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Court Rejects Hermitage Lawsuit

By Natalya Krainova

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A Moscow court on Tuesday rejected a request by Hermitage Capital to regain control over three subsidiaries that the fund's lawyer Sergei Magnitsky suspected had been used by the police to steal government money.

The city's 10th Arbitration Court of Appeal turned down the lawsuit filed by the fund's Cyprus-based subsidiaries, Glendora Holdings Limited and Kone Holdings Limited, defense lawyer Oleg Kirilenko told The Moscow Times.

The lawsuit asked the court to confirm the fund's ownership of the three subsidiaries, which fund managers claim were illegally seized by Moscow police in June 2007.

Hermitage Capital promised to appeal. "This is the sixth attempt by the perpetrators to destroy evidence through the courts over the last two years," a fund representative said by e-mail. "We intend to appeal in Russia and ultimately take this case to the ECHR [European Court of Human Rights] if necessary."

Magnitsky, who died in pretrial detention last November, had accused the police of confiscating documents from the three subsidiaries — Riland Ltd. and Parfenion Ltd., 100 percent owned by Glendora Holdings Limited, and Makhaon Ltd., 100 percent owned by Kone Holdings Limited — and handing them over to Pluton Ltd., which was registered as the new owner of the companies in July 2007, according to the Russian Agency for Legal and Judicial Information, a mouthpiece for Russia's top courts.

Magnitsky said Pluton's former head Viktor Markelov and a group of police officials used the three subsidiaries to defraud the government of 5.4 billion rubles ($230 million at the 2007 rate) by claiming the return of taxes that had never been paid, the Russian Agency for Legal and Judicial Information said.

Pluton subsequently sold the subsidiaries to Boily Systems Limited and shut down, the agency said.

Moscow's 10th Arbitration Court of Appeal earlier overturned a ruling by the Moscow region Arbitration Court that declared the July 2007 deals as illegal, the agency said.

Markelov was jailed for five years in April 2009 on charges of stealing 5.4 billion rubles from the government, it said.

Police officials opened a tax evasion investigation into Hermitage Capital lawyer Magnitsky and William Browder, the fund's head, after they linked the officials and Major General Anatoly Mikhalkin, head of the Moscow police’s tax crimes department, to the 5.4 billion rubles.

Magnitsky, 37, died in a Moscow detention center after officials repeatedly denied him medical treatment for illnesses that he developed while waiting nearly a year for his politically tainted trial to begin.

President Dmitry Medvedev in December fired Mikhalkin and 20 prison officials and ordered a thorough investigation. But nearly a year later, no arrests have been made in connection with the death.

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