The dark, disturbing world of the visa-for-sale program

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Whether you're a skilled technology worker or a poor laborer, it's getting harder to become a U.S. citizen. But for those with $500,000 to buy their way in, it's a different matter. That's just the beginning of the problem.

On Nov. 15, 2012, about 100 people gathered in a parking lot near O'Hare Airport in Chicago for a ceremonial occasion: the demolition of a fleabag motel to make way for what was intended to be a world-changing construction project. Next door to a Hooters restaurant, just off the Kennedy Expressway, was to rise a commercial and environmental wonder—the "World's First Zero Carbon Platinum LEED-certified and 100% Allergen Free convention center and hotel complex." Lest anyone doubt its global eco-import, the project's developer was branding it as a "Kyoto Protocol Centre." At a projected cost of $913 million, it was to include three connected towers—14, 17, and 19 stories tall—containing five upscale hotels with 995 suites and rooms, four levels of convention space, a green roof with a spa and yoga studio, a miniature golf course, and a 1,720-car "automatic robotic" parking garage. All this would be financed with the help of a government immigration program known as EB-5, which allows wealthy foreigners to obtain U.S. citizenship by sinking $500,000 apiece into a venture that creates American jobs. Spellbound by the sales pitch—which included "guarantees" that the project would deliver visas and juicy returns—nearly 300 eager Chinese investors had anted up a total of $147 million.

Now construction was finally about to begin—or so Anshoo Sethi had told everyone. Sethi was the project's mastermind, a slender, soft-spoken young man with a grandiose vision. Nattily dressed as usual, in a cream-colored suit with a lavender tie and pocket square, Sethi presided over the proceedings in a white tent festooned with balloons. There was champagne, hors d'oeuvres, and cupcakes. Superstitious, he had sought the insights of a "corporate astrologer," who had instructed him to place a "money plant"—associated in Indian culture with prosperity and fortune—next to the podium.

The dozen speakers at the ceremony included two Chicago union bosses, who praised the development's pledge to generate 8,495 jobs; Sethi's real estate adviser, who gushed about the prospects for the complex's name-brand hotels; a state senator; and Kevin Wright, a consultant who had helped Sethi raise all that Chinese cash.

Also speaking was Anshoo's father, Ravinder, who had emigrated from India to the U.S. in 1977. The project's offering memorandum, which listed Ravinder and Anshoo as the deal's principals, described father and son as seasoned, respected veterans of real estate and hotel development.

The truth was rather different: Ravinder was a pharmacist and small-time businessman with a felony drug conviction in his past; more recently he'd been forced to sell his storefront pharmacy on Chicago's South Side after inspectors had discovered more than 200 unlabeled bottles of pills on the premises.

In the offering memo, Anshoo was said to have "over 15 years of experience in real estate development and management, specifically in the lodging area." In fact, his business experience mostly consisted of managing the family's motel—the very structure they were preparing to demolish—to disastrous effect. If you believed the offering document, Anshoo would've had to enter the industry at age 14, because he was still only 29.

But no one at the festivities seems to have troubled with such details. After the speeches were over, everyone donned white hardhats to pose for photos with the ceremonial chrome shovels Anshoo had purchased for the occasion. He then climbed into the seat of a backhoe. With an operator directing him, Sethi tore a symbolic first chunk out of the old motel, starting to clear the site for the glorious new complex that was certain to rise soon.

You may never have heard of EB-5, the program that delivered $147 million to Sethi's convention-center dream. It is one of the least explored of the many dark corners in America's deeply troubled immigration process.

Immigration dominates the news today, and it's just the latest crucial issue locked in a bitter Washington stalemate. The consequences have been dire. Whether it's tens of thousands of impoverished children detained by border officials and clogging government facilities, or scientists and engineers highly coveted by technology companies who aren't permitted to remain here, the U.S. is preventing countless foreigners from staying in this country.

Increasingly, the skilled and the poor are out of luck. But the rich are another matter. The program (EB-5 is short-hand for the government's fifth employment-based visa "preference") allows well-heeled foreigners to leap to the front of the line by simply plunking down $500,000.

From the law's inception in 1990, selling potential citizenship to the rich struck many as a corruption of American ideals. "Have we no self-respect as a nation?" asked Texas congressman John Bryant on the House floor that year. "Are we so broke we have to sell our birthright?"

