

Written evidence submitted by William Browder, CEO of Hermitage Capital Management, to Home Affairs Committee of the British Parliament, pursuant to request from Committee Chair in response to Tim Loughton, MP

## Proceeds of crime inquiry

### Summary

This submission provides examples showing that Russians connected to the US\$230 million fraud uncovered by Sergei Magnitsky have recently paid significant amounts of money to resist Western sanctions, using companies connected to UK politicians, past and present members of the UK Parliament and the UK Government.

They have done so through hiring several advisory firms ([REDACTED] Consulting) with connection to members of the House of Lords, House of Commons and HMG, including personally [REDACTED]

These firms agreed to work for Andrey Pavlov, member of the Russian criminal organisation responsible for the US\$230 million fraud, and/or Denis Katsyv, son of the Russian government official, who is alleged to have laundered its proceeds.

UK consulting companies and advisory firms must be transparent about their prospective or current foreign clients, where credible information exists that these clients' were involved in (i) corruption; (ii) organised crime; (iii) human rights abuse. Members of the House of Lords should be asked to explain any associations with commercial advisory firms who work with these clients, to address even an appearance of impropriety. To prevent undue influence, companies who engage with such clients should be required to cancel any ongoing contracts with the UK government, members of Parliament, or similar public interest engagements.

### Introduction

1. On 3 May 2016, William Browder, CEO of Hermitage Capital Management, gave oral evidence to the Home Affairs Committee of the British parliament at the proceeds of crime inquiry.
2. The evidence concerned the discovery of US\$30Million of illicit proceeds connected to the US\$230 million fraud uncovered by Russian lawyer Sergei Magnitsky which were laundered in the UK, and the prolonged inaction of UK's law enforcement authorities in detecting and prosecuting money laundering connected to corrupt Russian officials and Russian organised crime in the UK.
3. The reluctance of UK law enforcement bodies to investigate these suspicious proceeds in the UK, and the reluctance to freeze and confiscate those tainted assets, has been in stark contrast to the conduct of law enforcement bodies in other countries.
4. Since 2010, eleven countries have launched criminal investigations into the money laundering from the Russian criminality and corruption exposed by Sergei Magnitsky. Over US\$40 million in assets have been frozen by authorities in 5 countries.
5. The UK government has also refused to impose a UK Magnitsky Act, which would publish the names of persons who are denied entry to the UK in the Magnitsky case as well as freeze their assets. This is in contrast to the US and the European Parliament that have both published Magnitsky lists of people to be sanctioned.

Request for written submission: Why do I think the response from the UK investigating bodies has been inaction?

6. During my testimony to the Home Affairs Committee on 3 May 2016, Tim Loughton, MP asked me about the reason for the inaction of British law enforcement authorities in view of Russian criminality in the UK.

7. My answer was that certain businesses are “levitating off a sea of cash”, and that has influenced government authorities, lawmakers and politicians not to act in cases like mine.

8. I was asked to submit examples of how alleged Russian criminals are buying influence in the UK to avoid justice, as follows: “So politicians are directly benefiting from people who are handling, as you call it, dirty money?... Do you have specific examples that you can share with the Committee? ...Could you write to the Committee? ...What I am trying to find out is why would we want to turn a blind eye if this sort of criminal activity is happening in London.”<sup>1</sup>

9. I can now provide specific examples from the Magnitsky case.

Interests protecting proceeds from Russian corruption and organized crime in the UK from investigation

10. As I mentioned in my oral testimony, the Magnitsky case centres around the theft by a Russian criminal organisation, in partnership with senior officials from the Russian Government, of US\$230 million in taxes paid by the Hermitage Fund in 2006.

11. It has been since revealed, including through the “Panama papers,” that the Russian criminal organisation and money laundering network has operated for a long time, stealing at least \$800 million from the Russian budget in similar crimes.

12. Sergei Magnitsky uncovered the Russian criminal organisation, helped prepare complaints and testified against the government officials involved. He was subsequently arrested, imprisoned without trial, tortured, and killed in prison one year later, on 16 November 2009.

