



## **The Death of Sergei Magnitsky – Bill Browder**

[00:00:06] Today I'm speaking with Bill Browder. Bill is the businessman who took on the Russian regime after his lawyer, Sergei Magnitsky, was arrested on false charges and ultimately died in a Russian prison. Bill's company, Hermitage Capital, was once heavily invested in Russia, but his mission now is to be a significant and very effective thorn in the side of the monstrous Putin regime. Bill has written a book called "Red Notice." The title refers to notices circulated by Interpol, when a country seeks the extradition of a criminal. They function a bit like an international arrest warrant, and the Kremlin briefly tried to use Interpol to get their hands on Browder. Today, Bill lives and works in London, where he and his family require constant heavy security in the wake of a horrifying series of financial and other crimes. Bill, thank you for joining me.

[00:00:54] Great to be here.

[00:00:55] This is really the story of Sergei Magnitsky, your lawyer in Russia, but before we turn to that, can you describe the fraudulent scheme that led to Sergei's death in a Russian prison eight years ago?

[00:01:08] Well, let me just give you a little context and background. I'm originally from the United States. I come from a family of American communists, since when the Berlin Wall came down, and I was going through my rebellion from my family, I became a capitalist, went to Russia and began an investment fund in Russia to invest in the Russian stock market. I encountered massive corruption in the companies that I invested in and started to fight the corruption by exposing it. This led to the Putin regime turning very violently against me. They expelled me from the country. They raided my offices. The police seized all of the documents from our offices, and then those documents were used to fraudulently reregister our investment holding companies.

[00:01:55] Can you break that down for us just a little bit? I mean, there is a whole lot of detail embedded in that. They raided your offices, and then took your corporate seal and other documentation, and then took over the reins of the business as if they were themselves the owners.

[00:02:10] So it was that we had these investment holding companies, and in order to run these investment companies, you need a bunch of statutory documents. You need these stamps, seals and certificates. They're like the keys to the car, if you make that analogy. And so the police seized all those documents during a raid of the offices of our law firm, in June of 2007, and then the next thing we knew, we no longer owned those companies. Using the documents seized by the police, our companies were fraudulently reregistered out of our name into the

name of a man who had been convicted of manslaughter and then let out of jail early by the police, presumably to put his name on these documents.

[00:02:54] So you presumably contested this theft of your company.

[00:02:58] Well, what we did at this point was all of this stuff was happening sort of at the same time. We hired a young lawyer named Sergei Magnitsky. At the time, he was 35 years old. He worked for this American law firm called Firestone Duncan and we didn't know what was going on at the time. All we knew was the raid had happened, and Sergei started to investigate. He was the one who discovered that our companies were stolen. And he also discovered something even more — or equally shocking, I should say — which was that, without our knowledge, our companies had been sued for close to US\$1 billion based on fake, backdated contracts with companies that we had never heard of. So after the raid by the police, our companies were stolen using the documents. And the other thing that happened was those documents were used to create a bunch of fake contracts for US\$1 billion. And then these companies that were supposedly owed US\$1 billion by our stolen companies then sued our companies in Russian court. And without our knowledge, because we no longer owned our companies, three lawyers showed up to supposedly defend our companies in Russian court, but instead of defending the companies, these three supposed lawyers immediately pled guilty to US\$1 billion of fake liabilities.

[00:04:24] Your company is stolen from you, and then the new purported owners engage in a series of criminal acts — violations of a number of different kinds — and then the lawyers they send to defend themselves admit guilt.

[00:04:41] They were not really sent to defend themselves. They were sent specifically to admit guilt. So the purpose of this whole exercise sounds complicated. The purpose of this whole exercise was to create US\$1 billion of sort of court-approved fake losses. Why do they need US\$1 billion of fake losses? Well, the reason is because in the previous year, the companies that had been stolen had US\$1 billion of real profits. And so what this group of criminals and officials wanted to do was they wanted to create US\$1 billion of fake losses. They could go to the tax office where these companies had been registered and say to the tax office, "You know what? Last year's tax filing with US\$1 billion of profits was a mistake. There's not really US\$1 billion of profits," they said. "Because look," and they presented these billion dollars of fake losses from the court. So they said, "US\$1 billion of profits minus US\$1 billion of losses gets you to zero." Then they use this amended tax return that they filed using these fake losses to then say to the tax authorities, "Therefore the companies who paid US\$230 million of taxes last year paid this money in error, and we want it back." And so the purpose of this scam was to steal US\$230 million of taxes that we had paid to the Russian government from the Russian government.