But that powerful objection was overcome with an even more potent counterforce: The program would generate jobs where they're needed most. Immigrants seeking EB-5 visas must invest their half-a-million dollars in a new business that creates 10 full-time U.S. jobs in a high-unemployment or rural district. (Technically, one can obtain an EB-5 visa for $1 million with no requirement that the jobs benefit a struggling area; in reality, few apply under that provision.)

Today EB-5 commands bipartisan support—and it's booming. Believers tout the program as a "win-win-win" that helps immigrants and U.S. workers, and provides valuable investment in

American communities. A trio of billionaires—Warren Buffett, Bill Gates, and Sheldon Adelson—recently endorsed the program in an op-ed column in the *New York Times.*

But because the EB-5 industry is virtually unregulated, it has become a magnet for amateurs, pipe-dreamers, and charlatans, who see it as an easy way to score funding for ventures that banks would never touch. They've been encouraged and enabled by an array of dodgy middlemen, eager to cash in on the gold rush. Meanwhile, perhaps because wealthy foreigners are the main potential victims, U.S. authorities have seemed inattentive to abuses.

Certainly, there are thriving, completed successes (see "Five by EB-5"). An industry-funded study, using models and assorted economic-impact multipliers, claims that spending "associated with" EB-5 investors in 2012 contributed $3.4 billion to the U.S. economy and "supported" 42,000 jobs.

Others who have examined the program view it very differently. They question whether it generates many jobs—especially in needy areas. A December 2013 study by the Department of Homeland Security's inspector general found that the government "cannot demonstrate that the program is improving the U.S. economy and creating jobs for U.S. citizens." A February 2014 paper by the Brookings-Rockefeller Project on State and Metropolitan Innovation concluded that "knowledge of the program's true economic impact is elusive at best."

There are two reasons for that. First, the government is exceedingly generous in its employment tally. It gives EB-5 investors credit for all the jobs theoretically spawned by a project even when EB-5 money represents only a sliver of its financing. Second, for many mainstream ventures, EB-5 money isn't really creating jobs—it's merely saving developers money for projects that would be financed anyway. (Indeed, those big companies are actually "hijacking" money from worthy smaller investments in hard-hit areas, argues Michael Gibson, a financial adviser who vets EB-5 investments.)

Anshoo Sethi's legal troubles may not be over. Criminal investigators have been circling, a fact acknowledged last year in Sethi's legal pleadings. He and his father, Ravinder, declined to be interviewed. (Anshoo's lawyers at the Chicago offices of Perkins Coie would not comment on whether the criminal investigation continues. They did provide a statement; see "Sethi Weighs In.")

But the saga of Sethi and his audacious convention center—dismissed by EB-5 advocates as an aberration—reveal the troubling underbelly of the program, a murky realm of dreams and promises where greed is given free rein. Even when operated within the letter of the law, EB-5 is riven with conflicts of interest and subject to the corrupting effects that occur when large sums of money are available with few restrictions. And in the real world it's much worse.

Graphic Sources: the Brookings-Rockefeller Project on State and Metropolitan Innovation; Office of Immigration Statistics, Department of Homeland Security

For the first 18 years of its existence, the EB-5 program was a dud. It fell dramatically short of projections that it would foster 40,000 jobs a year and never approached the program's annual ceiling of 10,000 visas. In 2003 the government issued EB-5 visas to 65 immigrants.

Raising money through EB-5 was complicated, and plenty of traditional financing was available. For their part, immigrants found the program too dicey. In Canada's competing offering, applicants simply lent money to the government and were guaranteed its return. But in the U.S. the $500,000 investment has to be "at risk." Immigrants first apply for a provisional green card; then, to get their permanent visas, they have to submit evidence within two years that their money has provided 10 jobs. If the project fails to do that, immigrants and their families can be deported.

In 2008 the financial crisis hit, and everything changed. With banks refusing to lend, EB-5 took off—first because it offered the only capital, then because it was cheap capital. Today the program brings about $1.8 billion into the U.S. annually. The government is on pace to grant more EB-5 visas in 2014—closing in on 10,000—than it did in its first 17 years combined.

At the heart of the program is an unusual trade: Because the immigrants care far more about getting a green card than anything else (their families get visas too), they're willing to accept a token financial return. In fact, when "administrative" fees of about $50,000 are added, they're typically paying for the privilege of sinking $500,000 into a U.S. venture for five to seven years—with no guarantee that they'll ever get it back. And in part because of distance and language barriers, the targets of EB-5 pitches seem ill-equipped (or disinclined) to assess the business risks.

