ON THE TRAIL OF $6 BILLIO

BY EDWARD ROBINSON

MAKING THAT MUCH MONEY DISAPPEAR FROM A KAZAKH BANK TURNS OUT TO BE A LOT EASIER THAN FINDING IT—A TASK NOW CONFRONTING A TEAM OF INTERNATIONAL SLEUTHS.

PHOTOGRAPHS BY EVA VERMANDEL

Fraud litigator **Hardman** is the lead lawyer in the quest for the assets gone missing.

On a blustery February morning in 2011, Chris Hardman waited anxiously inside a Big Yellow Self Storage center in north London. A banner fastened to the box-shaped building's facade read "Get some space in your life." All Hardman wanted to do was see the contents of storage unit E2010.

Hardman, a fraud litigator at Hogan Lovells International LLP, was hunting for $6 billion that had disappeared two years earlier from his client BTA Bank JSC, the No. 1 commercial lender in Kazakhstan at the time. Armed with a court-issued search order, he felt his hopes mount as a workman cut through the storage unit's padlock, he recalls.

Inside E2010, Hardman found 25 boxes of documents, data-storage tapes and a computer server, according to court records. The treasure trove included a spreadsheet listing hundreds of interconnected offshore shell companies, Hardman says; many had been used to misappropriate the bank's assets. "It was one more piece of evidence, one more piece of the jigsaw," Hardman, 44, says. "But the moment of elation will come when we get the money back for our client."

Hardman is the lead lawyer on a team tackling what may be the biggest financial fraud case since Bernard Madoff's $17 billion Ponzi scheme blew up in 2008. The squad's chief strategist is John Howell, a financial-crime consultant with a taste for target shooting who's based in the London suburbs. The financial brain is Pavel Prosyankin, a one-time investment banker for Credit Suisse Group AG who's overseeing BTA's asset-recovery process. The crew is bolstered by a posse of private detectives from Diligence Inc., a London-based corporate-investigations firm.

Their mission: find and recover $6 billion that BTA says was stolen by Mukhtar Ablyazov, the bank's chairman from 2005 to 2009, and then secreted in scores of shell companies stretching from Moscow to the British Virgin Islands. After five years of globe-trotting litigation and investigation, the team has managed to recover only "several hundred million dollars" so far, Prosyankin, 42, says, declining to be more specific.

Having fled Kazakhstan to London and more recently the French Riviera, Ablyazov, 50, has testified in British civil courts that he didn't embezzle $6 billion or commit fraud. And the former banker, who's now jailed near Marseilles, has denied criminal fraud charges brought by prosecutors in Kazakhstan, Russia and Ukraine.

Hardman and his team are part of a wave of professional asset hunters whom banks and investors are calling upon as billions of dollars disappear into the largely unregulated offshore economy.

Among the hunters are crime consultant **Howell**, below left, and ex-banker **Prosyankin**, below right.

Irving Picard, the court-appointed trustee in the Madoff case, has filed more than 1,000 lawsuits in the U.S. and Europe to claw back money from clients who escaped the fraud before it collapsed. Picard and his law firm, BakerHostetler LLP, had racked up more than $800 million in fees and recovered $9.5 billion as of Dec. 9, according to court records and the trustee's website.

Since 2011, Irish Bank Resolution Corp., a state-owned entity comprising Ireland's two biggest failed lenders, Anglo Irish Bank Corp. and Irish Nationwide Building Society, have been locked in litigation with one-time billionaire Sean Quinn. Dozens of lawyers and investigators have scoured shell companies in Ireland, Russia and Ukraine for evidence that Quinn and his family are hiding his wealth instead of paying back his Anglo Irish debt of 2.8 billion euros ($3.8 billion). Quinn, who filed for bankruptcy in 2011, served nine weeks in jail in 2012 after an Irish judge found he'd violated a court order by moving his assets.

