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Our Reference: NPM/OB/CP-P 028429.0002

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By **EMAIL and POST:** [dpta@police.gov.cy](mailto:dpta@police.gov.cy)  
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Mr. Mixalis Papageorgiou  
Criminal Investigation Office  
Chief of the Cyprus Police  
75 Lemessou Avenue,  
1478 Nicosia  
Cyprus

Dear Sirs,

**Criminal Complaint seeking prosecution of Messrs Klyuev, Pavlov and others for the large-scale fraud committed against Hermitage Fund's Cypriot subsidiaries: Kone Holdings Ltd. and Glendora Holdings Ltd.**

**Re: Kone Holdings Ltd., Glendora Holdings Ltd., Hermitage Fund, Hermitage Capital Management**

1. As you are aware, we act for the above named clients and write on their behalf to seek prosecution in relation to the frauds perpetrated against two of Hermitage Fund's Cypriot companies; Kone Holdings Ltd. (thereafter "Kone")<sup>1</sup> and Glendora Holdings Ltd. (thereafter "Glendora"),<sup>2</sup> jointly the "Cypriot companies". Our clients' investigation has shown that the frauds were perpetrated by the transnational criminal organisation known as the "Klyuev Group", as uncovered by Hermitage Fund's deceased lawyer, Sergei Magnitsky. The proceeds from the frauds against Kone and Glendora by the Klyuev Group appear to have been wired to and laundered via Cyprus, through accounts, companies and real estate controlled by and/or linked to the head of the Klyuev Group, Mr Dmitry Klyuev, who was convicted in 2006 under the Mikhailovsky GOK criminal case<sup>3</sup>, and Mr Andrei Pavlov, a lawyer for the Klyuev Group. Both persons have had assets and a close connection to Cyprus. Based on the factual matters described herein, our clients seek their criminal prosecution in Cyprus.
2. As you know, we have previously submitted a detailed complaint to the Cypriot authorities setting out the same matters that we describe below in 2008. Since then, however, our clients have conducted a detailed investigation into the frauds against Hermitage and were able to partly trace the flow of the monies that were stolen from the Russian Treasury. After that, we filed another complaint to MOKAS, which resulted in the Cypriot authorities opening the investigation into money laundering investigation No. M/368/2011 in December 2012.

<sup>1</sup> Kone Holdings Limited is registered under HE 167095 with Ministry of Commerce, Industry and Tourism Department of Registrar of Companies and official Receiver, Nicosia, Cyprus.

<sup>2</sup> Glendora Holdings Limited is registered under HE 79549 with Ministry of Commerce, Industry and Tourism Department of Registrar of Companies and official Receiver, Nicosia, Cyprus.

<sup>3</sup> <http://russian-untouchables.com/eng/dmitry-klyuev/>



3. Thereafter, during the official meeting with MOKAS that took place 21 May 2013 our clients were advised by Maria Kyrmizi-Antoniou, Senior Counsel of the Republic of Cyprus, that if our clients wanted to proceed with our original criminal complaint, an updated version should be filed with the Cypriot authorities. It is for this reason that we set out the matters below again for your review.

#### **Summary of the Fraud against Kone and Glendora**

4. The fraud against Kone and Glendora began in 2007 and comprised a series of fraudulent episodes. The fraudulent activity of the Klyuev Group was recently described in the forfeiture complaint by the US Attorney General's Office for Southern District of New York filed in the New York Southern District Court on 10 September 2013<sup>4</sup>.
5. The first fraud comprised the theft of identity of Kone and Glendora, by the Klyuev Group, using the unlawfully seized property, documents and seals in collusion with corrupt Russian police officers; the falsification of powers of attorney of Cypriot directors of Kone and Glendora by members of the Klyuev Group; the falsification of contracts and agreements purportedly on behalf of Kone and Glendora; the preparation and submission of a false claim to the regional Russian court purportedly on Kone and Glendora's behalf, in order to steal three Russian Companies belonging to Kone and Glendora, namely, OOO Parfenion, OOO Makhaon and OOO Rilend; and the further preparation and submission of fraudulent claims against the three Russian companies of Kone and Glendora for hundreds of millions of US dollars in order to steal their assets.
6. Details of this first tranche of the fraud committed against Kone and Glendora known at the time were submitted on behalf of our clients for investigation to the Russian law enforcement authorities on 3 December 2007, 10 December 2007, 26 February 2008, 23 July 2008 and to Cypriot authorities on 5 June 2008.
7. Subsequently, it was discovered, as a result of the extensive investigation by our clients and in particular, by our clients' Russian lawyer, Mr Sergei Magnitsky, that the large-scale fraud perpetrated against Kone and Glendora by the Klyuev Group had the specific objective of stealing US\$230 million of their tax payments which were paid to the Russian Treasury a year before, in 2006.
8. This second part of the fraud was perpetrated by the Klyuev Group in collusion with the Moscow tax officials and other government officials on 26 December 2007, when US\$230 million of tax payments of Kone and Glendora's owned Parfenion, Mahaon, Rilend, was stolen under the guise of a purported tax refund. A portion of the stolen funds was wired on the same day from the Russian Treasury directly to a small Moscow bank, called Universal Savings Bank, beneficially owned by Dmitry Klyuev.
9. After Mr Sergei Magnitsky uncovered that this was a reoccurring fraud against the Russian Treasury and consequently testified to the Russian law enforcement authorities about the

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<sup>4</sup> Appendix 1. Complaint by the U.S. Department of Justice, 10 September 2013  
<http://www.justice.gov/usao/nys/pressreleases/September13/PrevezonHoldingsForfeiturePR/U.S.%20v%20Prevezon%20et%20al.%20Complaint.pdf>

involvement of some officials and members of the criminal group in the massive fraud, he himself was arrested, tortured and eventually killed in Russian police custody.