Though the government issues the visas, private developers reap the benefits. After middlemen get their piece, the cost of EB-5 capital runs between 4% and 6% a year—less than half of what developers would typically have to pay for mezzanine debt or to equity investors. Raising $100 million through EB-5 can add $20 million to a project's bottom line.

The growing demand for EB-5 financing is being met largely by new Chinese millionaires, eager for greater freedom and less pollution, or to send their kids to college in the U.S. More than 80% of the program's applicants now come from China, making it the mother lode for EB-5 prospecting.

Out with the old: Sethi, in cream-colored suit, top. at the 2012 ceremony that began the demolition of the family motel to make way for his planned convention center, which was displayed in a model. Champagne was served.Photo by Amy Boyle Photography

That's evident at Brian Su's annual "Invest in America Summit," held in March in Shanghai and one of the big events on the EB-5 conference calendar. This year's edition drew more than 60 U.S. exhibitors seeking Chinese cash. A "platinum" sponsorship package at the conference went for $46,000.

Su, 48, defected to the U.S. from China in 1989. After two decades as a state bureaucrat in Springfield, Ill., he now makes a globetrotting living as guide and guru for new U.S. entrants to EB-5. Among his former clients: Anshoo Sethi.

According to Su's website, his offerings include "Brian Su's Inner Circle" (membership: $15,000 a year), providing exclusive entrée to "my powerful and extensive relationships throughout China and the U.S." Su charges $10,000 for 30 days of private coaching on EB-5 fundraising. He regularly leads Americans on "trade missions" to China, where, for $11,000 a head plus travel expenses, he introduces them to key players in the sale of EB-5 investments. Developers and consultants who send Su business are heavily promoted on his closely followed industry blog and on VIP panels at his conferences.

The exhibit hall at Su's 2014 conference in Shanghai showcased projects ranging from the prosaic (four new locations for the World of Beer restaurant chain) to the improbable (a billion-dollar cargo port off the coast of Louisiana).

But EB-5 is no longer a realm just for those who can't find capital elsewhere. New York City's biggest developers were at the conference too. Stephen Ross's Related Cos., for example, is seeking $800 million in EB-5 funds to help bankroll Hudson Yards, a $20 billion project on the West Side of Manhattan.

EB-5 fundraising is a messy process, more like pitching vacation timeshares than any normal form of deal finance. Developers embark on road shows to big cities across China. With help from local "migration agents," they use spam messages, slick websites, and telemarketing to round up potential investors for free dinner seminars featuring raffles for iPhones and lofty promises of a brighter future.

The potential payoff is big enough—the company estimates it will save about $200 million—that Related has stationed eight employees in China and showcased its project at the Shanghai convention. Related offered the best swag in the exhibition hall: Hudson Yards–branded luggage tags, cellphone chargers, stereoscope viewers with 3-D slides of the planned development, and toy New York yellow taxis with flashing headlights and honking horns. To draw foot traffic, Related deployed a pair of models, dressed in slinky, custom-made blue-satin *qipao* dresses with "Hudson Yards" on them.

Despite the arrival of institutions like Related, EB-5 remains a wild and woolly realm. For starters, few of the usual safeguards for multimillion-dollar financings exist. EB-5 investments are typically sold through unregistered securities offerings and rarely involve broker-dealers, so deal documents receive no SEC scrutiny and face little due diligence. Even the corporate attorneys who prepare offering documents rarely check their clients' claims or backgrounds, according to EB-5 lawyers and experts. Many EB-5 attorneys represent both the project and the investors, a clear conflict, and take undisclosed fees from developers—up to $60,000 per immigrant—to steer clients to particular projects.

The EB-5 program isn't overseen by a financial regulator but by the U.S. Citizenship and Immigration Services (USCIS), part of the Department of Homeland Security. Accustomed to processing visas and conducting immigrant background checks, USCIS is ill-equipped to review business plans, job- creation studies, and securities offerings. The SEC retains the power to police fraud. What that means is the agency has no mechanism to sniff out a problem until it has exploded, at which point the agency can only clean up the mess.

After arriving in the U.S. from India, the Sethi family pursued its version of the American dream, building a modest—if troubled—business empire. Ravinder Sethi arrived in the U.S. from India in 1977; his wife, Ranjna, came later. Anshoo was born in Chicago in 1983.

