

# Diamond Execs Want Out Of Ch. 11 Bank Fraud Claims

A pair of executives for a trio of bankrupt jewelry companies owned by Indian billionaire Nirav Modi told a New York bankruptcy court Tuesday they can't be held responsible for their alleged part in Modi's \$2 billion bank fraud schemes.

Mihir Bhansali and Ajay Gandhi asked the court to dismiss adversary claims brought against them by the Chapter 11 trustee for Firestar Diamond Inc., Fantasy Inc. and A. Jaffe Inc. for breaching their fiscal duties by involving the companies in Modi's alleged scheme, arguing in part they were not the ultimate decision-makers.

"As Bhansali's duty was to the owner of debtors, even if these allegations were true, it is inconceivable how his allowing their ultimate owner and primary shareholder, Modi, to exert control and decision-making authority of debtors' operations was with reckless indifference or without the bounds of reason," Bhansali said.

The American companies, part of Modi's international business empire, had operations around the world and have sold eye-catching jewelry to a number of celebrities over the years. They also sold finished jewelry in bulk to major retailers including Macy's, Zales, Costco and J.C. Penney, among others. Those companies filed for Chapter 11 protection in

February after Indian authorities seized their manufacturing facilities in connection with their investigation into Modi's massive fraud scheme.

Modi is accused of defrauding Punjab National Bank of roughly \$2 billion over several years by colluding with middle

management at a local branch to set him up with fake guarantees that opened the door for massive loans. The scheme has been described as

the largest bank fraud in Indian history.

In August, an examiner from Baker Hostetler concluded Firestar, Fantasy and A. Jaffe directly participated in the scheme by engaging in sham transactions with Modi-controlled shell companies to create an inflated value for their diamonds that Modi used to secure loans.

The report concluded it was "highly likely" that Bhansali and Gandhi, who respectively served as CEO and CFO of the three companies, had been directly involved in the scheme. In March, the companies' Chapter 11 trustee, Richard Levin, filed an adversary complaint against Modi, Bhansali and Gandhi, claiming breach of fiduciary duty and violation of the Racketeering Influenced Corrupt Organizations Act

Serpe Ryan client moves for dismissal in a bankruptcy action involving the largest bank fraud in Indian history.

He alleged the scheme cost the companies millions, left them open to claims by PNB and led to their collapse. He claimed Bhansali and Gandhi allowed Modi to use the companies for his scheme and directed and oversaw the sham transactions.

Both men claimed most of the alleged acts are past the statute of limitations and that Levin had no standing to bring a RICO claim because the alleged goal of the scheme was to defraud PNB, not the U.S. companies. "In fact, the alleged conduct at all times benefited the corporations and any injury alleged is only when the alleged fraud was revealed — in the form of potential obligations to PNB [and insolvency]," Bhansali said.

Bhansali argued he was not in breach of his fiduciary duty, arguing his duty was to the

parent Firestar Group. All three companies were fully owned by Modi, and allowing Modi to make decisions for the business was not a breach, he said. "Here, there are no allegations — nor could there be — that Bhansali engaged in any self dealing or personally benefited from the alleged wrongdoing," he said.

For his part, Gandhi also argued he was a level of authority below Bhansali. "The trustee offers no allegations to explain how Mr. Gandhi allowed his boss's boss to in turn usurp his boss's authority or even how such a state of affairs was possible," he said.

Counsel for the parties did not immediately respond to requests for comment late Tuesday.