



REP Edited Transcript

# Hermitage Capital, the Russian State and the Case of Sergei Magnitsky

William Browder

Founder and CEO, Hermitage Capital

15 December 2009

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## William Browder:

My own experience with Russia began in 1992 when I first went to look at the privatisation programme. At the time, the government of Russia had made a very simple decision to go from communism to capitalism, and the best way they thought to do that was by giving everything away practically for free. So they created all sorts of privatisation schemes: voucher privatisation, loans-for-shares, etc., and transferred a lot of assets from public to private hands in a very short period of time. The privatisation we all know about is the oligarch part of this programme where 22 oligarchs got to own 40 per cent of the GDP of Russia. But there were actually crumbs falling off the table that allowed people like me to create businesses. I created a business to invest in the stock market in Russia. I moved to Russia full-time in 1996 and with the idea to start the Hermitage Fund to invest in Russian shares.

I'm trained as a financial analyst. Normally in the West when you do financial analysis you look at balance sheets and income statements and make judgements about companies and their growth and so on. But what I discovered in Russia was that there was one big part of the equation, which was even more important than balance sheets and income statements, which was how much money the managers of the company were stealing.

I ended up hiring Vadim Kleiner, who's my head of research sitting here next to me, nine months into starting my business. He and I embarked on a programme of analyzing of Russian companies to figure out how much money they were stealing. This is not a course they teach you in business school; however it is one that we learned how to do quite well over a period of time. One of the things we learnt as we were going along was that because 22 people ended up with 40 per cent of the country in their hands, the other 142 million were pretty angry about it. So there were a lot of people who were willing to talk about who was stealing from who, and how much they were stealing. We found that there was a very sympathetic group of people ready to tell us everything they knew.

So we ended up creating a business model where we would interview people to get information about companies like Gazprom, Sberbank and other important Russian companies. We would then take all this information we had gathered and share it with the Western press, the *Financial Times*, the *Wall Street Journal* and various other important media outlets. Interestingly, if you went directly to a Russian newspaper to share information they weren't all that interested in writing about it. But if you went to the *Financial Times* and

they wrote about it, then the Russian press would say “we must write about it as well”. When the Russian newspapers wrote about large-scale fraud at Russian companies, this would often change things in Russia politically.

This might seem a little strange to people who have experience in Russia that just by publicising graft and theft would change anything, but it was roughly around the time that Putin came to power that things really started to change. We discovered that we had a confluence of interests with Vladimir Putin when he came to power. We were fighting with oligarchs, who were stealing money from the companies we had invested in, and he was fighting with oligarchs who were stealing power from the presidency. For a brief period of time, from 1999-2003, every time we publicised a major fraud, the government would step in and fix it. We ended up exposing the theft of huge amounts of assets at Gazprom and the board of directors ended up firing the CEO of Gazprom and making a programme to retain all the remaining assets. We made a lot of noise about the asset stripping plans at the electricity company, and the government cancelled the restructuring plan that had been proposed there. We filed lawsuits about the dilutive share increase at Sberbank. We didn't stop the share issue, but we ended up getting a new law passed so no one could do that again at any other Russian company.

Our approach was working very nicely, and then something happened in 2003, which changed the environment in Russia forever. That was the arrest of Mikhail Khodorkovsky, the head of Yukos. At that point they had arrested the richest man in Russia and it sent a very powerful message to the thirteenth, seventeenth and twenty-second richest men in Russia, which was “if we can arrest the richest guy, we can arrest you too”. I can remember how powerful the images were of Mikhail Khodorkovsky sitting in a cage. After that, if you were one of these other oligarchs, you realised that the game had changed, and all these oligarchs went back to the Kremlin and said “please tell us what needs to be done, how do we make sure we don't become like Khodorkovsky?” Instructions were given, and all of a sudden Putin no longer had a problem with the oligarchs because they were no longer stealing power from him, they were now part of his power structure.