The father, who had earned a pharmacy degree at Panjab University, went to work as a pharmacist in Chicago shortly after receiving his American license. But Ravinder's career was marked by legal and regulatory problems. In May 1985 he was convicted of felony possession of a controlled substance with intent to deliver and placed on probation, after a sting operation targeting clinics selling narcotics to welfare recipients. In response, state regulators in 1986 suspended his pharmacist's license for 30 months.

In 1987 a new entity incorporated by Sethi's wife under her maiden name then bought and began operating East Calumet Health Services, a pharmacy and walk-in clinic on Chicago's South Side, next door to a Lots for Le$$ used-appliance store. City building inspectors cited the business for infractions ranging from rotted subflooring and exposed sewage to basement rat droppings. In 2011, after a state inspection discovered lax oversight of controlled substances in the pharmacy, Ravinder signed a consent order that included a reprimand, a $10,000 fine, and his promise to sell the business.

In the 1990s the Sethi parents branched into day care, opening three Happy Days Child Development Centers, run by Ravinder's wife. Their company today receives some $1 million annually in state child-care funds. By 2003 the family was successful enough to buy a stately four-bedroom brick home in Dearborn Park, Ill., for $1.4 million.

That year the Sethis went into the hotel business, buying a 122-room motel, originally built as a Howard Johnson Motor Lodge, out of foreclosure for $10 million. Renamed the Chicago O'Hare Garden Hotel, it sat on a 2.8-acre tract, four miles from the airport. Ravinder placed its operations in the hands of Anshoo, then a licensed pharmacy technician and college student, who turned 21 in October 2004.

Anshoo, who graduated from the University of Illinois at Chicago with a degree in finance in 2006, seemed to have ambitions for the motel. He signed a franchise agreement to upgrade the place into a Wyndham Garden Hotel. But after less than a year Wyndham terminated the agreement, citing "financial and quality assurance defaults." According to court documents in the resulting lawsuit, he failed to make promised improvements and didn't pay his franchise fees. Wyndham demanded $292,000 in damages, and Sethi eventually settled.

In truth, Anshoo Sethi never displayed much interest—or skill—in running a hotel. A longtime employee says Sethi was rarely around, and he quickly began cutting back on staffing and pay. A U.S. Labor Department complaint, filed later on behalf of 17 hotel workers, alleged that he paid housekeepers less than minimum wage, giving them just $2 for each room they cleaned, and failed to pay overtime to employees. Anshoo eventually entered into a consent judgment, paying the full $42,000 the government said he owed, while not admitting the allegations.

Sethi found novel ways to cut corners. According to the former employee, Sethi had maids refill guests' half-empty shampoo bottles with water to save money. In 2008 the hotel shut its restaurant and gave up its liquor license. Its swimming pool sat empty, filled with trash and weeds.

Vendors complained of unpaid bills. In February 2010 the motel bounced a $332 paycheck. After a last-minute transfer of $2,232 to pay its maids, Sethi warned the employee in an email: "That is it. There is no more money in the accts." In 2011 city inspectors fined the Sethis $5,540 for 11 building violations, including missing smoke detectors, large cracks in the walls and ceilings, broken stairs, and failure to "keep premises clean, sanitary, and safe."

Under Anshoo's management, rooms that rented for $109 a night in 2006 were going for as little as $37 by 2009. One patron was convicted of cocaine possession with intent to distribute after the drug was found in the safe in his room. Two suicides occurred in the hotel. Sethi tried to boost business with posts on a medical message board where he posed as a physician who had discovered "a great hotel" for "us doctors." It didn't work. Half the guest reviews on the TripAdvisor website rated the place "terrible." Among the comments: "Disgusting!!!!" "hotel from hell," and "Oh My God!"

Even as the hotel spiraled downward, Sethi began affecting the glitzy trappings and ambitions of a junior Donald Trump. Handsome, with deep-set dark eyes, he wore flashy designer suits and alligator shoes, carried a Louis Vuitton briefcase, and drove a white Mercedes. In 2007 he began talking about opening a second hotel on the O'Hare property. Then he began hatching plans to build three hotels, connected by an underground convention center. This was the germ of the idea that would lead him to EB-5.

Sethi began currying relationships with high-priced lawyers, lobbyists, and politicians, some of whom would play key roles in his plan. He hired Michael Madigan, speaker of the Illinois assembly (a part-time position), who is also a lawyer in private practice. Madigan persuaded authorities to slash the tax bill of Sethi's property by 50%. A different lawyer secured a needed zoning change. Sethi signed franchise agreements and paid fees to the Starwood and InterContinental chains, allowing him to build hotels for their brands. But getting someone to give him money to do that was more difficult.