13. The mastermind of the crime was Dmitry Klyuev, who owned the bank which received a significant portion of the stolen US\$230 million, and whose spending in the UK was described in my oral testimony.

14. An important executor of the US\$230 million fraud scheme was his consigliere Andrey Pavlov, at the time a 30-year old Russian lawyer.

Klyuev’s Associate Andrey Pavlov and his role in the US\$230 million fraud Magnitsky uncovered

15. Andrey Pavlov’s specific role in the crime was to create collusive lawsuits using documents unlawfully seized by police from our offices and the offices of our law firm in Moscow, in order to misappropriate the Russian companies of the Hermitage Fund and create a “justification” for the fraudulent US\$230 million tax refund. In these collusive proceedings he appeared for both the Claimant and the Defendant.

16. In addition to playing a key role in the criminal conspiracy, Andrey Pavlov was also one of the main people involved in the cover up of the US\$230 million fraud. He coordinated with corrupt members of the Russian Interior Ministry whom he knew personally through their membership in the criminal organisation, and who exonerated Andrey Pavlov for his role in the fraud.

17. Andrey Pavlov also threatened Alexander Perepilichnyy, a whistleblower on the Russian criminal organisation, with retaliation on behalf of the Russian police for providing information on the bank accounts of beneficiaries of the US\$230 million fraud among Russian officials. One of Andrey Pavlov's meetings with Alexander Perepilichnyy took place at the Heathrow airport.

18. On 10 November 2012, Alexander Perepilichnyy's suddenly collapsed and died at the age of 44 in Surrey, UK. On 12 November 2012, two days later, Andrey Pavlov returned to Russia from London.

19. According to travel records, Andrey Pavlov has travelled to the UK without interruption since the death of Sergei Magnitsky at least on 39 different occasions, including on: 6 September 2010; 30 January 2011; 16 March 2011; 10 April 2011; 29 August 2011; 8 October 2011; 31 October 2011; 1 December 2011; 30 December 2011; 25 March 2012; 26 April 2012; 12 June 2012; 12 November 2012; 25 November 2012; 23 January 2013; 15 March 2013; 8 July 2013; 16 July 2013; 9 October 2013; 18 October 2013; 17 February 2014; 27 February 2014; 23 March 2014; 12 April 2014; 23 April 2014; 18 May 2014; 30 May 2014; 1 June 2014; 13 June 2014; 4 July 2014; 29 July 2014; 3 September 2014; 17 October 2014; 26 November 2014; 8 December 2014; 11 December 2014; 22 January 2015; 7 February 2015, 12 March 2015 .

Son of senior Russian Government Official, Denis Katsyv, and his role in the US\$230 million fraud Magnitsky uncovered

20. The investigation of the laundering of proceeds from the US\$230 million fraud showed funds connected to the fraud received by Prevezon, a Cyprus company owned by a son of Russian Government official Denis Katsyv.

21. The father of Denis Katsyv – Petr Katsyv - is current Vice President of Russian state monopoly, Russian Railways, and former Minister of Transport of the Moscow Region and Vice Chair of the Government of the Moscow Region.

Who did Andrey Pavlov and Denis Katsyv hire in the UK to resist Western sanctions?

22. Following the introduction of the US Magnitsky Act, which imposed visa bans and asset freezes on those involved in the Magnitsky case in Russia, and the adoption of similar resolutions by the European Parliament, Andrey Pavlov and Denis Katsyv began approaching advisory firms around the world to help them avoid being sanctioned as a result of their role in the Magnitsky case, as shown by material leaked on the Internet.<sup>2</sup>

23. To resist Western sanctions, Andrey Pavlov hired member of the House of Lords and former [REDACTED] who personally signed the engagement letter addressed to Andrey Pavlov dated 27 March 2014, to work for him "in connection with the proposal of the European Parliament Foreign Affairs Committee to impose targeted sanctions on certain individuals," saying:

"We are delighted that you have asked [REDACTED] to act as your legal advisers in connection with the proposal of the European Parliament Foreign Affairs Committee to impose targeted sanctions on certain individuals "responsible for the death of Sergei Magnitsky, for the subsequent judicial cover-up and for the ongoing and continuing harassment of his mother and

widow” (the “Proposal”) ... You have engaged us to represent you in connection with the Proposal and any further efforts to make you the subject of targeted sanctions by the European Union.”