But we were still having problems with the oligarchs and still publicising their misdeeds and on November 13, 2005, as I was flying back to Russia after living in Moscow for ten years and running the largest foreign investment fund in the country, I was stopped at the border, told that I could no longer enter, detained for twenty four hours and then deported back to London where I've been ever since. They declared me a threat to national security and despite

interventions by Jack Straw, who was foreign secretary at the time, Tony Blair, George Bush, the Russians refused to let me back into the country.

I thought that being denied a visa was a big problem. From a business perspective it was very detrimental because all of my clients said “why should we give you money to manage in Russia if you can’t get into the country” and they withdrew their money from the fund. But that was a very minor problem compared to what happened next.

About a year and a half later, the officers from the Moscow Tax Crimes Department of the Interior Ministry raided our Moscow offices and the offices of our law firm Firestone Duncan. They were particularly intent on getting hold of the statutory documents of our investment holding companies – the seals, charters, articles of association of our investment holding companies. They seized all of those documents even though they had nothing to do with the pretext of their search. The next thing we knew, a few months later, we get a phone call from a bailiff of the St Petersburg court looking for a couple of hundred million dollars of judgements which had been issued against these three holding companies. At this point, we got very upset and very confused. We didn’t know about any lawsuits in St Petersburg and had never been to court. How could there have been judgements against our companies? We said to ourselves, “who is the smartest lawyer in Russia who can help us figure out what’s going on here?” We called up Sergei Magnitsky, who was a 36-year-old partner at the law firm Firestone Duncan.

Sergei made some initial inquiries and came back and told us that our companies have been fraudulently re-registered into the name of a convicted murderer, that the lawsuits in St Petersburg had been based on forged backdated contracts and all of these actions couldn’t have been possible without the documents which had been taken by the police. We still didn’t understand why they had done this because we didn’t have any money left in Russia. At this point, we started doing more research, and Sergei sent letters to many registry offices and tax offices around Russia. Most didn’t reply. But he got one reply from the tax office of Khimki, which is a suburb of Moscow. The tax office said that these stolen companies had shown up in Khimki and opened accounts at two obscure Russian banks. With this letter he started to do further research into these banks and he figured out the whole scam. The tax police had taken our documents, the companies were then stolen using those documents, fake judgements against our companies were also created from those seized documents, and the purpose of this was to apply for a fraudulent tax refund. We had paid \$230 million of taxes in 2006, and in two

days in December 2007, this criminal group, which includes police officers, received a \$230 million tax refund, the largest in Russian history.

Sergei was not an anti-corruption activist. He was just a smart, hard-working Russian lawyer. But when he saw that \$230 million had been stolen from the Russian treasury by corrupt Russian law enforcement officers, he became indignant. He helped us draft criminal complaints and he testified against the police officers, who were involved in stealing the money. He testified in June 2008. At that point the police officers named in the criminal complaints, opened up new criminal cases against all the lawyers working for Hermitage. We advised all of our lawyers, including Sergei, to leave the country. It was very hard to convince an established professional to leave the country – imagine that you're in the midst of your career, and suddenly you have to give everything up and go into exile in a foreign country at a moment's notice. It took a long time and a lot of persuading, but everyone eventually left except for Sergei. Sergei said, "I haven't done anything wrong, I haven't broken any laws, they can't arrest me for anything, I'm going to stay."

At the end of October 2008, he went back and testified again about the involvement of the same officers. A month later, those same officers came to his apartment as he was preparing his children for school and arrested him. They charged him with a crime, which he couldn't possibly have committed. It didn't matter to them what they were arresting him for, they just needed a hostage. They stuck him in pre-trial detention. Then they started to move him from one detention centre to another. The moment he got settled in one place they moved him to a new place. Each detention centre got worse and worse in terms of the conditions. They put him in cells where they had eight inmates and only four beds, so they had to sleep in shifts; they never turned the lights off so that even if you were lucky enough to have a bed to sleep on you couldn't fall asleep. As time went on, his health started to deteriorate. He ended up with very severe abdominal problems. He was diagnosed with gallstones and pancreatitis. The prison doctor said Sergei needed treatment and surgery. About three weeks after this diagnosis, he was transferred to Butyrka prison, which is a maximum security prison and one of the worst prisons in Russia. They put him in a cell without any natural light at all and really started to lean hard on him. At this point they said to him, "if you want medical attention, if you want to get out of jail, if you want to survive, then implicate yourself and implicate Bill Browder in the \$230 million tax rebate fraud and we'll let you out of jail". He said, "that's outrageous, I'm not going to perjure myself, this is your crime not mine". So things got worse. He started to develop very severe stomach pains. They were so severe that he couldn't lie