Sethi was an enigma. He was timid and halting in public. But somehow he managed to play his youth and the sense that he was in over his head to his advantage as he flattered a series of powerful older advisers. Sethi displayed an unusual mix of bravado—and seat-of-the- pants desperation. In January 2009 he told the Chicago *Real Estate Daily* that he was in final negotiations to finance the first phase of construction. A few days later he put a post on an Internet message board seeking a standby letter of credit "of only $15-20M" for "a very Large Hotel & convention center development."

None of that, of course, came to fruition. How could it? Sethi was a 25-year-old whose only business experience was running his shabby motel badly. His project didn't make sense: The Chicago hotel market was lousy, especially near O'Hare. But 6,000 miles away he'd find a pool of eager investors.

Anshoo Sethi was perfectly suited for the world of EB-5. He was willing to say exactly what Chinese investors wanted to hear, with seemingly little care as to whether it had any basis in fact. He was guided in this strange fundraising realm, beginning in early 2010, by a consultant named Kevin Wright. A former marketing executive for a company that sold art and celebrity memorabilia, Wright, 34, has become an EB-5 industry luminary. The website for his Palm Beach firm, Wright Johnson, describes him as an expert in "econometric analysis," though he lacks a college degree (in any subject).

Wright's firm enjoys a booming business in the creation of "regional centers." They are one of the oddities of the EB-5 system. "Regional centers," which are legally required and USCIS-certified, sound as if they are federal offices, but they're not. They are typically private, profit-making operations that pool EB-5 money for development projects. Oh, and there's one other quirk: These seemingly independent operations are often launched and operated by the very developers who are raising money, giving them an extra measure of control.

The regional centers that operate independently can be highly lucrative. Centers usually charge a developer about 2% annual interest for at least five years on whatever amount of immigrant capital they raise. A $60 million deal can thus generate $6 million or more in income. One major operator, the New York City Regional Center, expects its total income on just four large ventures to total $50,187,500, according to a worksheet prepared in a lawsuit between feuding business partners.

Like banks and Wall Street firms, regional centers sell securities and handle millions. Yet there are no rules on who can own or run a center, and no audit requirements. A regional center doesn't have to report publicly on its performance, identify its principals, or disclose any financial, legal, or regulatory problems they have encountered.

Creation of a center requires the submission of economic studies and an array of other paperwork to USCIS. And that's where Wright Johnson comes in. In a confidential 2012 marketing document obtained by *Fortune*, his firm touted its "total package solution for EB-5 application and marketing," including lawyers, economists, and business-plan writers, offered for $95,000. "There is no other EB-5 consulting group that can claim even half of the success of WJ," boasts the 26-page document.

Sethi signed on, and in October 2010, with the help of Wright's team, applied to USCIS for formal designation of his very own regional center: the Intercontinental Regional Center Trust of Chicago. The U.S. government approved Anshoo as CEO; his father was the "principal shareholder." The regional center's only project? The Sethis' hotel and convention center.

One essential part of gaining USCIS approval was crafting an acceptable "targeted employment area," or TEA. The EB-5 law requires investment in a district that is either rural or has a jobless rate that is 150% of the national average. But after years of industry pressure, it's now USCIS policy to automatically accept any state designation of a TEA, even though states routinely approve gerrymandered districts that tack on distant high-unemployment tracts to allow EB-5 endeavors in wealthy areas.

Thus, a Marriott hotel in elegant Marina del Rey, Calif., sits within a TEA. (The *Los Angeles Business Journal* noted that this was accomplished by attaching poor areas 15 miles away.) So does a $20 million addition to a W Hotel in Hollywood. And Silverstein Properties, another big New York developer, is seeking EB-5 funds to build a new luxury Four Seasons Hotel in Tribeca, which its promotional video describes as "New York's most popular affluent residential neighborhood."

Sethi's planned development was located in a census tract with a jobless rate below the national average. To meet the requirement, Sethi and his consultants concocted a TEA connecting 21 tracts in the shape of a long C, hooking in poor neighborhoods eight miles away.

Sethi's regional center application included claims that troubled at least one member of Wright's consulting team. Suzanne Lazicki, who edited the business plan in August 2010, was taken aback by the comment that Sethi had "over 15 years of experience in real estate development and management." Lazicki had met Sethi and been struck by his youth. At the time (though this wasn't in the documents), Anshoo was 27. "I thought it was a typo," Lazicki says. She says she raised the issue with Wright, who checked with Sethi. "They said no, they meant to put that in," according to Lazicki. "His explanation was that [Anshoo] basically grew up in the business, because his family had been in the business." The reference remained.

