

# Common Corporate Raiding Led to Murder and Sanctions in Russia, Says Hermitage CEO

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Although the grandson of a former head of the Communist Party USA, Bill Browder isn't exactly beloved by Russian officials, even those professing nostalgia for the Soviet Union's supposedly golden days.

The chief executive officer of investment fund Hermitage Capital Management has been in recent years one of the more effective critics of Russia's government, which he accuses of targeting his firm in a \$230 million tax-refund fraud and murdering his attorney, Sergei Magnitsky, for uncovering the scheme.

In large part due to Browder's lobbying efforts, Magnitsky's death has become emblematic of Russian corruption and the Muscovite attorney's name now sits atop one U.S. sanctions law aimed at officials under Vladimir Putin and a second bill that would allow the White House to blacklist human-rights abusers worldwide.

Browder, whose allegations in memoir "*Red Notice: A True Story of High Finance, Murder, and One Man's Fight for Justice*" have been vehemently denied in Russia, recently spoke with *ACAMS moneylaundering.com* reporter Kira Zalan about the scheme's purported ties to a money-laundering network and the efficacy of subsequent sanctions against Putin's allies.

An edited transcript of their conversation follows.

## **You were the biggest foreign investor in Russia. When did things change for you and why?**

Everything changed very dramatically after Putin came to power. People always refer to him as a nationalist, but from what I've seen, he's just a kleptocrat stealing from the Russian people. Basically, I would say Russia went from a place of disorganized crime in the 1990s to highly organized crime under Vladimir Putin.

## **When did your own situation change?**

Things went really bad on Nov. 13, 2005, when I was returning to Russia from a business trip aboard, after having lived there for 10 years. I was stopped at [Moscow Oblast-based Sheremetyevo International Airport], detained for 15 hours, then deported and declared a threat to national security.

**How were you able to get your assets out of Russia in time? And how much was it?**

The Russians intended to do many more terrible things than just kicking me out, but they were slow to organize themselves. We had about 18 months between the time they kicked me out and when they took their next steps to go after me. During that 18 months, we quickly and quietly liquidated all of our holdings in Russia and evacuated staff. By the time the next step of the attack came in June 2007, all of my firm's assets were safe and all of my people were out of the country.

**Why did Russian authorities raid Western banks linked to Hermitage Capital?**

It was a multistep fraud. The intention of the bad guys was to steal our assets and then steal all of the tax money that we paid to the government. The first step was for corrupt police officers to raid our office on June 4, 2007, where they seized our corporate documents to illegally reregister our companies. Once the companies were reregistered, they created \$1 billion of fake liabilities using documents seized in the raid, and then shortly after that, the same police officers went to all of our custodian banks and searched for assets they could seize from the banks. Because we had taken all of our money out of the country before the raid, they weren't able to find anything in those banks. So they failed in the first part of their scam. The second part of their scam was to apply for an illegal tax refund—\$230 million that we paid in the previous year—and that did succeed.

**You traced some of the \$230 million to Credit Suisse accounts, which you said Swiss authorities froze in 2011. What's happened with that money since?**

It continues to be frozen. In total, the Swiss have frozen about \$20 million as their money laundering investigation expands. In addition, there are more than a dozen different countries that have opened criminal cases into the money laundering. There's money frozen in Switzerland, the United States, France, Luxembourg, Monaco and Lithuania, totaling roughly \$45 million.

**That's about a fifth of the money. Is the rest just missing?**

No, not at all. Eventually, all of the money will be seized or frozen. What's happened is that this case exposed a major money-laundering pipe, which was not just used by these criminals but was used by other criminals. As the investigators have started to look at these different countries and cooperate with each other, they've been able to build cases not just in the money-laundering scheme exposed by Sergei Magnitsky, but many others.

**There were suggestions that Hermitage wasn't the only victim, and that similar frauds committed by the same individuals had taken place several times. Is this something you've been able to confirm and, if so, how?**

It's actually confirmed that the same tax officers, using the same [Russian] banks, using the same methodologies, have stolen around \$800 million from the Russian government. It was confirmed by an investigative reporter named Roman Anin at Novaya Gazeta, who got information from the federal tax service showing these refunds and showing that they were illegitimate refunds.

### **How common in Russia is the scheme to reregister companies?**

In Russia, the most lucrative and popular form of business is illegal corporate raiding. Corrupt officials abuse their powers to arrest people with an asset they want to steal. If they don't hand over the assets, they'll go to jail or possibly worse. There are something like 300,000 business people in jail in Russia who are victims of this kind of organized crime.

### **You got your capital, employees and some of your lawyers out. Why did Sergei Magnitsky stay behind?**

Sergei had this very stubborn belief that the rule of law prevailed in Russia. He was always saying, 'there's no way they can arrest me because I've done nothing wrong and the law will protect me.' Heartbreakingly, we discovered there was no law in Russia that would protect him. As a matter of fact, the people whose primary job it was to uphold the law were the ones breaking it.

