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Randles's Take: Lucky Dragon Bankruptcy Puts EB-5 Investments in Limbo

Foreign investors say hotel's developers didn't disclose loans, funding gap before bankruptcy



. PHOTO: TIM RUE/BLOOMBERG NEWS

By Jonathan Randles

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Aspiring immigrants who invested in the Lucky Dragon, an Asian-themed hotel and casino in Las Vegas, are alleging developers didn't disclose a funding shortfall or significant loans that the troubled project took on before it fell into bankruptcy.

Opened in 2016, Lucky Dragon was partially funded through the federal EB-5 visa program, which provides green cards to foreigners who invest \$500,000 in certain qualified U.S. businesses. Developers say they raised \$89 million for the hotel from about 179 EB-5 participants, pitching the idea of a hotel aimed at tourists from China and California's sizable Asian-American community.

But Lucky Dragon was beset with financial problems and in February filed for chapter 11 to prevent a lender from foreclosing on the property. The bankruptcy has put the EB-5 contributions at risk, and at least some investors have abandoned the immigration process, court papers say.

Lawyers representing investors have alleged in a bankruptcy court filing that materials presented by the hotel's developers purported to offer 230 limited partnerships in Lucky Dragon LP for a total capital raise of \$115 million under the EB-5 program. Developers, however, raised only \$89 million. Investors "were unaware" of the \$26 million funding shortfall, the filing said.

EB-5 investors claim they were similarly unaware that Lucky Dragon took out a loan from lender Snow Covered Capital LLC to close the funding gap. SCC provided Lucky Dragon with a \$30 million construction loan and a \$15 million revolving loan in 2016 that was secured by a deed on the property. SCC claims it is owed more than \$52.6 million, according to court documents.

In June, lawyers for the EB-5 investors said their clients may have potential claims for fraud and breaches of the limited partnership agreement with Lucky Dragon. Investors have filed claims for repayment in the bankruptcy seeking at least \$98 million. Lucky Dragon disputed the investor claims in a filing Monday.

Ryan Works, a bankruptcy lawyer representing the EB-5 investors, said Tuesday that the chapter 11 is not anticipated to impact his clients' ability to obtain permanent residence through the program. A number of construction and hospitality jobs were created as a result of the Lucky Dragon project, he said, and chapter 11 provides an opportunity to maintain hotel jobs under new ownership.

"Obviously, we want to make sure that we can get everyone permanent residency," Mr. Works said.

The hotel's developers are proposing to sell the property in chapter 11, and they anticipate that equity in the project will be extinguished. In July, Lucky Dragon entered into a letter of intent to sell the property to a joint venture between DeBartolo Development LLC and Achieved Management LLC for \$53 million. The proposed deal is subject to higher offers at a proposed auction.

Lucky Dragon's lawyers said in a July filing that the hotel is aware of one EB-5 investor who has been approved by the U.S. Citizenship and Immigration Services. In the proposed chapter 11 plan, the hotel's lawyers say bankruptcy provides the best opportunity to maximize the value of Lucky Dragon's assets and preserve the value of EB-5 investments, to the extent possible.

A lawyer representing Lucky Dragon declined to comment Monday. Lawyers for SCC didn't return a message seeking comment.

Lucky Dragon has said in court papers that it anticipates litigation may ensue among the debtors' principals, SCC and the EB-5 investors. The parties had a settlement conference with Judge Bruce Beesley but were unable to agree on how to move forward with the chapter 11 cases, court papers say.

The nine-story hotel, located on the north end of the Las Vegas Strip, has been estimated to be worth between \$55 million and \$60 million, according to the court filing. That valuation is based on evidence presented to a bankruptcy judge last month. The hotel is marketed as a "boutique style casino resort designed to create an authentic Asian cultural/gaming experience."

The owners of the hotel, Lucky Dragon Hotel & Casino LLP and Lucky Dragon LP, filed for chapter 11 protection in February to prevent a pending foreclosure of the property by SCC.

The proposed chapter 11 plan would eliminate millions of dollars in Lucky Dragon's debt and allow new owners to take over control of the hotel, the company has said.

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