[00:06:22] The whole theft of your company is a trumped-up effort to get a tax return that is obviously fraudulent and not due. But then they actually come after you for the tax fraud.

[00:06:37] So here's what happens. They apply for a US\$230 million tax refund two days before Christmas in 2007, and it's approved and paid out the very next day. It was the largest tax

refund in the history of Russia.

[00:06:53] Because tax authorities are known for their speedy attention to returns of this size.

[00:06:59] It's unprecedented. I mean, it is a huge, huge inside job scam. And so what happened was, while this was all happening, we were filing criminal complaints. And the first thing they did after we filed criminal complaints was, instead of going after the criminals, the police officers and other crooks opened up a criminal case against me. I was outside the country, and we filed more criminal complaints, and Sergei Magnitsky — my lawyer — actually testified in Russia against some of the police officers. And after his testimony, they then opened up a criminal case against him, came to his home at 8:00 in the morning on the 24<sup>th</sup> of November, 2008, and arrested him. They put him in pre-trial detention, and then they began to torture him to get him to withdraw his testimony. And they wanted to get him to sign a false confession to say that he stole the US\$230 million, and he did so on my instruction.

[00:08:02] I want to spend some more time on Sergei story because it's, of course, a centerpiece of the larger story. But what were the charges brought against him when they arrested him at his offices initially?

[00:08:14] So the charges that they brought against me and the charges that they brought against him were that we evaded taxes in 2001 in a totally separate company. What made that so absurd was this was now 2008, and there's a three-year statute of limitations for taxes. And the people who brought the charges were the ones that these same individuals who were involved in the theft of our companies — the same police officers who were raiding the office and seizing documents — were the ones who opened up the criminal case against me and the criminal case against him.

[00:08:46] One of the things I'm learning as we work through some of these financial crimes is just how incredibly brazen the perpetrators are. There isn't even a veneer of credibility around this story.

[00:08:59] In this story, we haven't even gotten to the dramatic and horrific parts. It gets more and more brazen than the behavior of the Russian government. It's just so stark and so obviously inconsistent with any law, morality or other goodness. But they are not sensitized to that.

[00:09:16] Sergei has now been imprisoned, and they are leaning on him to recant or to give false testimony.

[00:09:23] They want him to effectively plead guilty to the crime that they committed, and then they want him to implicate me. And they looked at him and they said, "Here's a guy." Sergei was a guy who wore a white shirt and a red tie, brought his Starbucks in the morning and worked in the tax department of an American law firm, and they said to themselves, "Here's a guy. We'll put them in some nasty conditions, and he'll be doing anything for us after a week." And so they put him in a cell with 14 inmates and eight beds and left the lights on 24 hours a

day to impose sleep deprivation, and they came to him afterwards and said, "Sign this false confession." And remarkably, they discover that whether he was a tax lawyer or not, he had an incredibly firm set of principles, and he just wasn't going to do that. They then put him in a cell with no heat and no windowpanes in December in Moscow, and he nearly froze to death. They put him in a cell with no toilet — just a hole in the floor — where the sewage would bubble up, and move him from cell to cell to cell in the middle of the night. I think they moved him something like 28 times in his 300 and some odd days in detention.

[00:10:33] And we know a lot of this because he kept scrupulous records. He wrote hundreds of letters about his treatment while he was in prison.

