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Getty, LUKoil Reach A $93M Settlement

By The Moscow Times

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Creditors of bankrupt U.S. gas-station operator Getty Petroleum Marketing will pocket an extra $93 million under a settlement between Getty and its former parent, Russian oil giant LUKoil, court papers show.

A litigation trust, established after Getty's liquidation to pursue money for creditors, is finalizing settlement documents with LUKoil, a source close to the matter said, halting a trial that had been playing out since May in U.S. Bankruptcy Court in Manhattan.

Trustee Alfred Giuliano said that LUKoil moved Getty's most profitable stations to another

subsidiary in
2009.

The deal still needs approval from bankruptcy judge Shelley Chapman. Papers filed on the court's electronic docket show the sides have scheduled an approval hearing on July 29, said the source, who declined to be named because the deal was not final.

Getty declared bankruptcy in December 2011, eventually appointing a trustee, Alfred Giuliano, to liquidate its assets and pay back creditors. A key piece of Giuliano's strategy was to sue LUKoil, saying the company stripped Getty of its best gas stations and exacerbated its insolvency.

Giuliano alleged that LUKoil moved Getty's most profitable stations to another subsidiary in 2009 in exchange for $120 million, far less than what Getty felt the assets were worth. Under the settlement, LUKoil will pay the Getty estate an extra $93 million, resolving both the trial and a separate dispute between the parties over the allocation of tax benefits, court documents show.

LUKoil had no immediate comment. Andrew Goldman, an attorney for Giuliano, said the trustee was "obviously quite supportive of the settlement."

"The idea [of bankruptcy] is, in exchange for the benefits of bankruptcy, debtors commit to opening all closets and drawers so creditors can see what's there," David Skeel, a bankruptcy expert at the University of Pennsylvania Law School, said last month.

In Getty, the restrictions centered on sensitive communications between the parties and their lawyers, according to two people close to the matter.

During the 2009 transaction at the center of the dispute, LUKoil's lawyers at Akin, Gump, Strauss, Hauer & Feld represented both the buyer and seller because, at the time, Getty and LUKoil were part of the same corporate family.

Because Akin, Gump was on both sides of the deal, the parties in the trial have access to information that would normally be kept confidential due to attorney-client privilege, said the people close to the matter. That information is fair game in the trial, but still not fit for the public, those people said.

As a result, the sides hammered out a protective order last year, signed by Judge Chapman, giving them broad leeway to seal information deemed sensitive.

The uncharacteristic sealing has led to logistical issues in managing the case, including the accidental release of sealed transcripts.

Asked last month by the media for transcripts for all dates that were public, Veritext LLC, a court transcription company, supplied transcripts that included four days of trial that the court later told Veritext should have been sealed.