10. Sergei Magnitsky's name became a symbol of the fight against the pandemic of corruption in the Russian government. On 12 November 2010, Sergei Magnitsky was posthumously awarded 'Integrity Award' by Transparency International for his fight against corruption<sup>5</sup>. On 14 December 2012, U.S. President Barack Obama signed the 'Sergei Magnitsky Rule of Law Accountability Act of 2012' to ban entry to the U.S. and to freeze U.S. assets of corrupt Russian officials implicated by Sergei Magnitsky in the criminal conspiracy, and involved in his death and its cover up<sup>6</sup>. The European Parliament called for the introduction of similar measures by EU member states<sup>7</sup>.
11. After Mr Magnitsky's death, our clients continued to investigate the fraud against Kone and Glendora and the circumstances of Mr Magnitsky's death.

#### **Members of the Klyuev Group Involved in Fraud Against Kone and Glendora**

12. The information gathered by our clients as a result of their investigation shows that the Klyuev Group which perpetrated the fraud against Kone and Glendora, involves officials from Russian Interior Ministry, Federal Security Service "FSB" and Tax Service, judges, prosecutors and previously convicted felons, including:
  - i. **Mr Dmitry Klyuev**, who appears to be the head of the criminal organisation, convicted on 12 July 2006 in relation to the fraud involving shares of Mikhailovsky GOK iron ore by Presnensky District Court in Moscow, responsible for the overall management of fraud against Kone and Glendora;
  - ii. **Mr Andrei Pavlov**, the lawyer for the criminal organisation, who was a witness in the Mikhailovsky GOK case, involved in falsification of documents and misrepresentation of companies stolen from Kone and Glendora in Russian courts and of claimants against those companies;
  - iii. **Mr Victor Markelov** and **Mr Vyacheslav Khlebnikov**, the executors of the fraud, who had been respectively convicted for manslaughter and violent crimes, and who were subsequently convicted on 28 April 2009 and 10 March 2011, respectively, for the theft of US\$230 million of tax payments of the three Russian companies of Kone and Glendora;
  - iv. **Mr Artem Kuznetsov**, **Mr Pavel Karpov**, **Mr Nikolai Budilo**, **Mr Oleg Urzhumtsev**, the enforcers for the criminal organisation in the Russian Interior Ministry;
  - v. **Ms Olga Stepanova**, Head of Tax Office No. 28 in Moscow who approved a majority of the fraudulent US\$230 million tax refund, and her husband Vladlen Stepanov in whose name bank accounts and assets were registered in jurisdictions outside of Russia;

<sup>5</sup> Appendix 2. Sergei Magnitsky Received the Integrity Award on 12 November 2010 from Transparency International: [http://www.transparency.org/getinvolved/awardwinner/sergei\\_magnitsky](http://www.transparency.org/getinvolved/awardwinner/sergei_magnitsky)

<sup>6</sup> Appendix 3. Sergei Magnitsky Rule of Law Accountability Act of 2012: [http://www.treasury.gov/resource-center/sanctions/Programs/Documents/pl112\\_208.pdf](http://www.treasury.gov/resource-center/sanctions/Programs/Documents/pl112_208.pdf)

<sup>7</sup> Appendix 4. Report with a proposal for a European Parliament recommendation to the Council on establishing common visa restrictions for Russian officials involved in the Sergei Magnitsky case: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2012-0285+0+DOC+PDF+V0//EN&language=EN>

- vi. **Mr Victor Grin**, Deputy General Prosecutor providing protection to the Klyuev Group in the Russian General Prosecutor's Office, who obstructed the investigation of fraud against Kone and Glendora even before US\$230 million were stolen;
- vii. **Mr Victor Voronin**, Head of Department "K" of FSB, Russia, involved in orchestrating the criminal case used by the Klyuev criminal group to steal Hermitage Fund's subsidiaries.

### **Planning the Fraud Against Kone and Glendora by the Klyuev Group in Larnaca, Cyprus**

13. The overall fraudulent and money laundering activity of the Klyuev Group is summarised in '*Magnitsky Files: Organised Crime Inside the Russian Government*' video on the Russian Untouchables website created by colleagues and friends of Sergei Magnitsky<sup>8</sup> and in the filing on behalf of the U.S. Government by the U.S. Department of Justice referred to above.
14. The large-scale fraud perpetrated against Kone and Glendora has included the theft of corporate identities; the theft of their property and their companies; the falsification of power of attorneys; the false representations in courts; and the falsification of contracts, all for the purpose of a multimillion dollar fraud.
15. The fraud was planned by the Klyuev Group in Cyprus in April 2007, when members of the Klyuev criminal organisation travelled to Larnaca, Cyprus.
16. Available travel records show that on 28 of April 2007, Dmitry Klyuev and Russian Interior Ministry Officer Artem Kuznetsov flew on private jet VMP-618 (OY-OAA) of ExecuJet Scandinavia to Larnaca, Cyprus<sup>9</sup>.
17. Two days later, on 30th of April 2007, Russian Interior Ministry Officer Pavel Karpov and Klyuev lawyers, Andrey Pavlov and Yulia Mayorova, joined them in Larnaca using Aeroflot SU-487<sup>10</sup>.
18. On 6 May 2007, the Head of the Moscow Tax Office No.28, Olga Stepanova, with her husband, Vladlen Stepanov, joined Dmitry Klyuev in Larnaca<sup>11</sup>.

