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Witnesses in Magnitsky Trial Questioned Over Illegal Tax Breaks

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At the latest hearing of the tax evasion trial of Sergei Magnitsky and William Browder, two disabled men from Kalmykia who'd supposedly worked for Hermitage Capital testified that they had never even heard the names Magnitsky and Browder until 2009 and could not recall working for the company.

The men's work history was under scrutiny by prosecutors who say Magnitsky and Browder carried out an illegal tax break scheme at two of Hermitage Capital's subsidiaries, Dalnaya Step and Saturn Investments, between 1999 and 2003 that saw disabled employees used to get tax breaks.

Magnitsky is on trial along with his former employer, Hermitage Capital head William Browder, in a case that has been criticized for its sheer unorthodoxness: It is rare for dead people to be tried on criminal charges, especially when the family opposes the prosecution, and Browder is being tried in absentia.

Magnitsky was imprisoned on tax evasion charges in 2008 soon after accusing officials of stealing $230 million in state funds. He died in jail a year later. Although members of the Kremlin human rights council said his death was a result of severe beatings, the Investigative Committee closed a criminal investigation into his death due to a lack of evidence of a crime.

The scheme alleged by prosecutors at Friday's hearing would have allowed Hermitage Capital to pay 5.5 percent in profits tax instead of 35 percent in accordance with a law in effect at that time that said companies with staff made up of at least 50 percent of disabled workers could pay less taxes.

The prosecutor said that Hermitage Capital took advantage of that law and that the disabled men were only employed by the company's subsidiaries on paper and did not actually perform any work.

One of the men questioned at Friday's hearing, Alexei Bukayev, said he had never heard of either Dalnaya Step or Saturn Investments, nor Magnitsky and Browder, and that in the early 2000s — when the prosecutor said Magnitsky and Browder were illegally carrying out their scheme — he was working at a bakery shop, Interfax reported.

He added, however, that from 2001 he received 200-500 rubles ($6-16) every three months from another disabled man named Viktor Bitkiyev for a two or three-year period.

"Viktor said he would simply pay money, and if anyone asked, I would need to say that I was kind of a delivery guy," he said.

Bukayev's brother, Odn Bukayev, was also called to give testimony on Friday, and Interfax cited him as saying the same thing as his brother.

When his sister was called to the stand, she said both brothers had cerebral palsy and were not capable of doing any intellectual or physical work for Hermitage Capital subsidiaries, and that they could not have worked as "analytical experts" for Saturn Investments as the documentation of their work history showed.

Jamison Firestone, Magnitsky's former employer, confirmed in e-mailed comments that Hermitage Capital employed disabled workers, and said those hired in Kalmykia were recommended to Hermitage by the official representative office of the republic of Kalmykia in Moscow.

"The law simply said if you hire disabled people who meet certain criteria you get the reduced taxes," Firestone said. "So Hermitage asked the Kalmyk representation to find qualified disabled people and they made the choices. We never met the employees who the Kalmyk representation suggested, but they received their salaries. It was supposed to be win win."

He also said the Kalmyk representative office had provided Magnitsky with all the documents necessary to prove that the recommended candidates met all legal requirements.

Another witness questioned Friday, Yulia Chumakova, worked in accounting for Firestone Duncan. She testified that Magnitsky asked her to handle health certificates provided by the disabled employees working as analysts for Hermitage Capital subsidiaries, but she could not explain why those certificates were needed.

Firestone confirmed that Chumakova had worked for Firestone Duncan and said Magnitsky had been in charge of ensuring the provision of all the necessary documents from employees, including the disabled employees who worked for Hermitage.

"The only important thing is that Hermitage sold its portfolio in 2006 when the companies were in Moscow with no disabled, and they paid the full 24 percent tax. That is why this entire case stinks," Firestone said.

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