[00:10:41] So he was a remarkable man. Everybody has their own way of dealing with unfairness and injustice and adversity, and his way was to document it in the form of criminal complaints against the authorities. He filed 450 complaints in his 350 days in detention, documenting who was doing what to him, where, how, when and why. And everyone always asked me, "Well, how is it that he ever got the stuff out of the prison?" And the answer is that they didn't care. They're so brazen, and it didn't really matter to them whether people knew it or not. So once a month, he would meet with his lawyer. He would hand him a stack of handwritten complaints. His lawyer would file them. Everything would be ignored or denied in many cases, but we would get copies of these things. And so we knew what was happening to him, and most importantly, there was a record of what was happening to him. His situation became very frustrating for them and very painful for him. They had never encountered someone who had principles like this. He just was not going to perjure himself and bear false witness, no matter what the physical pain was. And they just kept on ratcheting it up and putting more and more pressure on him, and the really big trouble began about six months after he was arrested, when his health started to break down in prison. He ended up losing about 40 pounds. He was diagnosed as having pancreatitis and gallstones and terrible pains in the stomach. He was due to have an operation on the 1<sup>st</sup> of August, 2009, and they came to him about a week before his operation, and they asked him again if he would sign this false confession. In spite of his terrible pain, again he refused. And in reaction to that they abruptly moved him from a prison that had a medical facility to another prison, a prison called Butyrka. Butyrka is well known in Russia as being one of the most horrific, horrible, maximum-security prisons in the country. And most significantly for Sergei, they had no medical facilities there. So they transferred him to Butyrka, and in Butyrka, his health completely broke down. He was supposed to have had an operation at the previous prison, which they refused him to do, and he went into constant agonizing, untreated, pancreatic pain. This went on, and on, and on, and on, and it got worse and worse. He and his lawyers wrote 20 different desperate requests for medical attention. Every different branch of the Russian criminal justice system either ignored, and in some cases denied in writing, his desperate requests for medical attention. And it got worse and worse, and finally on the night of November 16<sup>th</sup>, 2009, Sergei went into critical condition. His body could no longer take it anymore. On that night, the authorities at Butyrka didn't want to have responsibility for him anymore, so they put him in an ambulance, and they sent him across town to a different prison facility that had a medical wing. But when he arrived at this other prison, instead of putting him in the emergency room as they should have, they put him into an isolation cell, chained him to a bed and eight riot guards with rubber batons

beat Sergei Magnitsky to death. That was November 16<sup>th</sup>, 2009. He was 37 years old. He left a wife and two children.

[00:14:29] I think his age is important to the story. He was a healthy, young man when he was arrested.

[00:14:36] He was completely healthy, vigorous, big, healthy, jovial fellow. And they basically tortured him through various different means, through lack of medical attention, through other means. And then they beat him on the last night of his life to death.

[00:14:55] We should underscore, this is not speculative. You and I have both spoken to people who saw Sergei's body, and there was nothing natural about his death.

[00:15:04] And there was nothing natural about his death. And, moreover, we've even seen, in the case file, a document in which the people who beat him signed the protocols saying, "I was instructed to do this beating and I did the beating."

[00:15:16] Just backing up for a moment to the scheme itself — why was it even worthwhile for them to invest their grisly energy in trying to get Sergei to confess falsely and to implicate you? They had their US\$230 million.

[00:15:34] What you have to understand about the Russian criminal regime is that they're very confident about committing crimes, but it's not a monolithic regime where everything is controlled. Everybody is busy scuffling with each other, fighting with each other, compromising each other. And so it's very important for every crime that they commit to have a neatly tied-up and strangely bureaucratically documented way so they can say that this crime was committed by somebody else. So their intention from the very beginning was to blame Sergei Magnitsky and to blame me for the theft of this money. And it got more and more difficult for them when they realized that he wasn't going to do that, and they do like dead people because they can blame anything on a dead person. And then it became very inconvenient for them when I began a campaign for justice for Sergei Magnitsky after they killed him. What they hoped to tie up neatly in a little bow, to say, "Look, here was a crime. US\$230 million was stolen. The people who stole it are either dead or in jail. End of story, end of case."

[00:16:38] The discrediting continued because it might be the only time in Russia — I'm not certain of that — that they actually put a dead man on trial, and they conducted a trial with an empty defense box. Obviously, Sergei was dead, and they prosecuted him after his death.

[00:17:00] Sergei died on November 16<sup>th</sup>, 2009, and we began a process to try to get justice for Sergei Magnitsky. It was the most heartbreaking thing that's ever happened to me, having a young man who worked for me killed in such a horrific way, on my watch, and I made it my life's mission to get justice for him. And we had a ton of evidence based on all these complaints that he wrote about what happened to him. And we expected, even with the corruption of the Putin regime — given the high profile of this murder and the fact that he's working for a very large foreign investor and all these other things — we thought that for sure they'd have to give

