

[Bankrupt Hotel Developer Must Face Bid For \\$15M Payout](#)

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Summary

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A group of investors in an Iowa hotel franchise can continue to pursue roughly \$15 million in fraud judgments against a former business partner who they claim hid millions of dollars in assets and filed for bankruptcy to avoid paying up, a Minnesota federal judge ruled Wednesday.

U.S. District Judge Susan Richard Nelson denied a bid by bankrupt real estate developer John F. Seibert and his firm JFS Development Inc. to toss investment group Cedar Rapids Lodge & Suites LLC's suit to recover four judgments in an underlying fraud suit in Iowa federal court, slapping down Seibert's argument that the group's conspiracy claims are frivolous.

Judge Nelson on Wednesday also gave the go-ahead to the franchise group — which is invested in the AmericInn Cedar Rapids Lodge & Suite in Cedar Rapids, Iowa — to amend its July 18 second amended complaint against Seibert, a former AmericInn vice president of real estate who declared personal bankruptcy under Chapter 7 in June 2016.

The judge said Seibert couldn't hide behind his claim of being "broke" to escape the group's allegation that he had hidden millions of dollars in assets.

"Defendants' points of disagreement with the second amended complaint are not adequate reasons to deny leave to amend," Judge Nelson said. "Plaintiffs have pointed to the delay caused by hard-fought discovery disputes and John Seibert's bankruptcy as reasons that they were unable to amend the complaint until now."

In its attempts to chase down its money, Cedar Rapids Lodge in its second amended complaint alleges Seibert liquefied and secreted his assets while publicly holding himself out to be insolvent. The complaint said that during the three years between Cedar Rapids Lodge's earlier fraud complaint against Seibert, filed in 2009 in Iowa federal district court, and a 2012 judgment in at case, Seibert's self-reported net worth dropped from approximately \$5.4 million to negative \$1.3 million.

In the Iowa action, which alleged violations of the Racketeer Influenced and Corrupt Organizations Act, the court entered a judgment against Seibert for \$12.18 million in damages in November 2012 and for \$2.15 million in

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attorneys' fees and costs in January 2013. Siebert was found to have induced the investors to fund the AmericInn hotel's construction in Cedar Rapids by lying about making a capital contribution of his own and hiding his lack of seed capital. The court also issued a \$77,929 sanctions judgment against Siebert during the litigation, and additionally entered a judgment against JFS Development for \$978,891.

In the Minnesota action, initially filed in November 2014, Cedar Rapids Lodge accuses Siebert of making a series of fraudulent transfers both by himself and through alter egos to delay or defraud his creditors. The hospitality company claims Siebert in 2011 was "systematically liquidating hundreds of thousands of dollars from his business interests and secreting or transferring the cash proceeds."

For example, according to the second amended complaint, Siebert in May 2011 liquidated his interest in Forest Lake Enterprises LLC and Forest Lake Operations LLC, which operated a Culver's restaurant in Forest Lake, Minnesota, for \$173,125. And in October of that year, he allegedly finalized the sale of his interest in a family farm and used \$150,000 of the \$158,928 in proceeds to pay down the mortgage on his home.

Also, Siebert in 2012 through 2014 worked for BriMark Builders LLC, a subsidiary of WGH Cos. LLC, a hotel development conglomerate founded by Brian Wogernese, a longtime friend and business colleague of Siebert, the complaint said.

From May 2012 until June 2013, Siebert earned a biweekly salary of \$910 for his work at BriMark and "routinely endorsed these checks over to his wife," according to the complaint.

In June 2013, Cedar Rapids Lodge served Siebert with a notice of intent to garnish his BriMark wages, and immediately thereafter he stopped receiving regular salary payments from BriMark and instead began to receive expense reimbursements and "a series of irregular commissions for executed construction contracts," the complaint said.

"This restructuring of John Siebert's compensation, in the face of plaintiffs' garnishment efforts, done with both the knowledge and approval of John Siebert's friend Brian Wogernese ... illustrates that these efforts were plainly undertaken by John Siebert with the intent to hinder, delay and defraud his creditors," the complaint said.

Alexander J. Beeby, a lawyer for Siebert, told Law360 in an email on Thursday, "We respectfully disagree with Judge Nelson's conclusions. We are reviewing the decision and our options for continuing to defend our clients."

Representatives for Cedar Rapids Lodge did not immediately respond Thursday to a request for comment.

Cedar Rapids Lodge is represented by Amy J. Swedberg, Charles G. Frohman and Martin S. Fallon of Maslon LLP, and Brian D. Thomas, Chloe F.P. Golden and Robert H. Miller of Sheehan Phinney Bass & Green PA.

The John F. Siebert and JFS Development defendants are represented by Alexander J. Beeby and Thomas J. Flynn of Larkin Hoffman Daly & Lindgren Ltd.

The case is Cedar Rapids Lodge & Suites LLC et al. v. John F. Siebert et al., case number 1:14-cv-04839, in the U.S. District Court for the District of Minnesota.

--Editing by Orlando Lorenzo.

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