### **Preparation for the Fraud - Unlawful Seizure of Documents Belonging to Kone and Glendora by the Klyuev Group**

19. The next step in the preparation of the fraud was the unlawful seizure of property of Kone and Glendora from offices of the law firm, Firestone Duncan, and the offices of Hermitage Capital in Moscow under a guise of a police search.
20. On 4 June 2007, the Moscow offices of Hermitage Capital and its law firm, Firestone Duncan were raided by Moscow Interior Ministry officers led by member of the Klyuev Group, Artem

<sup>8</sup> <http://www.youtube.com/watch?v=mL9b5LP4Ubc>

<sup>9</sup> Appendix 5. Flight manifest for VMP-618 for joint trip to Cyprus 28.04.2007: <http://russian-untouchables.com/rus/docs/F05.pdf>

<sup>10</sup> Appendix 6. Joint trip of Myaorova, Karpov and Pavlov to Cyprus 30.04.2007: <http://russian-untouchables.com/rus/docs/F06.pdf>

<sup>11</sup> Appendix 7. Joint trip of Olga Stepanova and Vladlen Stepanov to Cyprus 08.05.2007: <http://russian-untouchables.com/rus/docs/F07.pdf>

Kuznetsov<sup>12</sup> who, prior to that, had also travelled to Cyprus with Klyuev on a private jet in preparation for the fraud.

21. During these raids, corporate documents and seals belonging to Kone and Glendora and their Russian companies were unlawfully seized, in spite of not being in the warrant<sup>13</sup>.
22. In breach of Russian law, lawyers for the companies were not allowed to attend the search scenes.
23. The documents of Kone and Glendora and their three Russian companies were placed in custody of another member of the Klyuev group who travelled to Cyprus in April-May 2007, Moscow Interior Ministry investigator Pavel Karpov<sup>14</sup>, the same investigator who travelled together with Dmitry Klyuev to Cyprus in April 2006, when Klyuev was the key suspect in the Mikhailovsky GOK case in which Pavel Karpov was the investigator.

#### **First Fraud Against Kone and Glendora**

24. The first fraud against Kone and Glendora was committed unbeknown to Kone and Glendora on 2 July 2007, less than a month after the police raids in which the documents, seals and information for Kone and Glendora and their Russian companies had been seized and placed in custody of investigator Pavel Karpov.
25. As part of this criminal conspiracy, the Klyuev Group committed the following criminal acts:
  - i. the preparation of a fake decision of a non-existent Detox Mediation court against Kone and Glendora;
  - ii. the preparation of a fake forfeiture agreement allegedly signed by Kone and Glendora and a shell company called Pluton;
  - iii. the preparation of a fake Power of Attorney for a Mr. Popov allegedly issued by Kone and Glendora;
  - iv. the making of a false payment purportedly on behalf of Kone and Glendora to the court;
  - v. the filing of a fraudulent claim based on the above forgeries with the Tatarstan Arbitration Court in Kazan purportedly on Kone and Glendora's behalf; and
  - vi. the filing of a fraudulent Counterclaim from Pluton against Kone and Glendora in the same court.
26. Through this fraud, they obtained the enforcement lists from the court on 30 July 2007 for the three Russian companies of Kone and Glendora, committing their theft.

<sup>12</sup> Appendix 8. Search minutes of Hermitage Capital Moscow office with participation of Artem Kuznetsov: <http://russian-untouchables.com/rus/docs/D474.pdf>

<sup>13</sup> Appendix 9. Search minutes of Firestone Duncan: <http://russian-untouchables.com/rus/docs/D476.pdf>

<sup>14</sup> Appendix 10. Joint Travel of two investigators and major suspect Dmitry Klyuev for Cyprus vocation. Mr Pavel Karpov had previously served as investigator on the Mikhailovsky GOK case into Mr Klyuev and travelled with Mr Klyuev to Cyprus in April 2006 prior to Mr Klyuev's trial: <http://russian-untouchables.com/rus/docs/F08.pdf>

### Fraudulent Claim filed with the Tatarstan Arbitration Court

27. It then appears that on 2 July 2008, a claim was filed by the Klyuev Group with the Tatarstan Arbitration Court in Kazan, Russia. The claim was fraudulent and supported by forgeries<sup>15</sup>.
28. The claim purported that it had been filed by Kone and Glendora, who in fact never filed the claim.
29. The claim stated that it was signed by a Mr V.D. Popov. Powers of Attorney to V.D. Popov purportedly issued by Kone and Glendora were dated 27 June 2007<sup>16</sup>. These powers of attorney were forgeries. The Cypriot directors have never issued them<sup>17</sup>.
30. The Cypriot directors of Kone and Glendora, Ms. Argyridou<sup>18</sup> and Ms. Alexandrou<sup>19</sup>, have confirmed that they had not caused to file a claim in Tatarstan Arbitration Court in Kazan on 2 July 2007. They also stated in sworn affidavits that they had not authorised Mr Popov.

