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COMMERCIAL DEVELOPER AND PROPERTY MANAGER INDICTED IN ALLEGED \$3 MILLION FRAUD SCHEME; ALLEGEDLY PAID SOME FUNDS TOWARD UNSUCCESSFUL BID TO BUILD TALLEST BUILDING IN CHICAGO

CHICAGO – A commercial real estate developer and property manager who once proposed building the world’s tallest building in Chicago was indicted on federal fraud charges for allegedly stealing more than \$3 million from the owners and tenants of properties his company managed in Chicago, Atlanta and elsewhere. The defendant, **Scott K. Toberman**, owner and president of European American Realty, Ltd. (EAR), allegedly used the fraudulently obtained funds for such personal expenses as purchasing antiques, fine wine, and paying tuition at Harvard University, as well as to pay debts he incurred to professional firms in connection with his ill-fated plan in 1999 to build the world’s tallest office tower at 7 South Dearborn St., in Chicago.

Toberman, 51, of Atlanta, was indicted on 10 counts of fraud by a federal grand jury late yesterday, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation. He will be arraigned at a later date in U.S. District Court in Chicago.

According to the indictment, EAR managed commercial properties at 11 South LaSalle St., 250 South Wacker Dr., and 18-28 South Michigan Ave., all in Chicago, and several office buildings in Atlanta and elsewhere in Georgia, as well as in Richmond, Virginia, and Dayton, Ohio.

Between July 2001 and March 2005, Toberman allegedly fraudulently obtained access to more than \$3 million belonging to the owners and tenants of those EAR-managed properties and used the money for his own benefit. The indictment alleges that Toberman fraudulently represented that he would faithfully collect rents and other funds owing to the building owners, deposit them into accounts for their benefit and distribute and spend the funds only as authorized under the terms of EAR's property management agreements. Toberman made those false representations knowing that he intended to divert a substantial portion of the funds for his own personal benefit, the indictment alleges.

Separately, according to the indictment, in 1999 Toberman hired a project management and construction consulting firm and an architectural and engineering firm to assist him in the development of the proposed 7 South Dearborn project. Although the project was never completed, Toberman incurred substantial debt to the two professional services firms. Unsuccessful efforts to develop the project resulted in litigation involving Toberman and he incurred additional substantial debt to a law firm for legal representation. He used a portion of the funds he stole from the EAR-managed properties to make payments to the three professional services firms between 2001 and 2003, the indictment alleges.

The government is being represented by Assistant U.S. Attorney Brian Hayes.

If convicted, nine of the 10 fraud counts each carry a maximum penalty of 20 years in prison and a \$250,000 fine, while the remaining count carries a maximum of 5 years in prison and a \$250,000 fine. As an alternative, the Court may impose a maximum fine equal to twice the loss to any victim or twice the gain to any defendant, whichever is greater. Restitution is mandatory and the Court would determine the appropriate sentence to be imposed under the advisory United States Sentencing Guidelines.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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