us some semblance of justice, but they didn't at all. The Putin regime circled the wagons. Putin personally stepped in and exonerated everybody involved. They gave promotions and state honors to some of the people who were most complicit. And, as you mentioned before, in the biggest miscarriage of justice in the history of Russia, three years after they killed Sergei Magnitsky, they put him on trial, in the first ever trial against a dead man in the history of Russia. And they put me on trial as his codefendant. As you mentioned, both seats were empty in the courthouse. I was in London, not there. Sergei was in the graveyard, not there. And they held a big trial with a judge and prosecutors and state-appointed defense lawyers and bailiffs and court reporters and press and two empty seats in the defendant's box. At the end of the trial, they found us both guilty. They couldn't do anything more to Sergei, and they sentenced me to nine years in prison in absentia. And it became obvious to us that the Russian system is so bent, the bentness goes right up to the top, that there's not a single possibility of getting justice inside of Russia. And so our only hope was to get justice outside of Russia.

[00:18:58] So there is no hope of a happy ending to this story, of course, but giving us all some cause for optimism, can you describe the campaign that you embarked on — a very effective campaign — that you embarked on almost immediately after this?

[00:19:15] It became obvious to me that if we weren't going to get justice in Russia, and we needed to get justice outside of Russia, we needed to find some lever of justice, because you can't prosecute somebody for murder in America if they've committed the murder in Russia. So we looked at this situation, and we tried to define what was it about this situation, what elements of the situation gave us some leverage outside of the country. Sergei's murder was about the theft of US\$230 million, and we know that the people who stole that money, as soon as they got it, they don't like to keep it in Russia, because as easily as they stole it, it could be stolen from them. So where do they keep that money? They keep that money in New York City and in London and in Geneva. They buy houses in the south of France, and they send their kids to British boarding schools, and they send their wives shopping to Paris and their girlfriends to Milan. So I came up with this idea, which was: Maybe we can't prosecute them for torture or murder in the west, but we can certainly stop them from traveling and freeze their assets in the west. So I took this idea to Washington at the end of 2010, and I was able to convince a Democratic senator from Maryland, Benjamin Cardin, and a Republican senator from Arizona, John McCain, to initiate something called the Magnitsky Act. The Magnitsky Act was a piece of legislation which would freeze assets and ban visas of Russian human rights violators. The interesting thing at this time in Washington was that there was no lobby in favor of Russian human rights violators. There's a lot of things that don't happen in a bipartisan way, but this is one of the few things that could happen in a bipartisan way, and it really got a huge amount of momentum. And the only institution that was really against us was the U.S. administration. Effectively, at the time, President Obama and Secretary of State John Kerry, because they had some ill-conceived notion at the time that they could reset relations with Russia. And so they were trying to stop us from doing what we were doing. But the beautiful thing about the United States is this separation of powers, and the legislative branch, when operating together, has as much — and in some cases more — power than the executive branch. When the Magnitsky Act went for a vote in the Senate in November of 2012, it passed 92 to 4. When it went for a vote in the House of Representatives, it passed with 89 percent. So in spite of the misgivings and the

discomfort that President Obama had about upsetting Vladimir Putin, he had no choice, because if he had vetoed it, his veto would have been overridden. So he reluctantly signed the Magnitsky Act into law. Whether it was reluctant or enthusiastic, it completely and absolutely changed the landscape for Russia and, eventually, for the whole world, because Putin realized that his whole modus operandi of stealing money in Russia and keeping it safe in the west was put at risk by this. He did everything possible before it happened to try to stop it and after it happened to retaliate against it. You may remember that Russia banned the adoption of Russian orphans by American families, and that was done in direct retaliation to the Magnitsky Act. Effectively, what Putin was saying is he's ready to sacrifice his own orphans in order to protect his corrupt officials, which showed how terrified he was of this whole thing.

[00:22:51] So was it at this point that the red notice was issued against you?

[00:22:55] Yeah, so, following that, Putin gave a big speech in his annual press conference, publicly denouncing me. Following that, Russia issued its first red notice request to Interpol. It was like, "All points bulletin, all around the world, any border you cross, you'll be arrested."

[00:23:11] You're living in London at the time, and that requires the London authorities to cooperate in your extradition.