### The Forfeiture Agreement

31. The Klyuev Group submitted in support of the Claim a further forgery: a "Forfeiture Agreement" dated 19 December 2006 allegedly between Kone and Glendora, on the one hand, and Pluton, on the other hand<sup>20</sup>. Pluton is a Kazan-based company nominally registered to a Mr Victor Markelov, a previously convicted person and a member of the Klyuev Group<sup>21</sup>.
32. For Kone and Glendora, the Forfeiture Agreement was signed by a I.V. Korolev, allegedly acting on "general power of attorney" from Kone and Glendora from 12 and 13 March 2006. Kone and Glendora's Cypriot directors have confirmed that they never authorised a Mr Korolev and did not issue him powers of attorney.
33. The forged Forfeiture Agreement said that Kone and Glendora owed Pluton a debt in relation to a promissory note (*veksel*) of Veksel Center Energo-Gaz dated 19 July 1999 and that they had agreed to pay Pluton the "debt" by transferring to Pluton the property rights for their three Russian companies – Makhaon, Rilend and Parfenion. This agreement was a sham.

### False Detox Mediation Court Ruling

34. The Claim further alleged that on 15 June 2007, an unknown Detox mediation court in Kazan had already "ruled" on the basis of this Forfeiture Agreement in favour of Pluton against Kone and Glendora. Subsequent inquiries by Hermitage Fund's lawyers established that Detox mediation court did not exist<sup>22</sup>.

<sup>15</sup> Appendix 11. Lawsuit filed on 02.07.2007 to Tatarstan Arbitration Court and falsified commercial court decision.

<sup>16</sup> Appendix 12. Forged power of attorneys with forged signatures of Cypriot Directors.

<sup>17</sup> Appendix 13. Sworn affidavits of Chrystalla Argyridou and Yianna Alexandrou regarding falsified documents.

<sup>18</sup> Chrystalla Argyridou, Ardanon, 6B. Pallouriotissa, P.C. 1041, Nicosia, Cyprus.

<sup>19</sup> Yianna Alexandrou, Dionysiou Solomou, 34, Palaioметоcho, P.C. 2682, Nicosia, Cyprus.

<sup>20</sup> Appendix 14. Falsified Assignment Agreement dated 19 December 2006.

<sup>21</sup> Appendix 15. Pluton extract from Unified Registry of Legal Entities.

<sup>22</sup> Appendix 16. Letter from landlord re: Detox 09.04.08.

35. To file the claim with the Arbitration court in Kazan, the Klyuev Group had to pay a court fee. The receipt for the payment of the court fee showed the collusive nature of the proceedings.
36. The receipt for the court fee dated 2 July 2007 paid by the Plaintiff, purportedly Kone, in fact stated as the address for the purported representative of Kone the Defendant's address:
- "Payer - representative of Kone Holding Limited Popov V.D.  
The address of the payer: city of Kazan, ul. Dementieva, b.22."*
37. The stated address for the purported Plaintiff – Ul. Dementieva, b 22, Kazan was the address for Pluton, alleged Defendant<sup>23</sup>.
38. The further evidence of fraud against Kone and Glendora comprises fraudulent representations and powers of attorneys. During the proceedings, the Klyuev Group submitted and/or referred to powers of attorney allegedly signed by Cypriot Directors of Kone and Glendora, including two powers of attorney allegedly issued to Mr I.V. Korolev dated 12 March 2006 and 13 March 2006, Mr A.N. Manenkov dated 20 October 2006, and Mr V.D. Popov, dated 27 June 2007. In their sworn affidavits, Cypriot directors of Kone and Glendora confirmed that they have never issued nor signed such powers of attorneys.
39. On 17 July 2007, as part of the collusive proceeding, the Klyuev Group filed a "Counter-claim" on behalf of Pluton against Kone and Glendora with the same Tatarstan Arbitration Court in Kazan<sup>24</sup>. The Counter-claim requested that the Tatarstan Arbitration Court issue the enforcement list to Pluton for the three Russian companies of Kone and Glendora on the ground that the Defendant (Kone and Glendora) had not complied with the decision of the Detox mediation court.
40. On 30 July 2007, Judge Yushkov of the Tatarstan Arbitration Court, after merging the Claim and the Counter-claim, ruled in favour of Pluton based on the automatic procedure for enforcing mediation court decisions<sup>25</sup>. He ordered to issue enforcement lists for the three Russian companies of Kone and Glendora to Pluton<sup>26</sup>. Victor Markelov, a purported owner and director of Pluton, and a member of the Klyuev Group, signed to confirm the receipt of the enforcement lists in the court records<sup>27</sup>.

### **Second Fraud Against Kone and Glendora**

41. Following the fraudulent misappropriation of three companies from Kone and Glendora, on 3 September 2007, Mr Victor Markelov, a member of the Klyuev Group (previously convicted for manslaughter in 2002<sup>28</sup> and arrested for kidnapping in 2006<sup>29</sup>) appointed himself and two

<sup>23</sup> Appendix 17. Payment orders for falsified lawsuit.

<sup>24</sup> Appendix 18. Counter claim filed by the Criminal Group.

<sup>25</sup> Appendix 19. Court decision issued by Judge Yushkov on 30 July 2007.

<sup>26</sup> Appendix 20. Enforcement lists issued by Judge Yushkov to grant companies to Pluton owned by member of the Criminal Group Victor Markelov.