down, and his cellmate had to bang on the cell door for hours to get anyone to come and look at him. When the doctor came he said, “you should have been seen before you came into prison, we’re not going to do anything for you’. The situation got even worse, they started moving him into even worse cells. At one point they moved him into a cell with no toilet at all, there was just an open hole in the floor. Sewage bubbled up from the hole in the floor. At one point they moved him to a cell without any window panes so that the cold air just flowed in. His health got worse and worse.

All the time he was being detained, they were keeping him without any proper legal reason to hold him there. On October 13<sup>th</sup> he testified again against the officers who were involved in the \$230 million tax rebate fraud.

On November 16<sup>th</sup> he died. He entered prison a healthy 36-year-old man, and eleven and a half months later he was dead.

I don’t know what they were thinking. I don’t know whether they killed him deliberately on the night of the 16<sup>th</sup>, or if he died of neglect. The prosecutor’s office refused his family’s request for an independent autopsy. I imagine what they did was something they’ve done many times before. They probably thought “who is going to notice one more person dying in pre-trial detention?” But in the case of Sergei Magnitsky, they encountered something they never could have expected. In spite of the horrible conditions, Sergei was a very clear-thinking man in his 350-odd days of detention, he wrote 450 different complaints documenting every element of his mistreatment in the prison. The day after he died we released a forty page letter, one of these many documents, to the press, and this just lit up the emotions of the public in Russia.

Since then, the President’s human rights advisor, Ella Pamfilova, went to the President and said “the story of Sergei Magnitsky is outrageous, we need to do something about this”. The President then ordered an investigation. That we didn’t expect. Then we said to ourselves, “this investigation is probably going to be like every other investigation and not find anything”. But about two weeks later, the President fired the head of the prison service in Moscow, and about twenty other prison bosses. And then today, the President fired the head of the Moscow tax crimes department, the man supervising the team that played a key role implementing the \$230 million tax rebate fraud.

Of course, losing a job is hardly comparable to losing a life, but this just might be the straw that is breaking the camel’s back. I’m in the middle of it so it’s hard for me to be objective, but I get the feeling that this is bigger than

anyone could have ever imagined and there is much more still to happen with this case. One of the reasons why this story has resonated throughout Russia is that everyone in Russia feels like they could be a Sergei Magnitsky. He wasn't an oligarch, he wasn't a politician, he wasn't a human rights activist; he was just a regular professional trying to live the Russian dream of working hard and having a good life for him and his family. The only thing different about Sergei was that he wasn't cynical and when he encountered something evil he decided to do something about it. As a result, this has touched everybody in Russia in a way which is much more personal, much more profound than just about any other tragedy which has happened before.

We were all surprised that civil society still functions in Russia today despite all the efforts to contain it. It is also very interesting to see the effects of the President being involved versus the President not being involved in a crisis like this. Before he was involved, there was a lot of press, but it was all the independent press – Ekho Moskvy, *Novaya Gazeta*. But all of a sudden when the President announced an investigation, Sergei's case was on every national television station. Even Russia Today ran the story. It's interesting because there are two camps out there. There is the camp of the criminals, who are coming up with statements saying Sergei Magnitsky died of a heart attack so it's nobody's fault. And then there's the camp of the President, who the next day fires the head of the Moscow prison service, so it evidently was somebody's fault.

In all my time in Russia, this is the most important power play that I've seen because it has shown that there is no universal vertical of power in Russia. Power seems to be scattered in different camps and we're seeing different camps fighting it out. I don't have any predictions about how it's going ultimately to play out. I'm going to shine the light as brightly as I can on this so that Sergei gets the justice he deserves. Everyone around me is trying to do the same thing. This has touched so many people that we're not on our own in this fight. We've just had a conversation with an NGO that was officially sanctioned to keep checks on the prison service. They've done a very rigorous study, which they're going to release soon, which shows numerous shocking violations in Sergei Magnitsky's case. There are journalists out there doing various things. Of all the scandals that I've seen, I think this one is as unpredictable as anything ever.