24. The invoice for this task issued by [REDACTED] on 28 March 2014 was for £75,000.

25. The engagement letter with Andrey Pavlov specifically cited the hourly rate of [REDACTED] to work on Andrey Pavlov’s assignment of £960 per hour, of Matthew Getz of £670 per hour, and Robin Lööf of £470 per hour. While [REDACTED] is a law firm, it is clear from the terms and circumstances of engagement, they were hired for political advocacy and lobbying purposes on Andrey Pavlov’s behalf to the European Parliament.

26. [REDACTED] page listing his engagements on [REDACTED] website does not disclose his engagement by member of the Russian criminal organization, Andrey Pavlov.

27. On 31 March 2014 in fulfilment of their political advocacy on Andrey Pavlov’s behalf, [REDACTED] wrote to the European Parliament on the eve of the scheduled vote on 2 April 2014, and put forward arguments against the resolution. In addition to Andrey Pavlov, the letter made advocacy arguments on behalf of Konstantin Ponomarev, who was a key witness on behalf of the Russian government in the posthumous trial against Sergei Magnitsky.

[REDACTED]

28. Andrey Pavlov and Denis Katsyv each hired [REDACTED], a business intelligence consulting firm, chaired by a former career diplomat and former [REDACTED]

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n.

30. [REDACTED] requested a £50,000 upfront retainer from Andrey Pavlov prior to commencement of any work and confidentiality, having assigned this task a code name “Project Eighe.”

31. The [REDACTED] engagement letter of 26 September 2014 made clear that the purpose of their engagement was to overcome the inclusion on 2 April 2014 of Andrey Pavlov and his wife Yulia Mayorova on the European Parliament’s Magnitsky Sanctions List. The letter stressed that the services will draw on the experience of UK’s career diplomat and chairman of [REDACTED]

“Re: Andrey Pavlov... Browder has provided documentation to and heavily lobbied the US authorities to pass the Magnitsky Act and investigate those connected to Magnitsky’s death and the events leading up to it, and was instrumental in providing documentation to the Council of Europe Parliamentary Assembly. As a result of this lobbying and publicity, your client and his wife were added to the Magnitsky List in April 2014. Your client believes he had no connection to the criminal allegations made against him and that the allegations were politically motivated. To assist him in establishing his innocence Pavlov wishes to engage an independent investigations firm to objectively investigate the allegations... I will personally oversee this investigation supported by an in-house team of experts who are based in our London office. I will also draw on the experience of

my Partners and Chairman [REDACTED] whose biography I include below for your reference... Given the complexity of the work and the sensitivity of the case we will require a retainer of £50,000 +VAT... In order to commence work we will require a payment on account of £50,000 + VAT... In the interest of confidentiality and for ease of reference this project will be referred to as Project Eighe.”

32. Recently, [REDACTED] also provided his services, used in the recent Kremlin anti-Magnitsky propaganda, as an authoritative person who personally “authenticated” fake documents purportedly located by Russians on CIA servers in Ukraine.<sup>3</sup>

33. [REDACTED] does not appear to disclose its clients on its website.

[REDACTED]

34. To resist Western sanctions, Andrey Pavlov simultaneously hired [REDACTED] a communications and government affairs firm, for £45,000 to advise him on blocking EU sanctions against him.

35. The [REDACTED] letter of engagement from 11 September 2014 said the task was to provide Andrey Pavlov with “research” on what members of the European Parliament, individual EU member states and the European commission think about the implementation of sanctions on him:

“1. Identification of appropriate targets for representations within the Council and Commission (and, possibly, the Member States) regarding Mr Pavlov  
2. To report which actors within the Council, individual Member States and the Commission either:  
a) have evinced some interest b) are expected to be involved, and how they might consider the issue. c) only seek MEPs’ opinions on this matter other than in case it impacts the views of anyone of relevance in Council/Member States/Commission. Overall, the research process will take four weeks and the cost will be £45k.”

