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Our Reference: NPM/OB 029896.0001

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**BY HAND AND BY COURIER**The New York County District Attorney's Office  
One Hogan Place  
New York, NY 10013

Dear Sirs

**Re: REQUEST FOR THE BRINGING OF A CIVIL ASSET FORFEITURE ACTION**

We act for Hermitage Capital Management Limited ("**Hermitage**"), investment advisor to the Hermitage Fund. Hermitage provides this information to the District Attorney of New York in support of a request that the District Attorney initiate a civil forfeiture action against defendants holding real estate in the County of New York that constitute the proceeds of crime, or the substitute proceeds of such crime.

**I. Background to the Request for Initiation of a Forfeiture Action**

1. This request seeks the initiation of a civil forfeiture action under CPLR Article 13-A, CPLR §1311(1) by the District Attorney of New York of approximately \$2,060,499 (two million and sixty-thousand, four hundred and ninety-nine dollars) in real and personal property, derived from criminal proceeds, held for the benefit of Prevezon Holdings Limited ("**Prevezon**") and Denis Katsyv ("**Katsyv**").
2. The request seeks civil forfeiture to the State of New York of property derived from violations of Article 470 of the New York Penal Code in connection with the laundering of the proceeds of serious crimes which if committed in the State of New York would constitute felonies, and which are felonies under the laws of Russia and the United States, including 18 U.S.C. § 981(a)(1)(C), and property involved in a money laundering offense in violation of 18 U.S.C. §§ 1956 and 1957 pursuant to 18 U.S.C. § 981(a)(1)(A). Specifically, the property held by Prevezon and Katsyv requested to be subject to the civil forfeiture was obtained through the abuse of public office involving specific acts of extortion, corruption of Russian officials, serious frauds, and constitutes illegally laundered money, through financial institutions and businesses in Russia, Moldova, Cyprus, Switzerland and the United States, and is located within New York County in the State of New York.

**II. The Illicit Proceeds Subject to Civil Forfeiture****A. Real Property Located at Unit 2009, Lot 1284, Block 44, 20 Pine Street, Manhattan, New York**

3. The real property specified above, which is the proceeds or substitute proceeds of crime, as more fully described in Exhibit 1 hereto, is titled in the name of Prevezon; is located at Unit 2009, Lot 1284, Block 44, 20 Pine Street, Manhattan, New York, and includes all appurtenances, improvements, and attachments thereon, as well as leases, rents and profits derived therefrom (hereinafter "**Unit 2009**"); and



**B. Real Property Located at Unit 1810, Lot 1251, Block 44, 20 Pine Street, Manhattan, New York**

4. The real property specified above, which is the proceeds or substitute proceeds of crime, as more fully described in Exhibit 2 hereto, is titled in the name of Prevezon Holdings Limited; is located at Unit 1810, Lot 1251, Block 44, 20 Pine Street, Manhattan, New York, and includes all appurtenances, improvements, and attachments thereon, as well as leases, rents and profits derived therefrom (hereinafter "**Unit 1810**").

**III. BASIS FOR CIVIL FORFEITURE**

5. Hermitage requests that the New York District Attorney bring this civil forfeiture action under CPRL § 1311(1) to recover property which constitutes the proceeds of a crime and the substituted proceeds of a crime. The unlawful activities include (i) foreign offences involving extortion; (ii) foreign offences involving the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official; and (iii) domestic bank fraud in violation of 18 U.S.C. § 1344 and applicable New York state law. The violations of New York law include but not limited to NYPL Article 470, money laundering offenses, and include concealing and disguising the nature, the location, the source, the ownership or the control of the proceeds of criminal conduct, with the total value of the property involved in such financial transaction or transactions exceeding \$1,000,000 (one million dollars), and the underlying conduct involving actions which if committed in the State of New York would be felonies.
6. The foreign offenses listed above are criminalised under the laws of the Russian Federation by the following provisions of the Russian Criminal Code: Article 158 (theft); Article 173 (false enterprise); Article 174 (The Legalisation (Laundering) of Funds and Other Property Acquired by Other Persons in an Illegal Way); Article 176 (Illegal Receipt of Credits); Article 183 (The Illegal Receipt and Disclosure of Information Classified as Commercial, Tax or Banking Secret); and Article 316 (Concealment of Crimes).