What are the implications of this whole story for Russia more generally? I would argue that the first big implication is that organised crime is working hand in hand with senior government officials in a very explicit way, which is

why this crime of stolen money is allowed to occur and why the conspiracy involved so many people who were so comfortable doing so many terrible things, culminating in the death of Sergei Magnitsky.

The other conclusion I would make from the most recent experience is that there is some hope that Russia doesn't turn into an entirely criminal state because people really are reacting forcefully to Sergei's death. They are also reacting forcefully to the Perm fire and the Nevsky Express crash, and a lot of people are saying, "what kind of country do we live in if the entire apparatus fails because the bureaucrats who are supposed to be doing their jobs are just lining their own pockets."

## Questions and Discussion

**You said towards the end of your talk that there is no single universal vertical of power. You arrived in 1996, under what many of us would say is one system of relationships between business and the state, you went through this threshold of 2003, and then all of this has carried on until now. Was there ever a time in your view when there was a single vertical of power in Russia? Did Putin ever establish one, and if so, how long do you think it lasted?**

The way I would define Putin is that he came to power as the President of the Presidential Administration of Russia. He wasn't President of Russia. In 1999, when he took over from Yeltsin, he had a few hundred thousand Presidential employees working for him and he had full authority over the property of the Presidential Administration, but that was about it. The regional governors were basically not returning the tax money to the centre and they were writing their own laws. They were doing their own thing; they were not adhering to any Presidential instructions. The press was owned by the oligarchs and they were using their media organisations to further their own business goals. The oligarchs had so much money that they could basically own different factions of the Duma and pass laws and so forth. When Putin came in, he very clearly decided to bring the power back to the presidency and we all know how he did that. First he took the TV stations back, then he changed the rules so the regional governors couldn't be democratically elected, then there was Khodorkovsky affair.



Between 2000 and 2003 he also wasn't that confident that he could be in power forever. There was a democracy of sorts and there were all these competing factions. So between 2000 and 2003 I was looking at all the policies and saying that Russia is becoming a better place. I wouldn't call that a vertical of power, but he was operating in the national interest because he didn't have absolute power. It was when he got close to absolute power, that things started to go off the rails. But he's never had truly absolute power, because it's too hard to micromanage the system in Russia. As much as he tried, the different factions became very difficult to control. All these different clans had basically replaced the oligarchs as business groups. Russia went from being a business oligarchy to a law-enforcement oligarchy. And the power was based very simply on having the power to arrest people. If you were an Interior Ministry employee, and you could arrest someone, that gave you the power to extort money. You could either get money, or arrest people and seize their assets. So the FSB, the Interior Ministry or any other group had power to arrest people and used it to become business people. The problem is that as they became so greedy, they started to get out of control, and we now have five or six, semi-defined criminal groups which are organised around law enforcement agencies and it is very difficult for Putin to say anything to them because they have become too powerful within Russia. So you have an extremely unstable equilibrium where nobody can talk, nobody can tell.

**You say Magnitsky testified twice – to whom did he testify?**

In June and October 2008, he went to the Russian State Investigative of the Prosecutor's Office, which is the equivalent of the FBI of Russia, and he gave testimony about the theft of our companies, the theft of \$230 million, and Moscow police complicity in the crime.

In October 2009 he gave testimony to the Investigative Committee of the Interior Ministry, saying that his detention was retribution for testifying, and then he repeated his testimony about the police officers and their involvement in the theft of \$230 million from the budget.