Lazicki says she also questioned some of Sethi's "very aggressive" financial projections, and was told that they resulted from the complex's unprecedented energy efficiency. Recalls Lazicki: "Kevin took the position that it wasn't his job to tell Anshoo what he should do. It was his job to find out what Anshoo planned to do and put down that plan."

Wright offered brief comments about Sethi in a phone interview. "All I can say," he says, "is that it appears that he was a very fraudulent person. He tricked a lot of people, including me. He seemed like any other business-type person or developer, a very hard-working person." (Wright declined further interviews, though he did deny knowledge of wrong-doing in an email that addressed a number of questions.)

By 2011, Sethi had reinvented his project into something far bigger, far more remarkable, and far more buzz-worthy. Instead of a convention center with three hotels, it would include five—with a breathtaking array of green features. Even the mundane operations of the complex would be bristling with innovation, such as "biometric self-service check-in."

Despite its $913 million development cost—a staggering $917,088 per room, far more than the priciest luxury hotels—the sprawling center would prosper because of its "synergetic advantages," according to a 77-page private-placement memorandum and business plan that he circulated to investors in late 2011. It would be a magnet for the "technologically savvy" and "environmentally conscious," so energy-efficient that it would make a profit at 42% occupancy.

(A finance scholar who later studied these claims would conclude that meeting Sethi's revenue expectations would require 100% occupancy of all five hotels 365 days a year—at a rate of $289 a night.)

The investor memo went on at length about Anshoo's "formidable proficiency in global finance," stating that he had "executed several corporate acquisitions and divestitures" and grown his family's business "exponentially." The principals, according to the memo, had "built over 250+ hotel developments from coast to coast for prestigious clients in all hotel brands."

As Sethi described it to EB-5 investors, all the pieces were in place to start construction in the summer of 2012 and open the first hotel tower in early 2014. Sethi reported that he had already obtained building permits and held "executed franchise agreements" for all five hotels: Element by Westin, Hotel Indigo, Staybridge Suites, Hyatt Place, and Hyatt Summerfield.

In truth, Sethi had no franchise agreements. Westin, Indigo, and Staybridge Suites had all terminated earlier agreements with Sethi by 2010, after he'd missed deadlines to start construction; Westin was demanding $1.2 million in damages. Hyatt had never signed any agreement and had ordered Sethi to stop using its name. Sethi also had no final construction plans, much less a design that might attain Platinum LEED status. nowhere in the documents did he list a project architect. He had obtained no building permits.

The documents offered a fantastical account of how Sethi would finance his $913 million opus. First, he pegged his own "direct investment"—the decaying hotel site—at $177.5 million, even though his family had bought the property seven years earlier for $10 million.

Next came government financing: $485,455,171. Sethi reported that his project had already "been qualified" for energy-efficiency green bonds issued by the Illinois Finance Authority; he was anticipating $339.8 million. He was also counting on $48.5 million in "loans generated from federal and state tax credits" and $97.1 million in unspecified government grants. None of this, in fact, was in place. The Illinois Finance Authority hadn't approved anything.

Finally, of course, there was EB-5. Sethi was seeking $249.5 million from 499 investors, the maximum for an unregistered securities offering. And that's where the massive scope of the convention center worked to Sethi's benefit: It justified an economist's projection that the complex would create a spectacular total of 8,495 jobs.

Having crafted his elaborate fantasy, Sethi proved a quick study in the game of selling an EB-5 project in China. He agreed to pay top rates to local agents to push his deal. Chinese investors rely heavily on the agents, according to experts in EB-5 fundraising, usually unaware that the agents are getting more than the modest fee—perhaps $5,000—paid by the investor. In truth, they now make as much as $100,000 per investor, with the rest coming from the developer.