**IV. THE FACTS**

7. On information and belief, Hermitage alleges the following facts.

**A. Relevant Names, Entities and Terms**

8. The following individuals, entities, and terms are relevant to this Complaint:

**Fund** is the Hermitage fund to whom Hermitage is the investment advisor.

**Hermitage Investment Companies** are the Fund's three Russian subsidiary investment companies: Parfenion LLC; Rilend LLC and Makhaon LLC.

**Prevezon Holdings Limited** as more fully described in Exhibit 3 hereto, is a company limited by shares and incorporated and registered in Cyprus since 26 September 2005 with Company Registration Number HE 165892.

**Denis Katsyv** is the major shareholder and owner of Prevezon, please refer to the shareholder register within the Prevezon Cypriot Company Register at Exhibit 3 hereto for further details, and the son of Piotr Katsyv.

**Piotr Katsyv** is a currently serving, senior Russian government official, head of Federal Government Relations Department and former Minister of Transport and Vice-Governor of the Moscow Region, Russia and the father of Denis Katsyv.

**Timofey Krit** is a director of Prevezon, please refer to the register of directors within the Prevezon Cypriot Company Register at Exhibit 3 hereto for further details.

## B. Background

### The Underlying Criminal Scheme

9. As set forth in the formal complaints made by Hermitage to Russian authorities that are available at <http://russian-untouchables.com/eng/complaints/>, Hermitage became a victim of Klyuev Organized Criminal Group ("KOCG") – highly sophisticated transnational organized criminal group that consists of Russian government officials, banker, lawyers, convicted criminals and network of international money laundering vehicles it was described in the letter of Senator McCain to President Obama described in Exhibit 4. The criminal conduct started with an extortion effort undertaken against Hermitage by a Russian police official, Lt. Colonel Artem Kuznetsov of Russia's Ministry of the Interior, Moscow Interior Ministry officers raided Hermitage's Moscow offices and the offices of Firestone Duncan, Hermitage's legal and audit advisors. The officers acting under cover of their official positions, but, as later transpired, acting for the purpose of carrying out a criminal conspiracy to defraud the Russian Government and Hermitage, illegally seized certificates of registration, company records, corporate seals and tax certificates of the Hermitage Investment Companies. The seized documents were then used to carry out a series of sham transactions that led to the theft of 5.4 billion rubles (US \$230 million) from the Russian state budget, attributable to "refunds" of taxes previously paid by the Fund to the Russian Government. In fact, the amounts were not refunded to the Fund, but stolen by the criminal group that used the corporate documents taken by the Moscow Interior Ministry officers from Hermitage illicitly to secure the funds for themselves, and their associates, including Piotr Katsyv and/or his son, Denis Katsyv (as described in 13-29). The details of the theft are set forth in the letter of Neil Micklethwaite of Brown Rudnick (London) to Yuri Chaika, Prosecutor General of the Russian Federation, dated 13 October 2009, and attached hereto as Exhibit 5.
10. On April 28, 2009, Tverskoi District Court of the City of Moscow of the Russian Federation, found that the request for the refund and the related transactions were criminal, in a decision that addressed the culpability of only one member of the criminal organisation, a saw mill employee V.A. Markelov, who was involved in the illicit use of the Hermitage corporate documents to steal the \$230 million, while stating that he was assisted by "unidentified members" of a criminal group. Subsequently, a second member of the criminal group, a jobless V.G. Khlebnikov was sentenced by the Tverskoi District Court of the City of Moscow on 10 March 2011. Both verdicts are attached in Exhibit 6. Therefore, both verdicts established predicate offense for the money which originated from the Russian budget and were transferred via chain of transactions to different jurisdictions.
11. Members of this criminal group and their affiliates have been identified by Hermitage and an official list of sixty (60) individuals has been endorsed by Senator Ben Cardin, the "Cardin List" in April 2010<sup>1</sup> and in July 2011, Hilary Clinton, as U.S. Secretary of State, sanctioned a visa ban for all Russian officials on the "Cardin List" under Executive Order 7750 (to deny entry to corrupt officials). The members of this criminal group established foreign companies and opened bank accounts on behalf of these companies in different jurisdictions around the world, dispersing the illicitly received \$230 million to various accounts throughout the world.

### Tracing of the Illicit funds

12. Hermitage has conducted investigations and obtained documentation that trace the illicit funds from the Russian Treasury to the bank accounts of Prevezon. A diagram attached hereto at Exhibit 7 traces, in illustrative form, the dispersal of the \$230 million and how the sum of \$857,764 was deposited in the bank account of Prevezon held with UBS in Zurich, Switzerland on the 6th and 13th February 2008.