### **What was the thinking behind the Magnitsky Act?**

While he was incarcerated, Sergei wrote 450 complaints in his 358 days in detention. Because of that, we expected that we'd get some kind of justice in Russia, and what we quickly discovered was that the authorities covered up the official involvement of everybody in the crime. It became clear to us that we needed to find justice outside of Russia. As we looked at how to get that justice, we realized that this was a crime committed for money, and that the people who stole the \$230 million don't like to keep their money in Russia because it can just as easily be stolen from them, and that's when we came up with this idea of freezing their money and banning their visas.

### **You describe in detail what you call stonewalling by the Obama administration of this legislative effort to freeze assets.**

Basically when Obama came to power in 2008, he developed a foreign policy called the Russia reset, and the idea behind that was he wanted to try to charm the Putin regime into behaving themselves. So [the Obama administration] didn't want to do anything to antagonize Vladimir Putin and, as a result of that philosophy, anything that we wanted to do, which was to sanction them, was very openly opposed. At that stage of the game, we had 39 senate cosponsors, half Democrats and half Republicans, ready to push this through, but it got blocked at the Senate Foreign Relations Committee when [John] Kerry was chairman because he wanted to do whatever he needed to do to support the administration.

**And these are your conclusions after direct interactions with people in the State Department and then-Sen. Kerry's office?**

Yeah, this was not a secret. They stated openly that they didn't want this to happen.

**Congress submitted a number of names and only 34 were added by the administration. Why were the others left off and do you expect more to be added?**

Congress submitted 282 names. The reason [why only 34 made the list] is the same reason why the law was blocked in the first place by the administration, [because] they're doing everything possible to soft-pedal. They didn't want to do anything to upset Russia, and even today with the situation with Ukraine going on, there's still huge resistance within the State Department to adding more names to the Magnitsky List even though it's a federal law.

**To your knowledge, has the administration enforced the law?**

The administration has done a very weak job of enforcing the law, which has required congressional intervention. It's a Herculean task to get names added to the Magnitsky List.

**What's the status of the European Union version of the Magnitsky Act?**

The EU has actually been more frustrating to get this put through than the U.S. because there are 28 different countries with different interests and different relationships with Russia. So with the EU we have a similar dynamic where the parliament has unanimously endorsed a resolution and even an actual sanctions list with names, but the EU executive body, like the administration in the U.S., hasn't followed through on their resolution. And so we're just in the middle of this fight in Brussels now.

**As an experienced investor in Russia, would you say the sanctions targeting that country are working to achieve their goals?**

The sanctions that the United States and Europe have imposed on Russian bank financing have been hugely detrimental to the Russian economy because it's made it so that the Russian central bank has to finance hundreds of billions of loans that are going to be coming due in the next few years and that's very bad for the Russian economy and the ruble. [With regard to individual sanctions], all these people have their money in the West, and so any threat of freezing that money is huge leverage for the United States and Europe. I believe the sanctions scare the hell out of Putin and the Russian regime.

**There's now a senate bill to expand the Magnitsky Act in order to apply similar restrictions against corrupt individuals globally. Do you support this**

**effort?**

I not only support it, I've been involved in trying to get it passed. It's the legacy of Sergei Magnitsky if we can get a law in place which does the same thing to bad guys all over the world that it did to those in Russia. I mean, we know how upset those guys get in Russia when they get added to the list. I think it would be a huge legacy for Sergei that his death wasn't a meaningless death, that his name is on a piece of legislation that targets evil anywhere and ends impunity everywhere. I can't think of anything more meaningful than that.

**You've said you suspect that Putin has struck a deal with the oligarchs to get a cut of their profits, and possibly has hundreds of billions of dollars. Where do you suspect that money is?**

In my opinion, the oligarchs are his trustees, and if you look at the wealth of the oligarchs it's not nearly as high as one might think because half that wealth is being held for Putin. [It's in] real estate, hedge funds, private equity funds, bank accounts and stock portfolios.

**How can foreign companies function in Russia without being entangled in the type of corruption you encountered?**

There's no way. There are two options: defy it and then you become an enemy of the regime or you embrace it and then you become an outlaw under the American Foreign Corrupt Practices Act.

**Some have questioned the circumstances surrounding the 2012 death of Alexander Perepilichny, who provided you information about the tax fraud money going into Credit Suisse accounts. An attorney at a pre-inquest hearing earlier this year said traces of a rare poisonous plant had been found in his stomach. Do you fear for your life?**

The Russians are clearly not happy with me and anybody else connected to this case, and as we've seen two people were murdered who were directly involved in uncovering the corruption so, obviously, I'm at risk. One of the most important things I can do is make sure the whole world knows the story on a regular basis by talking to you, by publishing a book, by airing all this stuff publicly so that if anything happens to me everyone will know who did it.