<sup>27</sup> Appendix 21. Written statement of Markelov that he received execution orders on 30 July 2007.

<sup>28</sup> Appendix 22. Victor Markelov conviction for manslaughter 29 April 2002.

<sup>29</sup> Appendix 23. Motion for Markelov's arrest for kidnapping and court decision as of 30.08.2006.

other persons Messrs Khlebnikov and Kurochkin (also previously convicted for violent crimes) as "directors" of Parfenion, Makhaon and Rilend<sup>30</sup>.

42. To carry out the fraudulent re-registration of ownership and directors of the three companies owned by Kone and Glendora, the Klyuev Group relied on documents of Kone and Glendora and their three Russian companies which had been unlawfully seized during the 4 June 2007 raids, including their certificates of registration and statutory documents.
43. During September 2007, the Klyuev Group used fraudulent methods to re-register the three Russian companies of Kone and Glendora into the names of three convicted criminals by applying for changes to the corporate registry - the unified state registry of legal persons known as EGRYUL in Russia<sup>31</sup>. The Klyuev Group, again using fraudulent methods, also re-registered the location of the Russian companies of Kone and Glendora by moving them to the territorial authority of Moscow tax offices No.25 and 28, headed by corrupt tax officials, in preparation for the next fraud against Kone and Glendora.
44. As a result of the fraudulent changes in the corporate registry obtained by the Klyuev Group, Kone and Glendora were deprived of the statutory verification of their ownership rights for the three Russian companies through the unified state registry of legal persons.

### **Third Fraud Against Kone and Glendora**

45. The third episode of the fraud against Kone and Glendora included the submissions of false claims against their three Russian companies in three regional arbitration courts.
46. On 27 July 2007, in the St. Petersburg Arbitration Court, Russia, the Klyuev Group submitted a series of fraudulent claims against the three Russian companies of Kone and Glendora which claimed multi-million dollar damages<sup>32</sup>.
47. The claims against the three Russian Companies of Kone and Glendora alleged that, in 2005, they had authorised a Mr Koslov to enter into agreements to sell Gazprom shares to a Logos Plus, and then reneged on the agreements creating purported unrealised profits<sup>33</sup>. Subsequent inquiries by Hermitage Fund's lawyers established that the claims on behalf of Logos Plus were submitted by a fictitious person, and relied on a passport fraud<sup>34</sup>. Neither Kone and Glendora nor their Russian companies had any dealings with Logos Plus.
48. Directors of Kone and Glendora, Ms. Argyridou and Ms. Alexandrou, confirmed that they have never authorised or known a Mr Koslov<sup>35</sup>.
49. The fraudulent claims were filed by the Klyuev Group in the St. Petersburg Arbitration Court, Russia together with forged contracts and forged powers of attorney issued by fraudulent directors of Kone and Glendora's Russian companies<sup>36</sup>. Powers of attorneys submitted to the

<sup>30</sup> Appendix 24. Decisions illegally issued by Victor Markelov, member of the Criminal Group, to appoint directors of three Russian companies stolen from Hermitage Fund.

<sup>31</sup> Appendix 25. Parfenion extract from Unified Registry of Legal Entities.

<sup>32</sup> Appendix 26. Lawsuits filed by the Criminal Group with St Petersburg Arbitration Court.

<sup>33</sup> Appendix 27. Falsified contracts provided by the Criminal Group to St Petersburg Arbitration Court.

<sup>34</sup> Appendix 28. Confirmation of false identity of Strazhev.

<sup>35</sup> Appendix 29. Affidavits of Cypriot Directors as of 11 July 2008, submitted to the BVI court.

<sup>36</sup> Appendix 30. Forged power of attorneys provided by the Criminal Group to St Petersburg Arbitration Court.



court were signed by sham directors (Messrs Markelov, Khlebnikov and Kurochkin) and dated as issued in August 2007, i.e. even before they were fraudulently registered as directors of three Russian stolen companies. Nevertheless, by mid-September 2007, the St. Petersburg Arbitration Court issued several judgments against the three Russian companies of Kone and Glendora in favour of Logos Plus awarding it with US\$398 million in damages<sup>37</sup>.

50. The Klyuev Group then filed similar fraudulent claims against the three Russian companies of Kone and Glendora with the Moscow Arbitration Court, Russia, and with the Tatarstan Arbitration Court, Russia, which both made awards in favour of the Klyuev Group's claims against the Russian companies of Kone and Glendora for US\$325 million<sup>38</sup> and US\$575 million respectively<sup>39</sup>.
51. Mr Pavlov, a criminal legal associate of Mr Klyuev, took part in the court proceedings in St. Petersburg and Kazan<sup>40</sup> acting on both sides for the defendant in one set of proceedings, and for the plaintiff in the other.
52. As a result of these sham and collusive proceedings, the Klyuev Group obtained US\$1.2 billion in false awards against the three Russian companies of Kone and Glendora.