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<sup>1</sup>[http://csce.gov/index.cfm?FuseAction=ContentRecords\\_ViewDetail&ContentRecord\\_id=896&ContentType=P&ContentRecordType=P](http://csce.gov/index.cfm?FuseAction=ContentRecords_ViewDetail&ContentRecord_id=896&ContentType=P&ContentRecordType=P)



13. By way of supporting documentation to substantiate the flow of illicit funds to the bank account of Prevezon, each deposit and withdrawal, shown in diagramatic form at Exhibit 7, has been numbered one (1) through nineteen (19) and the relevant bank ledgers illustrating the corresponding withdrawal and deposit in the various bank accounts are enclosed hereto at Exhibit 8. The flow of illicit funds, as evidenced by the supporting documentation in Exhibit 8, were as follows:
  - 13.1. Transaction 1: on December 26, 2007 the Russian Treasury deposited R3,276 million (\$133 million) into the Intercommerz Bank account of Parfenion LLC, one of the Hermitage Investment Companies.
  - 13.2. Transaction 2: on December 26, 2007 the Russian Treasury deposited R1,761 million (\$72 million) into the USB Bank account of Rilend LLC, one of the Hermitage Investment Companies.
  - 13.3. Transaction 3: on December 26, 2007 the Russian Treasury deposited R3,723 million (\$15 million) into the USB Bank account of Makhaon LLC, one of the Hermitage Investment Companies.
  - 13.4. Transaction 4: in January, 2008, R430 million (\$18 million) was transferred from Parfenion LLC's account with Intercommerz Bank to a 'ZhK' account with Sberbank in Russia.
  - 13.5. Transaction 5: in January, 2008, R1,107 million (\$45 million) was transferred from Parfenion LLC's account with Intercommerz Bank to a another Intercommerz Bank account in the name of 'Fausta'.
  - 13.6. Transaction 6: in January, 2008, R265.8 million (\$11 million) was transferred from the Makhaon LLC account with USB Bank to an account in the name of 'Anika' with Ocean Bank, Russia.
  - 13.7. Transaction 7: in January 2008, R3.6 million (\$0.1 million) was transferred from the account of Rilend LLC, held with USB Bank to a Mosstroieconom-bank account in the name of 'Univers'.
  - 13.8. Transaction 8: in January 2008, R69.9 million (\$3 million) was transferred from the 'Anika' account with Ocean Bank, Russia to a Mosstroieconom-bank account in the name of 'Univers'.
  - 13.9. Transaction 9: in January 2008, R99 million (\$4 million) was transferred from the 'Fausta' account with Intercommerzbank, Russia to the Mosstroieconom-bank account in the name of 'Univers'.
  - 13.10. Transaction 10: in January 2008, R513 million (\$21 million) was transferred from the 'Fausta' account with Intercommerzbank, Russia to the Sberbank account in the name of 'ZhK'.
  - 13.11. Transaction 11: in January 2008, R525 million (\$21 million) was transferred from the 'ZhK' account with Sberbank, Russia to Bank Krainiy Sever, Russia who have a corresponding account with Alfa Bank, Russia.
  - 13.12. Transaction 12: in January 2008, R290 million (\$12 million) was transferred from the 'Univers' account held with Mosstroieconom-bank to Bank Krainiy Sever, Russia who have a corresponding account with Alfa Bank, Russia.
  - 13.13. Transaction 13: in February 2008, R638 million (\$26 million) was transferred from the Bank Krainiy Sever, Russia who have a corresponding account with Alfa Bank, Russia to an account in the name of 'SC Bunicon-Impex SRL' with Banco Di Economi, Moldova.

