.

With the many hotel projects, however, have come many difficulties.

Falor's Falor Cos. teamed with Breakwater owner Mimoun to purchase the Edison in September 2004, according to a 2005 press release.

But a dispute with the original lender apparently led South Beach Investors and two affiliates to enter bankruptcy protection less than a year later in May 2005. After the debtors secured a refinancing of the senior debt by Canyon Capital Realty Advisors LLC and the mezzanine loan by Oaktree, Judge A. Jay Cristol dismissed the cases on June 15, 2005.

Debtor counsel Brian Rich of Berger Singerman PA declined comment on the case.

South Beach Investors began renovating the hotels in August 2005, documents show, but Canyon Capital subsequently cut off funding expenses, delaying construction after October 2006. Oaktree took over the senior loan in December when \$600,000 in collateral was added, and construction recommenced.

Mishan was unsure if South Beach Investors itself would file a new petition.

Falor's previous business, Falor Cos., purchased The Tides, a 45-suite Miami Beach hotel, in August 2004 with Tamares Holdings I LLC.

The buyers planned to convert the art deco property, two blocks from the Edison and Breakwater, into a condo hotel. But according to court documents, Falor affiliate Tides Hotel Investors LLC lost its portion of The Tides in an arbitration proceeding. Manager Kor Hotel Group purchased the unsold units and commercial spaces in February 2006.

Tamares and an affiliate later sued Falor and other defendants in June 2006 in the U.S. District Court for the Southern District of Florida in Miami over the initial purchase.

Falor and Falor Cos., however, settled the suit on March 14, although the litigation continues against other defendants.

Lender disputes are behind Chapter 11 filings for the owners of the Solis Chicago and the Century Building, also in Chicago.

Court documents show that the owner of Solis Chicago -- also known as Hotel 71 -- filed for Chapter 11 on March 2 in the U.S. Bankruptcy Court for the Northern District of Illinois in Chicago to head off an Article 9 auction scheduled for March 5.

As in the South Beach case, the mezzanine lender is controlled by Oaktree. Hotel 71 Mezz Lender LLC alleged debtor Chicago H&S Senior Investors LLC has been in default for more than a year on \$27 million mezzanine loan and that Chicago H&S now owes roughly \$49 million.

In its motion to dismiss the filing, the Oaktree affiliate also alleged the debtor has defaulted on a \$100 million mortgage loan. Debtor counsel Ronald Peterson of Jenner & Block LLP said H&S Chicago Junior Investors, a group of individuals, had provided the loan.

"This bankruptcy was doomed from inception, has no hope of ending in a successful reorganization and should be dismissed," Oaktree said.

Peterson declined comment, but he added that the debtor will respond to the dismissal motion by the Thursday, April 5, deadline.

A hearing to consider dismissal is set for April 17 before Judge Eugene R. Wedoff.

State Street Hotel Investors LLC, the owner of 50.1% of the Century Building, filed for Chapter 11 on June 22, 2005, in the Chicago court with affiliate State Street Hotel Manager LLC.

As with The Tides, State Street had partnered with a Tamares entity to purchase the vacant Chicago office building, which was to be converted into a condo hotel.

And as with the Chicago H&S and South Beach cases, State Street filed its petition to block a planned Article 9 sale.

Tamares affiliate Aurinko LLC was to conduct the sale later on June 22 because, the lender alleged, State Street had failed to pay a \$5.06 million loan when it matured two months earlier.

Thor Acquisition LLC agreed on July 13, 2005, to acquire the Century Building for \$6.4 million, documents show, and Judge Pamela S. Hollis dismissed the case on July 28, 2005.

Finally, Ohio investor Michael Voll sued Falor, Falor Cos. and other defendants on Jan. 30 in the U.S. District Court for the Northern District of Ohio in Cleveland for alleged fraud, breach of fiduciary duty and breach of contract.

Voll said in court documents he has invested more than \$1 million in The Tides, Hotel Blake, the Breakwater and Edison and the Mayfair. The suit seeks \$3.8 million in compensatory damages, as well as interest, fees, punitive damages and a receiver for the entities that control The Tides, the Mayfair and Hotel Blake.

"This plaintiff is only the most recent victim of a vast scheme orchestrated by the defendants to lure investors and would be partners into parting with millions of dollars, only to fail to effectively manage or even abandon the projects, leaving a trail of bankruptcies, foreclosures, and defrauded investors behind," the complaint said.

A Falor representative did not immediately return calls for comment, and counsel Ariel Weissberg of Weissberg and Associates Ltd. was unavailable.

Falor denied the claims in court papers, however, and asserted that Voll had breached a settlement agreement by refusing to contribute additional capital to the Hotel Blake project.

Brent Silverman and Robert Yallech, counsel to Voll at Reminger & Reminger, were unavailable.

South Beach listed \$1 million to \$100 million in assets and liabilities in court documents.

Judy and Jonas Mimoun hold a \$1.01 million claim, making them the largest unsecured creditor.

FMC Enterprises (\$950,500), PFI Holdings (\$950,500), MSD Investments (\$921,500) and DLA Piper LLP (\$355,108.93) hold the next-largest claims.

Judge Robert A. Mark is presiding over the South Beach case.

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