**Do you know who is behind the tax theft and the persecution of Sergei Magnitsky?**

There are a lot of people. The most in-depth investigation of the Magnitsky case has been done by Yevgeniya Albats, the editor of the *New Times* a very brave, independent newspaper. She determined that the ultimate power structure that stands behind the persecution of Sergei Magnitsky and the \$230 million tax theft is a group of people within the FSB called Department K – the economic counter-espionage unit. Apparently, they were paid or were involved in paying, it's unclear who was paying whom, \$6 million specifically for the arrest of Sergei Magnitsky in the fall of 2008. That was how all these police officers were compensated for all their dirty actions.

**A theory used to exist that people who have acquired property by illegitimate means over time will seek to increase property rights to protect their gains. Did you ever find this theory in the least bit convincing, and do you think there is any prospect it may become more true now, and if not can you see any light at all?**

It all sounded very good when I heard that theory for the first time. It seemed very logical and Khodorkovsky seemed a very good example. But you can never have 22 people with all the money and everyone else with no money and still have property rights. What happened next was a group of people who used to be in power – FSB, Interior Ministry employees – who became slaves to the oligarchs asked themselves why should they be working for these guys? Instead they wanted to take their assets away. For them, to transfer assets, laws can't exist. Yukos became the blueprint for raids of hundreds and thousands of other companies on a smaller scale. The story I've just told you about how our companies were stolen may sound shocking, and it may be unusual for someone to explain it in such simple, understandable terms. But this kind of thing happens day-in day-out in Russia where companies are stolen, and people are imprisoned. It's called corporate raiding, *reiderstvo*. The only difference between our case and other people's cases is that we are speaking about it openly. Most people don't. For example, when Shell was shaken down. Shell had a project on Sakhalin island which the Russians felt was too good a deal for them, and they wanted some of it. So they imposed a \$20 billion environmental fine on them until they sold half of their joint venture at cost to Gazprom, at which point the environmental fine miraculously disappeared. Afterwards, Shell kept their mouth shut not to put in jeopardy the remaining 50%. The same thing happened to BP, Telenor, Ikea etc. These are just the stories we know about.

A lot of stories you never hear about because people just succumb and quietly acquiesce and hand over whatever needs to be handed over. Do I ever think there are going to be property rights in Russia? I can't make any predictions long-term, because I don't think anyone knows what Russia is going to look like long-term. Whatever it looks like right now, it's going to be very different in the future. It could be a lot worse, it could be better but it's not going to be the same.

**What prompted the refusal of your visa? Was it to do with shaking the trees of various powerful individuals earlier, and if it was, would you say there were other parts of the Russian economy where, if you had taken the same actions it wouldn't have had the same result for you personally.**

The answer is, we just don't know. You can take five highly placed, well-connected individuals in Russia, who know everything and everyone, and you'll get five different emphatic answers about who was responsible for my visa being taken away. It could be that they all got together in a room and said that "Let's just take Browder's visa away so he can't come to Russia any more", I don't know.

The one thing I do know is that this follows a very interesting pattern of management in Russia. They've picked up a pattern of governance of taking the biggest man or woman in any particular field and doing something, which has a profound demonstration effect for everybody else. They kill Anna Politkovskaya and how many journalists want to talk about the abuses in Chechnya? They take out Khodorkovsky and how many oligarchs want to politically challenge the President? They kick Bill Browder out of the country and how many people want to start complaining about corruption and shareholder rights in Russian companies? It is a very effective strategy. I haven't heard of too many proxy fights going on in Russia since I was last there. Maybe there was a strategic purpose to it, maybe not. It's hard to say. But it did achieve a certain quieting down of outsiders like me talking about ugly things.

**Obviously the absence of freedom in Russia is one thing, and the story of Sergei Magnitsky is terrible testimony of that. But the absence of freedoms in the West will matter in our ability to influence Russia, which will be limited. Are you concerned by the willingness or financial capacity of the Western media to question the actions of the 22 richest people in Russia or other aspects of the current Russia scene? Do you**

**think we're in good enough shape in London and New York to do what modestly can be done in terms of illuminating what's going on?**

There are huge conflicts of interest in the West about what goes on in Russia. If you're a journalist and you go to Moscow and you start visiting law firms, accounting firms and investment managers and ask them what's going on in Russia, you'll hear an entirely different story to what I've just told you because those who continue to do business in Russia are inevitably conflicted. If they tell the true story, they will destroy their own businesses.