- 13.14. Transaction 14: in February 2008, R656.6 million (\$27 million) was transferred from Bank Krainiy Sever, Russia who have a corresponding account with Alfa Bank, Russia to an account in the name of 'SC Eelenast-Com SRL' with Banco Di Economi, Moldova.
- 13.15. Transaction 15: on February 6, 2008, \$410,000 was transferred from the 'SC Bunicon-Impex SRL' account with Banco Di Economi, Moldova to the account of Prevezon with UBS Bank, Zurich, Switzerland.
- 13.16. Transaction 16: on February 13, 2008, \$447,354 was transferred from the 'SC Elenast-Com SRL' account with Banco Di Economi, Moldova to the account of Prevezon with UBS Bank, Zurich, Switzerland.
14. The transactions set out above show layering of the illicit funds for the purpose of laundering them, to conceal their origin as derived from theft, extortion and abuse of public office as a result of the criminal conspiracy against Hermitage through shell companies and bank accounts many of which are linked directly by ownership or directorship to Vladlen Stepanov, the husband of Olga Stepanova who was the Russian official within Moscow tax offices 25 and 28 who oversaw the fraudulent refund of \$230 million on 27 December 2007, to the bank account of Prevezon held with UBS in Zurich, Switzerland. Through these transactions, which involve typical patterns of money laundering layering, the criminal proceeds derived from the fraudulent distribution by the Russian Treasury were channelled, in part, to an account held by Prevezon in Zurich, Switzerland.
15. Indicators of money laundering include the pattern of large transactions moving in and out of these accounts, listed in paragraphs 14 through 29, from companies established in jurisdictions that have minimal oversight of the companies, involving companies which have no visible commercial activity, established in high-risk jurisdictions, and that appear structured to evade oversight. After reviewing these and related transactions involving these and other companies controlled by the Russians involved in the transactions specified above, in 2011, the Swiss Attorney General froze the Swiss bank accounts of companies and persons involved in the transactions following submission of the same compelling evidence by Hermitage.

#### The Acquisition of the Defendant Assets

16. Subsequent to the receipt of the illicit funds on February 6 and 13, 2008, Prevezon acquired the Defendant Assets on November 30, 2009.
17. Unit 2009 was acquired by Prevezon on November 30, 2009 for \$1,231,148. Timofey Krit, as director of Prevezon, personally authorised the acquisition of Unit 1284, by signing the application for authority of Prevezon. Please refer to the transaction documents affecting the acquisition of the real estate assets at Exhibit 1 for further details.
18. Unit 1810 was acquired by Prevezon on November 30, 2009 for \$829,351. Timofey Krit, as director of Prevezon, personally authorised the acquisition of Unit 1284, by signing the application for authority of Prevezon. Please refer to the transaction documents affecting the acquisition of the real estate assets at Exhibit 2 for further details.

#### Conclusion

19. As set forth above, Prevezon and its major shareholder, Denis Katsyv the son of a currently serving Russian senior official, Piotr Katsyv, have acquired vast corporate and personal wealth in excess of \$857,764 through corrupt schemes. Prevezon and Denis Katsyv have also taken significant steps to conceal the source and ownership of their funds and assets.



20. On information and belief, the \$857,764 used by Prevezon and Denis Katsyv to purchase the real estate assets was derived from funds obtained through extortion, bribery of a public official and/or misappropriation, theft or embezzlement of public funds by or for the benefit of a public official, in violation of the laws of the Russian Federation, which were then laundered through the international banking and payments system before being transferred to the United States to purchase assets located in New York County, for the purpose of concealing the illicit source of those assets to the benefit of associates of those involved in actions including extortion, bribery, corruption, fraud, financial institution fraud, and money laundering.

#### V. ANALYSIS

21. As set forth above, the real estate assets referred to in this request constitute property that constitutes or is derived from proceeds traceable to extortion, bribery of a public official, and the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official, in violation of the laws of the Russian Federation and involving offenses which if committed in the State of New York would be felonies.
22. The District Attorney has the authority under New York law to undertake a civil forfeiture action under CPRL Article 13-A and CPRL Section 1331(1) against the proceeds of illicit activity such as these real estate assets.
23. In particular, the District Attorney has the authority to bring civil forfeiture against assets that have been laundered as a means to promote the carrying on of specified criminal conduct or involving transactions designed to conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct, such as took place in this case. As set forth above, the transactions were designed in whole or in part to conceal or disguise the source, ownership, or control of the proceeds of specified unlawful activity, in that, among other things, the nominal purchaser of the Defendant Assets was Prevezon and the power of attorney and transaction documents were entered into by other individuals, rather than the name of the true owner, Denis Katsyv. Furthermore, Hermitage's lawyer, Sergei Magnitsky, having uncovered the fraudulent refund, detailed in paragraph 13 above, was falsely imprisoned by Russian officials complicit in this criminal activity where he died due to injuries he sustained during his incarceration adding weight to the lengths the Russian officials involved in this original criminal activity have gone to do conceal the true source of the funds they now employ to acquire real and personal property around the world.
24. The funds involved in these transactions were used to acquire the real estate assets as well as to provide for the enhancement, decoration, maintenance and upkeep of these assets, including paying for the taxes and insurance fees associated with these assets. Thus, the real estate assets either constitute the proceeds of criminal activity, or the substituted assets as defined under New York law.

Yours faithfully

  
Brown Rudnick LLP