[REDACTED]

[REDACTED]

[REDACTED]

involved in the provision of services to Denis Katsyv.

40. The fees paid by Katsyv are not known. But a quote of \$200,000 previously provided by FTI Consulting to Andrey Pavlov is an indication of the level of fees that might have been charged, comprising \$100,000 in original retainer, and \$100,000 in replenished retainer. In the end, FTI did not perform work for Andrey Pavlov, having informed him of a conflict.

What is the outcome of the engagement by Andrey Pavlov and Denis Katsyv of UK firms?

42. These UK-based commercial organisations have derived financial benefit from alleged Russian criminals, and have potentially received proceeds of crime as remuneration for their advisory services.

43. It is undoubtedly in their interests to ensure that these alleged Russian criminals, who are their clients, continue to travel here and pay their fees without inhibition or restraint.

44. These UK-based commercial organisations, their employees, principals and senior advisers, have significant clout and authority in the UK parliament and in the UK Government, through current membership, past membership, or via consulting services, policy advice and expert opinion provided by them directly to members of UK parliament and government agencies.

45. There is clearly a conflict of interest if these commercial organisations are using their influence and authority with the UK government and the UK parliament to facilitate the interests of Russian corruption and organised crime in the Magnitsky case.

46. Furthermore, due to their powerful connections it is possible that these organisations can influence whether or not UK law enforcement authorities consider there to be sufficient public interest to allocate the resources necessary to investigate suspected money laundering in the UK. This is especially true when the organisations' clients are suspected money launderers and the organisations themselves could be beneficiaries of illicit funds.

## Summary

47. Andrey Pavlov and Denis Katsyv spent a large amount of money hiring a number of senior and highly-connected people in the UK, to ensure that there would be no consequences for their role in the crime that Sergei Magnitsky exposed and its subsequent cover-up and to maintain their ability to travel.

48. This is not a victimless crime. The criminal organisation that Andrey Pavlov represents and that Denis Katsyv is alleged to have benefited from is connected to the murder of 37-year old Sergei Magnitsky.

49. This presents a clear conflict of interest if these commercial organisations can use their influence with the UK government to facilitate the interests of Russian corruption and organised crime, especially with regards to resources allocated by law enforcement bodies.

## Policy Recommendations:

1. Public disclosure of foreign clients I would like to see the introduction of a foreign client disclosure obligation for professional services, consulting and advisory firms in industries that are represented by [REDACTED] so they are required to report and publically disclose the engagement of foreign clients, especially those in relation to whom there is credible information of their involvement in (i) corruption; (ii) organised crime; (iii) human rights abuse.
2. Pre-emptive disclosure of engagement with foreign clients in all contacts with UK Government and Parliament: In addition, professional services and advisory firms when representing foreign clients must pre-emptively disclose to their contacts in the UK parliament and UK government their representation of foreign clients, so there is full transparency as to the interests and motivations of any discussions had or materials submitted.
3. Firms working for foreign clients with credible information on their involvement in corruption, organised crime and human rights abuse should be excluded from contracting with UK government and MPs: UK commercial advisory companies and their principals engaged by foreign persons in relation to whom credible information exists of their involvement in (i) corruption; (ii) organised crime; (iii) human rights abuse; must lose the privilege of working on contracts for the UK Government, members of UK parliament, UK officials and on similar public interest engagements. This should apply to [REDACTED] effective immediately.
4. Explanation of role of Lords regarding work for the Russian criminal organisation to resist Western sanctions: Members of the House of Lords - [REDACTED] - should be asked to explain the work of commercial advisory firms with which they have been personally associated and their own role, if applicable as is the case with Lord Goldsmith, for members and/or beneficiaries of the Russian criminal organisation in the Magnitsky case, on project assignments designed to resist targeted Western sanctions.