Like their U.S. counterparts, Chinese agents typically conduct little due diligence, instead steering their clients to the project that pays them the most. In her dealings, says Anna Morzy, an EB-5 lawyer with the Fragomen firm in Chicago (who wasn't involved in the Sethi case), "the agents didn't ask any questions, other than 'How much am I getting paid?' "

Sethi employed another common technique, implying that a project has official government backing in the U.S. That is immensely alluring for Chinese investors, who are accustomed to a government that controls everything. To do that, Sethi snookered Illinois Gov. Pat Quinn. Working through another well-connected lobbyist, Michael McClain, Sethi angled for some overseas face time with the governor during a planned trade mission to China in the fall of 2011. (McClain declined to comment.) The hook, Sethi wrote in an email forwarded to the governor's staff, was an opportunity to speak about "why the state of Illinois is great for investment." This, Sethi wrote, could provide "a Kodak opportunity with the governor." With help from Quinn's commerce secretary—who taped a video endorsing the convention project—Sethi did even better.

On Sept. 18 the governor and his delegation, which included business executives and state senators, returned from their tour of the Great Wall to attend a dinner Sethi hosted at the Westin Chaoyang Hotel in Beijing. The event produced a multitude of "Kodak moments," including footage of the governor strolling down a red carpet with a beaming Sethi and images of the two toasting each other.

All this became priceless propaganda, which was soon plastered across Chinese marketing websites. Belatedly recognizing they'd been bamboozled ("They know how to use us," complained one aide in an email), Quinn's staffers demanded he cease using the governor's image and the Illinois state seal. Sethi ignored them.

In sales meetings with prospective investors in China, Sethi was even more brazen. A 41-minute video of one such session, held at the Beijing Sofitel on Oct. 29, 2011, shows him responding to several translated questions, including: Can you guarantee investors a green card?

Without question, Sethi said. He made brash, sometimes outlandish, promises. He claimed a high occupancy rate and huge profit stream were givens and that the development would pay no taxes. "Our company has designed this project," Sethi declared, "in partnership with the government—the state of Illinois and the city of Chicago." The deal, he added later, was "guaranteed by the government." And: "The investor is fully protected of their entire investment."

By the fall of 2012, Sethi was under growing pressure. He had failed to procure any non-EB-5 financing. The promised summer start date for construction had come and gone. Chinese money was pouring in—$147 million in little more than a year—but he couldn't tap it. Like many EB-5 developers, he had agreed to keep their $500,000 principal in escrow until the investors' provisional green cards were approved. But the USCIS wouldn't approve the visas until Sethi provided documentation of some of his arrangements.

Asked about his franchising deals, Sethi submitted years-old letters from three hotels confirming agreements that had long since been terminated and offered up a doctored Hyatt form letter as "proof" of the two others. (A Hyatt executive later described this as "a forgery.")

USCIS asked for evidence of Sethi's non-EB-5 funding. David Derrico, a lawyer representing Sethi, wrote back that the project still expected $340 million in bond money from the Illinois Finance Authority. But if that didn't materialize, he explained, Sethi had already obtained all the backup financing he needed—from Qatar. Derrico submitted a one-page letter from the Qatar Investment Authority, a sovereign wealth fund, pledging $340 million. “Our lending group is prepared to move forward with the funding of the above referenced transaction,” read the message, signed by “Scott H. Brett, Head—Corporate Banking (north America).”

Asked about this later by the SEC, a lawyer for the Qatar fund reported that the letter was “not authentic.” The fund had never employed a Scott H. Brett.

Derrico says the Qatar letter arrived from Sethi at the last minute and “out of the blue,” and that he had no reason to question it. “We don’t independently go out and verify…all the documents,” says Derrico. “It would be economically impossible. No client would pay for it.”

By this time, Sethi had come under the sway of yet another adviser: Hirav Shah, a self-styled “corporate astrologer” who employed “astrology-numerology-*vaastu*-graphology science” to solve strategic business problems. (Minimum charge, according to his website: $7,000.) Sethi let Shah—who also offered guidance to celebrities, politicians, and owners of gas stations—live in his hotel rent-free for nearly a year. He embraced Shah’s counsel. This included posting one-inch mirror squares on all the doors of the O’Hare Garden Hotel and dictating that EB-5 team members wear clothing in certain colors on particular days.

While $147 million invested in the convention center remained in a Virginia bank beyond the Sethis’ reach, another $10,726,466 in administrative fees, from EB-5 investors (at $41,500 apiece), flowed into their hands—and quickly out. Some of it went toward expenses that had nothing to do with the project and weren’t permitted under the offering documents. For example, according to the SEC, in February 2012, Ravinder Sethi withdrew $35,000 to fund a cashier’s check made out to Wyndham as partial settlement of the lawsuit for the Sethis’ violation of their franchise agreement.

