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Bank Trustee Looks To Ramp Up Embezzlement Probe

By **Alex Wolf**

Law360, New York (September 27, 2017, 6:28 PM EDT) -- The trustee for an insolvent Russian bank in Chapter 15 legal proceedings in the U.S. asked a bankruptcy court on Tuesday for broad subpoena power to investigate transactions that purportedly link funds embezzled by the bank's former president to purchases of New York City real estate.

Russia's Deposit Insurance Agency, which took over as the trustee for Vneshprombank after the Russian government declared it insolvent, said that it should be able to serve subpoenas in order to retrieve documents related to more than 1,300 fraudulent transactions allegedly used to embezzle funds from the bank.

The grand scheme perpetrated by now-convicted former bank president Larissa Markus saw her cause the bank to write roughly \$2 billion in loans to fictitious entities that she controlled and move a portion of those proceeds to purchase interests in several condominium or cooperative apartments in New York City, the trustee claims.

With its legal pursuit in New York, the Russian Deposit Insurance Agency has followed up on allegations that Markus formed eight limited liability companies to own specific apartments in the city bought with bank funds.

While various parties have agreed to provide the trustee with requested documents, the LLCs and other companies that are allegedly controlled by Markus have objected to discovery requests that aim to uncover how those entities were created and how they acquired funds to purchase the real estate in question, the trustee said. A New York-based accountant named Ilya Bykov, who was appointed manager of Markus' business affairs in the U.S., has also fought the agency's bid to turn over related records, according to the trustee.

Those entities related to Markus and Bykov purportedly said the requests were overbroad and beyond the scope of a court order that granted legal protections to the Vneshprombank estate in the U.S. and permitted its foreign representative to examine witnesses and gather evidence related to bank assets.

The trustee said that the resistant parties will not produce anything beyond a "mere selection of bank statements" without a finding that they contributed to the embezzlement or received funds from the embezzlement. The problem is that the discovery requests are intended to provide evidence that would back up that sort of finding, the agency said.

"Without the information sought from the discovery parties, it will be exponentially more cumbersome, expensive and time consuming, if not impossible, for the foreign representative to discover presently unidentified persons and entities who contributed to or

received money stolen from the bank or property acquired with such money," the brief reads.

An attorney who is handling media questions for the LLCs and related parties did not immediately respond to a request for comment Wednesday, while co-counsel to those same parties declined to comment.

The foreign representative for Vnesheprombank, also known as Foreign Economic Industrial Bank Ltd., filed for Chapter 15 protection in December, saying it was part of an effort to further investigate claims that Markus and others connected to the bank embezzled money from clients' accounts and invested some of it abroad.

Investigators in Russia alleged that Markus and accomplices, including her brother who absconded to Monaco, caused the bank to lend money to affiliated companies that never intended to repay it.

Since February, when the bank **received Chapter 15 protection**, Markus was found guilty in Russia of fraud charges and admitted to working with others to steal approximately \$2 billion from the bank, the agency said.

A hearing on the discovery motion is scheduled for Oct. 12.

The DIA is represented by Rick Antonoff, Barry N. Seidel and Evan J. Zucker of Blank Rome LLP, and by Bruce S. Marks of Marks & Sokolov LLC.

The discovery parties are represented by Gregory Plotko of Richards Kibbe & Orbe LLP and Marlen Kruzhkov of Gusrae Kaplan Nusbaum PLLC.

The case is In re: Foreign Economic Industrial Bank Ltd., case number 1:16-bk-13534, in the U.S. Bankruptcy Court for the Southern District of New York.

--Editing by Kelly Duncan.