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World News: Hermitage Capital Management Runs Into Trouble in Russia; U.K. Fund Accuses Authorities of Trying To Steal Its Assets

Chazan, Guy. **Wall Street Journal, Eastern edition** [New York, N.Y] 04 Apr 2008: A.8.

☐ Abstract (summary)

Hermitage Capital Management Ltd., an investment fund active in Russia, accused Russian authorities of trying to steal its assets, as Russian police said they had charged an executive of the fund with tax evasion.

☐ Full Text

LONDON -- Hermitage Capital Management Ltd., an investment fund active in Russia, accused Russian authorities of trying to steal its assets, as Russian police said they had charged an executive of the fund with tax evasion.

The case appears to be a further sign of pressure on foreign investors, especially those involved in Russia's energy sector. Hermitage Chief Executive William Browder, a British citizen barred from Russia since 2005, had a reputation as a campaigner for minority- shareholder rights and openly criticized mismanagement at natural-gas giant OAO Gazprom and other big Russian companies.

A spokesman for Hermitage alleged Russian police involvement in a plan to change the ownership of three companies linked to the fund.

Meantime, police in Moscow said they had charged Ivan Cherkasov, head of operations at Hermitage in London, with tax evasion. Mr. Cherkasov left Russia in 2006 and has been based in the United Kingdom since then. From 2001 to 2006, Mr. Cherkasov was operational manager of Hermitage's Moscow office and general manager of a Hermitage investment unit. He calls the charges against him baseless, adding that what Hermitage did "was in accordance with the law."

Hermitage's recent troubles follow pressure on several other major foreign energy-sector investors, including Russian security-service raids last month on TNK-BP, the Russian venture of British oil major BP PLC. A TNK-BP employee was subsequently arrested on suspicion of industrial espionage. Analysts say the private Russian shareholders in TNK-BP could soon be forced to sell out to a state-owned company, such as Gazprom. BP and TNK-BP declined to comment.

Russian authorities have denied Mr. Browder a visa to enter the country since November 2005, though they haven't said why. He said Russian officials had told him he was deemed a "threat to national security." In recent months, the U.S.-born Mr. Browder has sought to shift the focus of Hermitage, which has \$3 billion under management, away from Russia. Last year, he launched a \$1.6 billion fund to invest in South America, the Middle East and Asia.

The case against Mr. Cherkasov centers on OOO Kameya, an investment vehicle linked to Hermitage. Kameya figured in a "gray scheme" that allowed foreign investors to get around restrictions on foreign ownership of local shares in Gazprom. The methods, widely used by a number of banks, became obsolete in 2006 when Russia liberalized the market in Gazprom shares.

Police allege that Kameya underpaid a withholding tax on dividends released to Kameya's Cyprus parent. Kameya paid

5% -- the rate stipulated in a tax treaty between Russia and Cyprus -- while Russian investigators say it should have paid 15%. Hermitage says it has paid its tax obligations in full.

Police investigators raided Hermitage's Moscow offices and its legal adviser, Firestone Duncan, in connection with the Kameya probe in June, according to Hermitage and Firestone. During the searches, the investigators removed a number of corporate seals, certificates of registration and charters of companies connected to Hermitage and HSBC Management Guernsey Ltd., Hermitage's trustee and manager.

In October, Hermitage and HSBC Guernsey learned that a company called ZAO Logos Plus had filed a series of civil claims against three Hermitage Fund entities in a court in St. Petersburg. The lawsuits alleged that the companies, all investment vehicles holding Hermitage Fund assets and managed by HSBC, had agreed to sell Gazprom shares to Logos Plus but later rescinded the agreements without paying a cancellation fee. The court awarded Logos Plus \$376 million in damages, according to Hermitage.

In what Hermitage describes as a scheme to defraud the company, it alleges that the corporate papers and seals seized by police during the raids in June were used to falsify documents, change the shareholders of the three investment vehicles and appoint new directors to them. A Moscow police spokesman declined to comment on the allegations.

Hermitage and HSBC Guernsey fought back, successfully appealing against the \$376 million claim and taking steps to regain ownership of the three Russian companies. But claims by other companies elsewhere in Russia have been filed and won against the investment vehicles -- one for \$575 million in damages and another for \$312 million. Hermitage said it and HSBC Guernsey's lawyers would appeal both awards and any subsequent claims in the Russian courts. HSBC Guernsey declined to comment.

As for the fund's performance, Mr. Browder said Hermitage is down 9% this year, slightly outperforming the RTS, the main Russian index, which was down 10.4%.

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