The people who are being mistreated are quietly keeping it to themselves because they don't want further bad things to happen to them.

I would also say that there is a conflicted story from the Western diplomatic standpoint because everyone has geopolitical interests which conflict with issues like these. If other people really knew the truth, and the reality was presented in the way I've just laid it out for you, diplomacy and business with Russia would change.

**How do you see Russia developing in the coming years; is the current system sustainable?**

It's very hard to speculate on this. I have one idea, which seems the most likely and logical based on what's going on today. When you have a country built on a structure of corruption and nobody is benefiting from it other than a small number of people, it's the perfect feeding ground for nationalism. I imagine at some point there will be a credible nationalist character, who is going to say "who are all these crooks? I'm honest, they must be doing all this for the benefit of foreigners". That may be very appealing to the Russian population. Instead of having criminal organisations running Russia, you could have a very hardcore nationalist organisation running Russia.

**You say that if people knew the truth about Russia political and business relations would be very different. But people do know – anybody who wants to get involved in Russia is aware of the dangers, of the repression and corporate raiding that takes place. And yet people continue to go there and invest. Why is that?**

The conventional wisdom amongst business people was that all these terrible things you hear about – they only happen to other people. They say to themselves "Bill Browder – he was a corporate governance activist, that's why this happened to him. Khodorkovsky – he got involved in politics, that's why it happened to him. Shell – they negotiated a deal that was too good in a

foreign country, that's why it happened to them. BP – they picked the wrong foreign partner. Ikea – actually, we can't figure out a good reason, but you know what, it doesn't matter." Everybody thinks it's not going to happen to them and there's a whole chorus of people who say things are getting better. My point is that people don't understand there's corruption until it is thrust upon them. Then, of course it is too late. If people really understood the spectacular life-and-death and monetary risks they are taking then they might think twice about going to Russia.

Based on what is going on in Russia today, there's only two ways you can operate in Russia. You can operate in Russia by being co-opted into the system, which means you agree to give bribes or giving in to extortion, in which case you're violating the laws of the United Kingdom or the United States which don't allow you to do that. Or you can run an honest business and not do those things, which means you're violating the unwritten business laws of Russia, which means you'll be crushed by corrupt law enforcement agents, who will then try to steal your assets, put you in prison and possibly kill you. If you refuse to play the Russian game, you end up like me, and if you do what Russians expect of you, then you end up breaking the laws of your own country. There are several cases, which aren't being publicised; large international companies, which are being fined enormous amounts of money by the US government for foreign corrupt practices in Russia.

**If it is such a terrible place, and you've given us much convincing evidence, why do people stay? You could say it is difficult for Shell to withdraw, they have a lot of sunk costs, but other companies continue and even more of them are coming.**

Why do people go to Russia? It's very simple, because the margins are high there. If you're Coca Cola or Ikea, and you sit in your headquarters and look at the numbers and see that the margins are 24 per cent in Russia and 8 per cent in Europe then you'll say we should have a plant in Russia. You hire some consultants who interview the law firms and accounting firms, who say actually things are improving in Russia. Then you send people out, you start business and at first it's not profitable so nobody cares about you. Then eventually your business gets profitable and all of a sudden there's a knock on the door. Everybody thinks "it can't happen to me", but usually it does. The only way you can really avoid problems as a businessperson in Russia is to not make money.

**One way of mitigating risks is to develop political connections which businesses have been doing overtly and covertly. Did you not have political connections, or were they of the wrong kind, or did they not give you any warning?**

I never had any political connections. The only thing we had was the ability to do analysis that other people couldn't do, and the ability to tell a story about a complicated series of frauds to the press and make it simple which a lot of other people couldn't do. This did get me access to certain politicians who were interested in the work that we did but we never had political connections. I would argue that it is a complete fallacy to say that if you have good political connections then you will be protected in Russia. It's fair to say that if you have good political connections then for some period of time you might be protected in Russia. But as we saw, people like Khodorkovsky or Gutsieriev had some of the best political connections possible in the late 1990's and look where that got them. They couldn't have gone from nothing to being multi-billionaires without political connections. Then all of a sudden, the politics change, arrest warrants are issued and one gets run out of the country and the other gets put in prison.