#### **Fourth Fraud Against Kone and Glendora**

53. The fourth episode of the fraud was the submission of fraudulent tax refund applications, purportedly on behalf of Kone and Glendora's three Russian companies, claiming a refund of US\$230 million of taxes previously paid by the three Russian companies of Kone and Glendora to the Russian Treasury.
54. On 21 and 24 December 2007, the Klyuev Group purported to represent the three Russian companies of Kone and Glendora in their filing of fraudulent applications to the Moscow Tax Offices No.25 and 28 which alleged "overpaid taxes" and claimed a US\$230 million tax refund. The applications were filed by the sham directors, Messrs Markelov, Khlebnikov and Kurochkin. They claimed that the profits of the three Russian companies of Kone and Glendora for 2006 were offset by their new liabilities.
55. Their applications were approved in one day on 24 December 2007 by the Moscow Tax Offices No. 25 and 28 headed by Ms Elena Khimina and Ms Olga Stepanova, and two days later, on 26 December 2007, US\$230 million of the tax payments were wired to the accounts opened by the members of the Klyuev Group at two small Russian banks, Intercommerz and Universal Savings Bank in Moscow<sup>41</sup>. According to filings, Dmitry Klyuev was the beneficial owner of Universal Savings Bank which received a significant portion of the stolen US\$230 million funds.

<sup>37</sup> Appendix 31. Court decisions issued by St Petersburg Arbitration Court against stolen subsidiaries of Hermitage Fund.

<sup>38</sup> Appendix 32. Court decisions issued by Moscow Arbitration Court against stolen subsidiaries of Hermitage Fund.

<sup>39</sup> Appendix 33. Court decisions issued by Tatarstan Arbitration Court against stolen subsidiaries of Hermitage Fund.

<sup>40</sup> Appendix 34. Confirmation of Pavlov's participation in the case filed by the Criminal Group in Tatarstan Arbitration Court.

<sup>41</sup> Appendix 35. Illegal decisions to rebate taxes in one day. Appendix 34. Illegal decisions to rebate taxes in one day.

### **Hermitage Fund Reporting the Fraud Against Kone and Glendora to the Russian Authorities**

56. On 3 December 2007, 6 December 2007, 10 December 2007, 26 February 2008, 28 May 2008, 23 July 2008 and 27 October 2008, Hermitage filed 15 criminal complaints requesting proper criminal investigation of criminal conduct against the Hermitage Fund and its Cypriot companies.
57. In spite of these complaints, the appropriate investigation never took place. The initial criminal complaints filed on 3 December 2007, on behalf of the Hermitage Fund to protect the interests of Kone and Glendora against the fraud, were received by Deputy General Prosecutor Victor Grin who organised to pass it for investigation to members of the Klyuev Group, including Mr Pavel Karpov, who consequently alerted the Klyuev Group that their criminal conspiracy had been discovered. In retaliation, members of the Klyuev Group opened spurious criminal cases against the Russian companies of Kone and Glendora, whose taxes they stole, claiming that taxes had been underpaid. They also initiated criminal proceedings on similarly fabricated charges against all Hermitage executives and lawyers involved in exposing the frauds and drafting criminal complaints seeking investigation of members of the Klyuev Group.
58. As a result, instead of investigating the original fraud perpetrated by the Klyuev Group against Kone and Glendora, it was concealed, in Russia, through various means including committing an additional fraud against Kone and Glendora.

### **Fifth Fraud Against Kone and Glendora**

59. To conceal the true nature of the criminal acts against Kone and Glendora, the Klyuev Group in collusion with trusted members of the organisation including corrupt Russian officials, committed a new fraud.
60. In February-March 2008, shortly after the review of Hermitage's criminal complaints filed with Russian authorities began, the Klyuev Group created a new set of forgeries with the objective of concealing the method by which it stole the three Russian companies from Kone and Glendora and the persons involved.
61. These new forgeries included:
- i. preparing forged powers of attorney allegedly issued on 2 July 2008 by Cypriot directors Chrystalla Argyridou and Yianna Alexandrou to a Mr Oktai Gasanov<sup>42</sup>;
  - ii. preparing a false sales agreement dated 31 July 2007 allegedly between a purported representative of Kone and Glendora, a Mr Oktai Gasanov, and Pluton, signed by Mr Markelev, a member of the Klyuev Group<sup>43</sup>.
62. Mr Gasanov died on 1 October 2007<sup>44</sup>, and therefore could not be questioned to confirm or refute his role in these fraudulent acts. Affidavits by Cypriot directors, Chrystalla Argyridou and Yianna Alexandrou, asserting that they never authorised or even knew of a Mr Gasanov dated 16 October 2009 are attached to this application.

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<sup>42</sup> Appendix 12. Forged power of attorneys with forged signatures of Cypriot Directors.

<sup>43</sup> Appendix 36. Falsified sale and purchase agreement of three Russian companies.

<sup>44</sup> Appendix 37. Death Certificate of Oktai Gasanov.

