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Russian Billionaire Vs. The U.S. Government: A Look At Oleg Deripaska's Puzzling Lawsuit



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MOSCOW, RUSSIA - Russian billionaire Oleg Deripaska, currently sanctioned by the U.S. for reasons related to Russia's alleged interference in U.S. elections and its aggression in Ukraine, is suing the Treasury Department. (Photo by Mikhail GETTY IMAGES)

When the U.S. Department of Treasury sanctioned Russian billionaire Oleg Deripaska and his companies in [April 2018](#), the oligarch was busy preparing for Russian Orthodox Easter celebrations and hardly seemed surprised. “The events this morning are very unfortunate but not unexpected,” he wrote to *Forbes* [in an](#)

[email](#) at the time. “Certainly the grounds for putting my name on the list...are groundless, ridiculous and absurd.”

Nearly a year later, Deripaska is less sanguine. On March 15, Deripaska filed a lawsuit against the U.S. Treasury Department, Treasury Secretary Steve Mnuchin and Andrea Gacki, the director of the Treasury Department’s Office of Foreign Assets Control (OFAC), alleging that the U.S. violated “the rule of law” by targeting him “simply because it is politically expedient or publicly popular to do so.” His lawyer argues that the allegations referenced by OFAC to illustrate Deripaska’s criminal past — bribery, money laundering, extortion, ordering the murder of an unidentified businessman — are all unsubstantiated. The suit also claims that his net worth has fallen by \$7.5 billion, or 81%, since the sanctions were announced last April, and that he has become “radioactive to any person dealing with him anywhere in the world.”

The oligarch even alleges that the sanctions have hurt his reputation back home. He pointed to recent comments made by Russian politician Gennady Zyuganov, stating that Deripaska had given his companies “to the Anglo Saxons to control” by agreeing to lower his stakes in companies to below 50%.

This is likely not the case, says Steven Fish, a political science professor at UC Berkeley and author of *Democracy Derailed in Russia: The Failure of Open Politics*. “That is just political theater. Nobody takes Gennady Zyuganov seriously,” says Fish.

An analysis by *Forbes* also finds his net worth claims to be inaccurate and his lawsuit a long shot. On April 6, 2018, the day the sanctions were announced, Deripaska’s net worth was \$6.76 billion, according to *Forbes* Real-Time Rankings. On the day he filed his lawsuit (March 15, 2019), his net worth was \$3.58 billion, a 47% drop. In the past year, the lowest point for his net worth was \$3.07 billion on December 19, a 56% decrease. While it’s true that the public companies in which he has majority interests took a huge hit as a result of the sanctions, none fell 81%.

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Deripaska and his representatives did not respond to multiple requests for comment regarding the net worth claims in the lawsuit.

Beyond the puzzling claims about his falling net worth, there's the question of whether Deripaska will make headway with his legal arguments. According to more than half a dozen lawyers with sanctions expertise as well as political scientists and economists specializing in Russian affairs, Deripaska's lawsuit has a slim chance of winning due to its weak legal arguments and the low success rates of similar lawsuits in the past.

The Washington, D.C.-based lawyer for Deripaska, Erich C. Ferrari of Ferrari & Associates, would not comment specifically on Deripaska's case, but did speak to *Forbes*. "The fact that suing OFAC has a low success rate is maybe one material factor to consider," says Ferrari, "But certainly just because they [OFAC] win a lot doesn't mean this person shouldn't pursue their delisting when they feel that listing is wrong."

Deripaska's role in election interference, if any, remains unclear, but the purpose of the sanctions is to send a signal to Russia by attacking those who have profited from being in Putin's inner circle, says Bruce **Marks**, an international litigation attorney specializing in U.S. and Russian affairs. (**Marks** has sued Deripaska on behalf of Deripaska's former business partners on three separate occasions, though none resulted in a final court decision against him.) "It is indisputable that he is an oligarch with close ties to the Kremlin, ties that an English judge described as 'umbilical,'" **Marks** said, in reference to an opinion written by Justice Christopher Clarke in the High Court of Justice in London in 2008 during which a former business partner sued him for not honoring an alleged business deal (the two parties settled.) "The hope is that by sanctioning him, this will send a signal to the Kremlin that they [the Russian government] should change their behavior related to Ukraine and the American elections."

On Deripaska's argument that the criminal allegations OFAC references in its sanctions' declarations — money laundering, extortion, racketeering, and death threats — are unsubstantiated, **Marks** thinks otherwise. "There have been cases filed throughout the United States, including cases that I filed with declaration and affidavits sworn under penalty of perjury that Deripaska was engaged in extortion and other criminal activity," says **Marks**. "The suggestion that the United States government would not have sufficient information in its files that would support him being put on the sanctions is ludicrous."