Because there's no stable system of politics, it doesn't really matter what your connections are.

**You argue that Putin built up his power slowly, and initially his interests coincided with the national interest. The question then becomes, where did it go wrong for you in an analytical sense? Was it that you misread Putin's motives, or that you misread the extent to which he would be able to secure those motives?**

What I misread was the arrest of Mikhail Khodorkovsky. I thought that this was part of Putin's "dictatorship of the law" and this was all part of the national interest. Before that I had had business conflicts with Khodorkovsky in the late 1990s, so I had an emotional reaction to the arrest of someone I had been struggling with. It's only after his arrest that it has become obvious that the Khodorkovsky trial wasn't about justice at all. It was pure expropriation and complete persecution of someone who was a threat to the administration and its surroundings.

**When you saw the way Khodorkovsky's assets were divided up did that put up red flags?**

What really raised the red flags for me was the way they continued to persecute Khodorkovsky and the people around him. For me, this second trial

for the same crimes as he was already convicted put up every red flag that you could ever imagine. It's just a pure misuse of the criminal justice system.

**Could you comment on Olga Yegorova's claims that they had to detain Magnitsky because he'd already ordered an air ticket to go abroad, he was trying to hide from the investigation in Britain, he'd got a visa and consequently it was necessary to detain him so that he didn't leave the country.**

Olga Yegorova lied. Sergei Magnitsky didn't have an air ticket. The British Embassy in Moscow has written a letter saying that he had not applied for a UK visa. The officers who arrested him before his arrest took away his passport, both internal and external so he could never have travelled abroad. Every single thing she said was untrue in that statement.

**Has the Russian media given an honest account of the affair? Have you given interviews for the BBC Russian service, Radio Liberty Russian service to get information across to the millions, as it were?**

That touches on the most important part of the whole story, which is that people won't tolerate it, even in a repressive country, if they honestly know terrible things are happening in their country. Before Sergei died we had a really hard time getting Russian journalists' attention to the theft of \$230 million from the Russian budget. Interestingly, every Western journalist wrote up the story. If you do a search you'll see lots of articles in the *New York Times*, the *Financial Times*, but we had a very hard time getting the Russian press to write about it. In the end, because we couldn't get enough Russian media to write about it, we ended up producing our own YouTube video. We released it and it was the number one YouTube video in Russia for the next two weeks. It caught on because it was interesting, and it told a story that people hadn't heard before. It created its own wave of news.

Then Sergei Magnitsky tragically died and it really touched Russian people in a profound way. At this point, all the Russian news media that wasn't government controlled wrote the story up in a very complete way. *Vremya Novostei*, the *New Times*, Ekho Moskvy, *Novaya Gazeta* and various other internet news services. It was satisfying that the independent press felt as strongly as we did about the tragedy and were writing about it. But what was most interesting was that the day that Medvedev decided that it was a problem, the number of articles went up exponentially. It showed that the entire press, the real press that goes to all the people in Russia is entirely organised around the President and the Prime Minister. I've never seen

anything as powerful as when he decided that this was an issue to be talked about. Basically, the press in Russia is very important for the domestic politics and it is very heavily controlled.

If we get the story out on BBC and Radio Free Europe, that's fine, but who listens to the BBC? The top two percent of the population, and they're already convinced of everything we already know. It's hard to get to the mainstream press, and the only reason we got to it was because Medvedev decided it was okay for us to do so; and thank God that he did because now something like 35 per cent of the population knows the name Sergei Magnitsky and is shocked by what happened to him.