63. The forged sales agreement said that Kone and Glendora sold the three Russian companies to Pluton on 31 July 2007. This agreement was a forgery to conceal the fraud against Kone and Glendora. This is highlighted by the fact that one day earlier, on 30 July 2007, the three Russian companies had already been transferred to Pluton by decision of the Tatarstan Arbitration Court, which was obtained by fraud described above, and therefore there would have been no reason for Mr Markelov to enter into the sales agreement on the following day, 31 July 2007, to buy the same companies that he had already "owned".
64. On 26 March 2008, the above forgeries were "voluntarily" submitted by Mr Markelov, one member of the Klyuev Group, to another member of the Klyuev Group, Interior Ministry officer Nikolai Budilo<sup>45</sup>. Mr Budilo added these forged documents to the criminal case file which he opened against the Russian subsidiaries of Kone and Glendora following a ruling by another member of the Klyuev Group, Mr Karpov, alleging that the three Russian companies of Kone and Glendora "underpaid taxes", notwithstanding the clean audits of these companies and the fact that all the taxes that had been in fact duly paid by the three Russian companies of Kone and Glendora, and just been wired from the Treasury as "overpaid taxes" with the approval of Russian government officials connected to the Klyuev Group. This action has allowed the members of Klyuev Group working at the Russian Interior Ministry to reply to all subsequent complaints that "the original sale and purchase agreements were attached to the criminal case files" and stall the investigation of the fraud against Kone and Glendora<sup>46</sup>.
65. The fraudulent documents allegedly signed on behalf of Kone and Glendora were also entered into the court proceedings in Tatarstan Arbitration Court, Kazan, Russia<sup>47</sup> and into the criminal case file No. 153123 with the Russian Interior Ministry, under which Sergei Magnitsky, who testified against members of the Klyuev Group, was then falsely arrested, tortured and unlawfully killed. This latest episode of fraud resulted in blocking lawful efforts by the lawful directors of Kone and Glendora to reinstate control over their stolen Russian companies.

#### **Failed Investigations and Impunity in Russia**

66. The Russian authorities acknowledged the US\$230 million theft and sentenced Messrs Markelov and Khlebnikov in decisions by Tverskoi District Court of Moscow on 28 April 2009<sup>48</sup> and 10 March 2011<sup>49</sup>.
67. However, they failed to conduct a proper investigation into the theft of Kone and Glendora's Russian companies, and into the role played by the Interior Ministry and tax officials implicated in Mr Magnitsky's testimony prior to his arrest, and even tried to blame, posthumously, Mr Magnitsky who had uncovered the crime, for in fact perpetrating it. The acts that have been denounced in the recent Council of Europe Report "*Refusing Impunity to the Killers of Sergei Magnitsky*" approved by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe on 4 September 2013<sup>50</sup>.

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<sup>45</sup> Appendix 38. Protocol showing Interior Ministry officer and member of the Klyuev Group Budilo seizing falsified documents from another member of the Klyuev group, Victor Markelov.

<sup>46</sup> Appendix 39. Letter from Interior Ministry official N. Vinogradova protecting falsified documents.

<sup>47</sup> Appendix 40. Nikolaev motion to request forged documents from Budilo.

<sup>48</sup> Appendix 41. Criminal court verdict against Victor Markelov as of 28 April 2009.

<sup>49</sup> Appendix 42. Criminal court verdict against Vyacheslav Khlebnikov as of 10 March 2011.

<sup>50</sup> Appendix 43. Council of Europe Report "*Refusing Impunity for the Killers of Sergei Magnitsky*", November 2013.

68. The impunity of the Russian officials connected to and protecting the Klyuev Group has led to the adoption of the Sergei Magnitsky Rule of Law Accountability Act in the United States in 2012<sup>51</sup>.

#### **Tracing Criminal Proceeds of the Klyuev Group from the Fraud Against Kone and Glendora to Cyprus**

69. By continuing the investigation instigated by Sergei Magnitsky, our clients have been able to trace a significant part of the stolen US\$230 million of their tax payments to a number of international jurisdictions, including Cyprus, where they were co-mingled with other proceeds for money laundering purposes. As a result, criminal cases on money laundering were opened in Switzerland<sup>52</sup>, Lithuania<sup>53</sup>, Latvia<sup>54</sup>, Estonia<sup>55</sup> and Moldova<sup>56</sup> and MOKAS<sup>57</sup> started its own money laundering investigation in Cyprus.
70. In our complaint of 27 July 2012, and follow-on complaint of 4 December 2012 to Attorney General, Law Office of the Republic of Cyprus, some of the illicit proceeds from the frauds against Kone and Glendora traced to Cyprus were detailed.
71. As part of the money laundering operation by the Klyuev Group, a portion of the stolen US\$230 million of Hermitage Fund's tax payments were, after their theft, wired to a known money laundering bank, Krainiy Sever<sup>58</sup>. In February 2008, using the correspondent account opened by Krainiy Sever's Moscow office with Alfa Bank, Russia, the criminal organisation wired US\$26 million to SC Bunicon-Impex SRL, Moldova, and US\$27 million to SC Elenast-Com SRL, Moldova which both had accounts with Banca de Economii, Moldova.
72. Between 5 and 13 February 2008, these two Moldovan shell companies made a series of transfers via several EU banks and directly to Cyprus banks, resulting in payments to bank accounts in Cyprus, including at:
- i. Alpha Bank Limited;
  - ii. Cyprus Popular Bank Ltd;
  - iii. Privatbank International Banking UN;
  - iv. Federal Bank of the Middle East Lim (FBME); and
  - v. JSC Trasta Komerbanka.
73. The recipients of illicit funds in Cyprus included several Cypriot companies, and companies from BVI, Seychelles and Nevis.
74. Most significantly, two transfers traceable to the stolen US\$230 million of tax payments of Kone and Glendora's Russian companies were made to the accounts of two BVI companies, Altem Invest Ltd (US\$13.3 million) and Zibar Management Ltd (US\$8 million), controlled by and linked to Dmitry Klyuev, held at Bank of the Middle East Lim (FBME), Cyprus.

<sup>51</sup> Appendix 3. Sergei Magnitsky Rule of Law Accountability Act of 2012, December 2012.