[00:23:18] But what it does is if you're crossing a border and you show your passport to the border agent, and he puts it into the computer, then it'll flag you. They're more or less obliged to arrest you, at which point, then Russia asks for your extradition. So I was traveling — I was actually outside the country when this red notice was issued — and I was in Norway speaking at the Oslo Freedom Forum, a human rights conference in Norway, when the red notice came over the transom. I was very worried about what was going to happen. I called my lawyer. He said, "Try to get home. Hopefully they won't grab you." I went immediately to the airport. I walked down that long hallway at Oslo airport. There were two border guards who were engaged in a conversation with each other in their respective booths. I handed my passport to one of them, and, thankfully, he was so engaged in his conversation that he just looked at the passport and handed back to me and didn't enter it into the machine, so I wasn't arrested in Oslo. I didn't have any trouble getting back into the UK, and then after that, we wrote to Interpol and we basically said, "Interpol, do you want to be part of a Russian criminal enterprise? You're the law enforcement organization of the world. Do you want to be part of a Russian gangster enterprise?" And they have a special group within Interpol that deals with these types of issues called the Commission for the Control of Files, and they had a meeting a few days after the Russians requested the red notice. During the meeting, they looked at the evidence, were shocked, surprised, and they immediately rejected it and announced on their website that they were going to be not cooperating with Russia on the arrest of Bill Browder. They told all their member states to remove all the information about me from their website.

[00:25:03] When I visited your offices in London, there was pretty substantial security presence. How much do you worry about the long and vindictive reach of some elements in the Russian government? It was in London that Alexander Litvinenko was killed with polonium, and that was, of course, tied directly to elements of the Russian government. Do you feel secure?

[00:25:25] Let me tell you some few stories. So there was a guy who was a member of the criminal group that took the money that Sergei exposed, and he had fallen out with the other members of the criminal group. He moved to London, and he contacted us, and he gave us a bunch of documents which led to the freezing of US\$20 million of accounts in Switzerland, at UBS and Credit Suisse. And this man, his name is Alexander Perepilichny. He was out jogging on November 10<sup>th</sup>, 2012, when he collapsed and died at the age of 44. And they've since determined that he had poison in his stomach. Another guy — another lawyer working for Sergei Magnitsky's mother in Moscow helping with the justice campaign — just about a month ago was thrown out of a fourth-floor apartment. Thankfully, he landed in such a way that he was injured, but not critically, and he's OK-ish, but they tried to kill him. Another guy, his name is Vladimir Kara-Murza. Vladimir is a Russian opposition politician, and he has gone with me to the U.S. Congress, to the Canadian Parliament, to the European Parliament, advocating for Magnitsky sanctions and speaking on behalf of Russian citizens about how important this is. When he was in Moscow, he was poisoned. He went into a coma. He had multiple organ failure. He was in a coma for a month. Doctors gave him a 5 percent chance of living. And remarkably, he pulled through. But the moral of the story is they go after anyone they can get, where they can get them.

[00:26:54] How safe do you feel given their monstrous tactics and their track record?

[00:26:58] Not safe at all, of course. These people will do anything they can get away with. They would like to destroy me.

[00:27:05] One of the very effective things that's happened is getting this international attention through, I'm sure, in part, your efforts. But that sort of recognition for another regime might discourage any really flagrant behavior against the people involved.

[00:27:22] We have a little bit of protection — a little bit, not much. But the fact that Russia wants to be a member of the international community, they want to be part of the G20, they want to be a paid up member of the United Nations and Interpol and OECD and all these places — they're kind of pretending to be sort of civilized people. So that's the one thing that slightly constrains them, that they don't want to be just openly caught doing really bad stuff. Putin hasn't stooped to the level of Kim Jong Un or Mugabe of Zimbabwe. He's not a total pariah. He wants to be able to have a summit with Donald Trump and meet with Angela Merkel and all those types of things. So they're slightly constrained by that, but that doesn't give me much comfort, and it doesn't protect me very much and doesn't protect the people around me very much. Because if they can do something and get away with it, they will, and the only issue is just getting away with it.

[00:28:17] So far, the Putin regime, of course, remains in power and is getting an audience with serious democracies and democratic leaders. So it hasn't slowed them down much. Bill, thank you for joining me for this podcast. Sergei's story is another very sad rebuke to those who describe financial crime as largely victimless. This is perhaps the most glaring example of a financial crime that involves real victims, not just people who are having to fight Interpol for

their liberty but also the people who have died as a result of this. Thank you for the work that you've done, for prodding the U.S. government to take this issue seriously and, at least, prevent those who stole the money — and stole it from the people of Russia — from spending that money with impunity.

[00:29:05] Thank you for giving me the opportunity to tell my story.