**Early on in your presentation you touched on your relationship with Gazprom. Could you give your opinion on Gazprom and how it is managed? What's your view on the sustainability of Gazprom as a corporation in its current form?**

Gazprom probably shouldn't be described as a corporation. It is a corporate entity but it seems to serve a lot of different functions which have nothing to do with maximising profit. For example, it serves the function of leveraging foreign countries that don't behave the way the Kremlin would like them to. However, there is one great saving grace for Gazprom. It has so many assets that even after they all these terrible things, there is still a lot left over. When we first got involved with Gazprom, it traded at a 99.7 per cent discount per barrel of reserves to BP or Exxon. The reason was because everyone thought that everything had been stolen out of Gazprom, because a lot of it had been. The first big stealing analysis that we did was to try to quantify how much was being stolen from the company. These guys were trying to steal everything they could possibly get their hands on. But they only stole 9.65 per cent of the reserves of Gazprom at the time. But one needs to remember that Gazprom is ten times the size of Exxon. So even with the nefarious activities it is very hard to break it up or ruin it because there is so much there. I think Gazprom will continue to survive as an entity, I think it will continue to do what it does, I think its shares are probably still rather cheap relative to how much it could be worth under some more normal scenarios.



**What do you think will happen to Medvedev's demand for an investigation into the Magnitsky affair?**

We have to reserve judgement on what happens with this investigation. There have been two sets of firings so far, the prison governors and today when they fired Major General Mikhalkin from the Moscow Tax Crimes Department. In both cases, it could be a good excuse to clean the house and get in the people he wanted to get anyway. We will only be able to judge him and his motives when we see how they act at the end of the investigation. If they start prosecuting people then it has been a real response. If they've just fired a few guys to replace them with friends then it's just been a convenient opportunity to take some credit from a bad situation and use it to their advantage. We don't know what's going to happen.

It was a very touchy moment because he met with Ella Pamfilova on a Monday, and after the meeting it was reported that he hadn't made any comment about Sergei Magnitsky. We asked ourselves how, a week after his death, can the President not have made any comment. We were very upset; it seemed like a green light for everyone to cover up the death of Magnitsky. The next morning, however, we come into the office and there's news off the wire that he has ordered an investigation. I don't know what went through his mind or what calculations were made. What I can say is that he didn't have to do that, and he did, which is a good thing. It's surprising, because rarely does something like this happen. He could very well have been looking at the internet himself. There's an interesting conversation I had this morning with somebody from the US Government who says Russia is one of the most networked countries in the world, and you can really see it in the blogosphere in Russia. When something happens people react very forcefully and visibly on the internet. After all his speeches about corruption and cleaning up Russia and the rule of law, if he hadn't done this, then people would have said this man is completely ineffective. Perhaps he understood that, and that's what prompted him to act.

**There's an awful lot of suspect money washing around in Russia. Why did the people who wanted your \$230 million go to such elaborate efforts to do all the paperwork and get it that way rather than choosing some other way which might have been more simple?**

There's one untold part of this story. Prior to the theft of the \$230 million, the same criminal group used the same methods with the same courts, the same tax authorities, the same plaintiffs, the same lawyers and the same banks to

steal \$108 million dollars. Then we learned more recently that another \$120 million or so was stolen in nine other transactions using the same schemes.

So just imagine that the criminals are at the poker table and they keep pulling the chips in and they feel good. After clearing all the remaining chips off the table, these guys are feeling very excited and greedy and they want some more of that tax rebate money because the first \$228 million felt so good. So they ask themselves, who else paid a lot of taxes that can be stolen, and they focussed on Hermitage because we had paid huge taxes in 2006. \$230 million is a lot of money for anybody. They knew it would take a more aggressive approach, so they bring in Moscow policemen who can raid our offices and get the documents, and who can run some criminal cases and keep pressure on us. That's how they did it.

**As you sit in London observing the scene, do you get a sense of how far the corruption and the networks which operate in Russia are being exported to the UK and other countries?**

That's a very strategic question. Western governments and law enforcement agencies should recognize that there is a serious threat of criminal money flowing from Russia into the West and that money may taint and even criminalize western businesses and financial institutions. Governments need to develop strategies that deal with this threat and they need to understand that it is more sophisticated and complicated than almost any other type of financial threat that they've ever had to deal with. It is only a matter of time before details and data about Russian criminality become well known in the West, and by that time, many of our own institutions will be owned by or deeply intertwined with Russian criminal money. To unwind that mess will be an enormously complicated and painful process.