

Fugitive Russian Gold Exec Asks NY Civil Court To Clear Him

By **Frank G. Runyeon**

Law360, New York (December 2, 2019, 7:39 PM EST) -- A New York state judge on Monday puzzled over a Russian fugitive's request that the civil court find Russia's criminal charges against him are baseless as part of a lawsuit involving gold mining, bribery and corruption.

Maxim Finskiy, former chairman of White Tiger Gold Ltd. now known as Mangazeya Mining Ltd., is battling a \$190 million lawsuit brought by Sergey Yanchukov over the purchase of the mining company that claims Finskiy, his onetime friend, tricked him into buying shares by inflating the value of the mines.

In his counterclaims, however, Finskiy tells a different story. He claims Yanchukov leveraged his relationships with a powerful Russian official to demand Finskiy cede control of White Tiger, sell his shares at a deep discount and pay a \$150 million bribe — even threatening to kill him. Then, Finskiy says Yanchukov reneged on the corrupt deal and had him arrested on trumped up charges. Finskiy seeks \$185 million.

Justice O. Peter Sherwood questioned the legal logic for Finskiy counsel Harold E. Patricoff's argument that a civil court in New York could entertain a fraud claim against Yanchukov for that sort of crooked bargain, and appeared to balk at a pitch to clear Finskiy's name with Interpol by touting the court's decision to dismiss Yanchukov's own fraud claim in the underlying suit.

The judge seemed to struggle most with the crux of Finskiy's fraud claim.

"In turn for the payment of a bribe, your client would avoid prosecution by Russian authorities?" the judge asked, clarifying the covenant Yanchukov allegedly laid out to Finskiy.

"That is exactly right," Patricoff said. After Finskiy sold Yanchukov his shares for a third of their value, they had a deal that Yanchukov — and alleged investor and ally Viktor Zolotov, who heads the Russian national guard — would leave him alone, Patricoff said. But instead Finskiy was framed for a crime he didn't commit and arrested by Russian authorities.

"That is fraud?" Justice Sherwood said, voicing skepticism that such a broken promise could form the basis of a contract claim against Yanchukov. "I call that bribery. Participation in a bribery scheme."

Patricoff later walked back his agreement that the deal centered on a bribe, broadening the bargain as one in exchange for Finskiy's shares. Counsel for Yanchukov said the \$150 million was never paid.

Finskiy's counsel said it was important to have the court clear him of the fraud so he could take that information to Interpol to lift the "red notice" prohibiting him from traveling internationally because of the Russian charges. Finskiy claims he fled home confinement in Russia on his attorney's advice.

"Are you asking me to second guess what the Russian authorities are doing?" Justice Sherwood asked.

"Absolutely," Patricoff replied, noting that Zolotov is on a U.S. sanctions list under the Magnitsky Act.

"You've already ruled, your honor, that there was no fraud," Patricoff said later in the hearing, referring to Yanchukov's fraud claim against Finskiy that Justice Sherwood nixed from the underlying suit. "It's the same story he's telling the Russian officials that he told you."

Finskiy first filed two pending suits against Yanchukov's affiliated companies in the British Virgin Islands, where White Tiger is incorporated, and Canada, where they agreed to adjudicate claims over the stock sale.

Yanchukov's companies brought racketeering, fraud and conspiracy claims against Finskiy in U.S. federal court in 2015 that were dismissed for lack of jurisdiction in August 2017. Yanchukov filed the New York state suit the following month for fraud, conspiracy and other contract claims. Justice Sherwood dismissed fraud and other claims in October 2018, but Yanchukov has appealed.

Yanchukov's counsel Tab K. Rosenfeld told the court that Finskiy "only felt the need to sue" because he was being sued.

During the hearing, Rosenfeld rebutted Finskiy's counterclaims, calling his fraud claims over an alleged bribery deal "exceedingly ridiculous on several levels."

"He's accusing my client of extortion. My client denies this," Rosenfeld said. "It's an extortion claim. It's not actionable as a civil fraud claim."

"They have a contract" for the sale of the company shares, Rosenfeld noted. "Where's the fraud?"

"My client is not the one who is a fugitive from the law," Rosenfeld told Law360 following the hearing. "Mr. Finskiy is."

Finskiy and his related companies are represented by Harold E. Patricoff, Geoffrey Travis and Aleksey Shtivelman of Shutts & Bowen LLP and Thomas E. Butler of White and Williams LLP.

Yanchukov and his related companies are represented by Tab K. Rosenfeld of Rosenfeld & Kaplan LLP.

The instant case is Unique Goals International Ltd. et al. v. Maxim Finskiy et al., index number 655692/2017 in the Supreme Court of the State of New York, County of New York.

The federal case is Yanchukov v. Finskiy, case number 1:15-cv-08128, in the U.S. District Court for the Southern District of New York.

--Editing by Amy Rowe.