<sup>52</sup> Case number SV.11.0049-BIM opened by Swiss Attorney General on 3 March 2011.

<sup>53</sup> Case number 012-0070-12 opened by Prokuratura of Lithuania on 1 August 2012.

<sup>54</sup> Case number 11816015512 opened by Prokuratura of Latvia on 10 October 2012.

<sup>55</sup> Case number 13700000045 opened by Prokuratura of Estonia on 25 March 2013.

<sup>56</sup> Case number 2012970324 opened by Prokuratura of Moldova on 28 December 2012.

<sup>57</sup> Case number Mokas M/368/2011 opened by Cyprus MOKAS in December 2012.

<sup>58</sup> Appendix 44. Central Bank revoke banking license of Bank Krainiy Sever for anti-money laundering violations .

### **Links of Members of the Klyuev Group to Cyprus and Assets in Cyprus Subject to Freezing**

75. In summary and as stated in our letters sent to you in 2012, our clients have discovered that the individual that appears to be the head of the criminal organisation which perpetrated the fraud against Kone and Glendora, Mr Klyuev, and his associate, Mr Pavlov, have been shown to have close links to Cyprus. They have travelled extensively to Cyprus, alone, with family members, and jointly with other members of the criminal organisation, including Pavel Karpov, Artem Kuznetsov, Anton Golyshev, Andrei Pavlov, and others<sup>59</sup>.
76. Mr Klyuev had beneficial ownership of Altem Invest Limited, a BVI company which held accounts with FBME Bank Ltd<sup>60</sup> in Cyprus and was the recipient of US\$13.3 million from the fraud against Kone and Glendora and the Russian treasury. Another company linked to Mr Klyuev which received illicit proceeds in Cyprus was Zibar Management, BVI, which held accounts at the same Cypriot bank, FBME Bank Ltd.
77. Mr Klyuev has authorised signatures for several firms which held accounts at Bank of Cyprus, which have likely accumulated proceeds of Mr Klyuev's illicit activities, including<sup>61</sup>:
- i. Stobe Gesellschaft Ltd, BVI;
  - ii. White Overseas Limited, BVI;
  - iii. Tahoma Ventures SA;
  - iv. Pilgern Gesellschaft Ltd, BVI; and
  - v. Dunkel Gesellschaft Ltd, BVI.
78. At Bank of Cyprus, Mr Klyuev has had a personal account numbered 0155-02-039161 and Mr Pavlov has had a personal account numbered 0155-02-039153, which have likely accumulated illicit proceeds.
79. Mr Klyuev has had real estate in Cyprus, including in Pathos, which he reportedly sold for substantial profit.
80. Mr Pavlov, a close associate of Mr Klyuev, was reportedly a resident in Cyprus<sup>62</sup>.
81. Mr Pavlov served as the Director of a company named Fungamico, a private company registered at 30 Karpenisiou Street, O.C. 1660, Nicosia, Cyprus. The company is fully owned by Mr Dmitry Klyuev. According to available information, the company had failed to file its annual returns between 2006 and 2009<sup>63</sup>.

### **Request to Prosecute Perpetrators of Fraud Against Kone and Glendora and Freeze Assets**

82. In conclusion, the investigation conducted by our clients clearly shows that the Klyuev Group has committed a series of large-scale frauds against two Cypriot companies of the Hermitage Fund, Kone and Glendora, and a further fraud to conceal the initial fraud and to blame innocent people for their criminal activity.

<sup>59</sup> Appendix 45. Travel records of trips made by members of Klyuev group to Cyprus.

<sup>60</sup> Appendix 46. Letter from Mr Daniel Tunik.

<sup>61</sup> Appendix 47. Extract from BVI on 5 companies.

<sup>62</sup> Appendix 48. Copy of Andrey Pavlov's UK visa applications filed in Cyprus.

<sup>63</sup> Appendix 49. Company records of Fungamico Ltd, Cyprus owned by Dmitry Klyuev with Andrey Pavlov as one of the Directors.



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83. It also appears that in order to perpetrate the frauds against Kone and Glendora, the Klyuev Group planned them in Cyprus, directed them against Cypriot companies and directors, and brought the illicit proceeds of their crimes against Cypriot companies to Cyprus.
84. The Cypriot authorities have jurisdiction and opportunity to investigate and prosecute members of the Klyuev Group who stole the identity of Cypriot corporate entities and diverted the stolen tax payments of Kone and Glendora's Russian companies for their personal benefit and tried to use Cyprus as their safe haven.
85. We therefore request that the frauds perpetrated against Kone and Glendora are fully investigated and those who have benefited from them are brought to justice, their financial gains are seized, and as a first step, charges are brought in respect of Mr Klyuev and Mr Pavlov, and their accomplices are at the very least questioned in Cyprus, and that their assets and interests in Cyprus are identified and frozen as a preventative measure without delay.
86. We would be grateful if you could acknowledge receipt of this letter at your earliest opportunity and let us know what steps the Cypriot authorities intend to take in respect of the matters set out above. Please also let us know whether you require our clients to take any other formal steps in Cyprus that may be necessary for the investigation to be commenced, such as provide a written statement. If you have any questions or require any further documents, please do not hesitate to contact Neil Micklethwaite, Olga Bischof or Chloe Pawson-Pounds of this firm.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Neil Micklethwaite', written in a cursive style.

**BROWN RUDNICK LLP**

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