But while there may be sworn affidavits, plaintiffs have never prevailed against Deripaska on the criminal behavior that his former business partners alleged. **Marks**, representing some of Deripaska's former business partners, sued the Russian oligarch in federal court in the Southern District of New York and then in Delaware in the early 2000s. The lawsuits accused the Russian oligarch and his former partner Mikhail Cherney of using death threats, fraud, and associations with the Russian-American Izmailovo Mafia to gain control of various assets in Russia. Both were dismissed based on the determination that those cases should be litigated in Russia. After the dismissals, **Marks** took the litigation to the Caribbean courts, where the two sides reached a confidential settlement.

Deripaska's fortune these days, based on reporting by *Forbes* licensee *Forbes Russia*, lies in multiple sectors — energy, construction, insurance, finance, airports and agriculture. But the bulk of his wealth comes from En+ Group, a publicly traded holding group he founded in 2002, which manages his aluminum and hydroelectric assets including UC Rusal, one of the world's largest aluminum companies. En+ Group trades on both the London and Moscow stock exchanges and has assets in over 19 countries. Its London-listed stock lost 40% of its value on April 9, 2018, the first trading day after sanctions hit. UC Rusal, meanwhile, lost 50% of its value that same day.

Since the sanctions, Deripaska has complied with OFAC regulations by lowering his ownership stake in En+ Group to below 50%. Before the sanctions, Deripaska owned about 70% of the holding group. By issuing new shares, giving control of pledged shares to the state-owned VTB Bank, and donating shares to an

undisclosed charitable foundation, Deripaska lowered his stake to 44.95%, now worth \$2.5 billion (that's roughly \$1.2 billion less than he would have owned had he not been forced to reduce his stake). On January 27, 2019, the Treasury Department [lifted sanctions](#) on En+ Group and several other Deripaska-linked companies. However, Deripaska himself remains sanctioned, and his assets in the United States continue to be frozen.

The oligarch has a pattern of rising from the smelted ashes. Deripaska started as a small-time metals trader while he was a physics student at Moscow State University, graduating from the school in 1993. During the post-Soviet privatization era in the 1990s, Deripaska met brothers Lev and Mikhail Cherney and began working with them to consolidate the biggest aluminum plants in the country. "That's when I started having problems," Deripaska told *Forbes* in a [2001 interview](#). In a time widely referred to as the "aluminum wars," dozens of executives, bankers, traders and mob bosses were killed in the metals battle. In the end, Deripaska, who told *Forbes* in 2001 that he stayed clear of the gang wars by focusing on the assembly lines inside aluminum smelters, came out victorious with ownership of Russian Aluminum, the predecessor to UC Rusal, which he formed with Russian billionaire Roman Abramovich.

Deripaska continued expanding his empire, borrowing hundreds of millions of dollars from banks and the Russian government to buy stakes in manufacturing and insurance companies, and to further consolidate the aluminum industry. Deripaska first appeared in the ranks of *Forbes* World's billionaires in 2002 with a fortune of \$1.1 billion. His net worth peaked at \$28 billion in 2008 as a result of a surge in aluminum prices and his ownership of automobile manufacturer GAZ, aircraft manufacturer Aviacor and insurance company Ingosstrakh. In March that year he was the richest person in Russia and the 9th richest person in the world. Then, the financial meltdown hit and his net worth dropped an astounding 87.5% to \$3.5 billion in a single year, as Deripaska was clobbered by heavy debts (in a rush to expand UC Rusal) and bad investments, including a stake in Norilsk Nickel, whose stock fell 80% shortly after he bought in.

But he survived, and he likely has the Kremlin to thank. He did have to unload both a \$1.5 billion stake in Canadian carmaker Magna International and a \$500 million stake in German construction company Hochtief to cover margin calls. But Deripaska received a \$4.5 billion loan from a state-controlled bank to keep the Norilsk Nickel stake. Then in 2010, UC Rusal announced a restructuring of its debt, and he took UC Rusal public on the Hong Kong stock exchange. At the IPO, Deripaska had a stake worth over \$8 billion, bringing his total net worth that year back up to \$10.7 billion.

Deripaska enjoys a level of comfort within Kremlin's inner circle and is considered a "teflon oligarch," says Amy Knight, a former Woodrow Wilson fellow and author of *Orders to Kill: The Putin Regime and Political Murder*. Deripaska, along with the three Russian billionaires that make up the Alfa Group (Mikhail Fridman, German Kahn, Pytor Aven), is among those in Russian President Vladimir Putin's good graces with unparalleled access for getting out of unsavory situations, says Knight. "They know how to meet the needs of Putin, who could destroy all of them, and at the same time enjoy the wealth and immunity of prosecution that other oligarchs have not enjoyed."

Sanctions lawyer **Marks** adds: "(Deripaska) is taking one for the team," he says. The Russian government "understands the circumstances and pressure put on Deripaska and I don't think anybody at [Putin's] level would seriously fault him for doing what he did."

Why, with such a low chance of success, would Deripaska bring this lawsuit? "The case is a bit ridiculous, but Deripaska likes to be in your face," says Anders Aslund, an economist and senior fellow at think tank Atlantic Council who specializes in Russia and Ukraine.

Perhaps Deripaska said it best in his 2001 interview with *Forbes*: "We simply have an image problem."

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