Anshoo sent more than $2.5 million to an account in his own name in Hong Kong. And on his travels to China, Sethi spent money on massages and gifts of lingerie. By year-end, less than $1 million would remain, even though the offering’s subscription agreement required the Sethis to refund the fees in full if the investors didn’t get their green cards (which the USCIS still hadn’t cleared).

By November 2012, investors were getting antsy. Sethi knew he had to demonstrate progress. He announced plans to demolish the O’Hare Garden Hotel and break ground for the new complex. Actual construction was impossible as he still didn’t have building permits, franchise agreements, or construction plans.

He began tapping even more connections to get cash for the project. Sethi retained Michael Axelrod, son of David Axelrod, President Obama’s former strategist, and a consultant specializing in Latin American business, to raise EB-5 funding in Mexico. Axelrod also called contacts at USCIS, prodding them to approve the visas, which would release the escrowed Chinese funds. They told him the visas remained “in review.” A second lobbyist enlisted calls from Illinois Sen. Richard Durbin’s staff. Sethi arranged another meeting with the Illinois Finance Authority for mid-February, where he hoped to make progress on winning the state financing he'd promised his investors. He also persuaded an official of the Clinton Foundation to make a high-level inquiry on his behalf.

For a failed motel owner, Sethi had deployed a truly impressive cast of power brokers. Still, they couldn't break the logjam. And they could do nothing for him when, seemingly out of nowhere, the feds jumped in and brought the entire project to a halt.

On Feb. 6, 2013, SEC lawyers raced into federal court in Chicago and, in a secret hearing, persuaded a judge to place an emergency freeze on all assets under the control of Anshoo Sethi. An SEC lawsuit accusing Anshoo of fraud was made public two days later. No action was taken against his father.

Anshoo Sethi's dreams had been dashed by a tipster who contacted the SEC around the time of his Chicago groundbreaking ceremony, triggering a rapid-fire investigation. The ensuing civil action led to more than a year of court proceedings, which ended with a settlement in March 2014.

The deal, which did not require Sethi to admit wrongdoing, returns the frozen $147 million to his Chinese investors, fines Sethi and his businesses $3.9 million, and requires they repay $11.5 million in administrative fees. He is barred from any association with the sale of securities for 20 years.

Now 30, Sethi remains in legal peril. The vacant convention center site, now up for sale, is the subject of a foreclosure suit.

In October 2013 the tipster in Sethi's case received a record $14.7 million whistleblower award from the SEC—about 10% of the recovered funds—paid out under the 2010 Dodd-Frank legislation. At his request he remained anonymous, until his identity was revealed in a lawsuit filed in late June by his business partner, seeking a share of the reward (see that story here).

The recipient is 62-year-old Michael Sears, a principal in a small real estate financing firm called Global Capital Markets Advisor, which owns an EB-5 regional center of its own. Although the exact events that produced the lucrative award are in dispute, what's clear—and striking—is that Sears's suspicions about the project didn't stem from any inside information or personal contact with Sethi or his enterprise. Indeed, it resulted from far less information than possessed by dozens of people who did business with Sethi.

Sears never even met Sethi. Instead, while Sears was traveling in China to promote his own firm's EB-5 deal, he came to a simple realization—from industry rumbling an a look at the project's aggressive online marketing—that the Chicago convention center didn't smell right. Sears says this prompted him to spend 30 minutes filling out a whistleblower form on the SEC's website. He later explained his suspicions to agency investigators. It was an easy way to make $14.7 million.

In the aftermath of the scandal—merely the biggest to afflict the EB-5 program—the SEC has brought a second fraud case; issued a formal "investor alert"; and opened a broader inquiry into the business, reportedly issuing subpoenas to more than a dozen regional centers. USCIS says it has beefed up its oversight, hiring a team of experts to more closely scrutinize business proposals. Still, the government hasn't tightened the rules governing the visa program.

Industry practitioners such as consultant Wright seem to like EB-5 just as it is. As he put it in an email, the Sethi case "is an example of how the U.S. system works to protect investors. The SEC, FBI and [USCIS] stepped in to investigate this situation, and investors were able to recover their funds."

For its part, the industry trade organization, the Association to Invest in the USA, has launched a new "legislative action center" to "empower EB-5 stakeholders to tell their stories of capital formation and resulting job creation to federal decision-makers in Congress." Their goal is to lift the cap on visas and dramatically expand the program. Their slogan: "EB-5 is working."

http://fortune.com/2014/07/24/immigration-eb-5-visa-for-sale/