No case better demonstrates the stakes of asset hunting today than the legal war between BTA Bank and its former chairman, says Antonio Suarez-Martinez, an asset-recovery litigator at London-based Edwards Wildman Palmer UK LLP. Hardman and his team must prove that Ablyazov is the true owner of shell companies the bank says are holding its assets. The BTA team has placed him and his family under surveillance. It has also used asset-freezing orders, receiverships and lawsuits—the bank filed 11 separate actions against him in the High Court of London—to force Ablyazov to return the bank's money. "They are fighting very hard and using the full breadth of the law to get those assets," Suarez-Martinez says of BTA's hunters.

The search for BTA's missing assets began on Feb. 2, 2009, when Kazakh regulators took over the bank and turned its management over to Samruk-Kazyna AO, the Central Asian country's sovereign wealth fund. Auditors discovered a $10 billion hole in its balance sheet. Grigori Marchenko, then chairman of the National Bank of Kazakhstan, summoned Howell to icy Almaty to review the bank's options for recovering the money. As Howell and a team of forensic auditors delved into BTA's lending practices, they saw that an obscure unit called UKB6 had issued billions of dollars of credit for scores of property developments and other deals in Belarus, Russia and Ukraine. "It was a bank within the bank," says Howell, 57, a donnish Briton who peppers his conversation with quotes from Virgil and Voltaire.

Ablyazov says the Kazakh government is trying to break him financially.

REUTERS/STRINGER/LANDOV

Ablyazov wasn't around to explain UKB6; he'd decamped for the U.K. Searching for another way to trace the money, Howell says, he advised Marchenko and Samruk-Kazyna Chairman Kairat Kelimbetov that the key would be found in holding Ablyazov to account in a U.K. court. "That would get us behind his operation," Howell says.

Enter Hardman, whose job as a litigator was to find a legal hook to take Ablyazov to court in London. Hardman, who races sports cars in his spare time, settled on a 2008 transaction in which BTA transferred $295 million to a British shell company called Drey Associates. The deal established jurisdiction in the U.K. for all 11 lawsuits, which

PHOTOGRAPH BY MAX SHER

were designed to eventually track down the $6 billion that BTA deemed recoverable out of the missing $10 billion. Hardman scored a victory on Aug. 13, 2009, when BTA won a court order freezing all of Ablyazov's holdings worldwide and directing him to disclose their whereabouts.

Ablyazov's legal defense centers on the rumbustious world of Kazakh politics. He's co-founder of a pro-democracy opposition movement and a longtime critic of President Nursultan Nazarbayev. Ablyazov says the U.K.'s Metropolitan Police warned him in January 2011 that he might be the target of a politically motivated kidnapping or attack. He says BTA is a pawn of the government, seeking to break him financially and destroy his political standing. "I am the victim of a continuing oppressive and illegal scheme by the Kazakhstan authorities, the purpose of which is to expropriate my assets and to eliminate me as a political force," Ablyazov testified in a London court in November 2010.

In a statement Ablyazov sent to Bloomberg News from his cell, he says that while he used shell companies as a haven for his majority stake in BTA and to manage the bank's assets, he didn't do so to defraud its depositors and creditors. Rather, Ablyazov says, he was seeking to keep the money out of Nazarbayev's reach, fearing the regime would seek to seize Ablyazov's assets. He says that after he became chairman of BTA in 2005, Nazarbayev ordered him to make sure that at least half of his shares in the bank wound up in the hands of the president's allies. "I knew Nazarbayev too well to structure my holdings in BTA in an open and transparent way," Ablyazov says.

The Kazakh government didn't respond to a request for comment.

As the legal battle raged in London, Hardman and Will Kenyon, a London-based forensic accountant at PricewaterhouseCoopers LLP, unearthed deals in UKB6's loan book that Hardman says he found suspicious. In one 2007 transaction, according to court documents, BTA loaned $76 million to a shell company based in the British Virgin Islands called AstroGold Corp. even though AstroGold had only $5,000 in capital. In another, Ablyazov transferred $1.4 billion from the bank to entities he controlled by disguising the money as loans for projects such as a Caspian Sea oil platform, according to court records.

Hardman also found that the recipients of the UKB6 loans were shell companies linked to a London-based investment firm called Eastbridge Capital LLC, which was, in turn, managed by Syrym Shalabayev, Ablyazov's brother-in-law, according to court papers.

BTA's Prosyankin says Ablyazov had been using the bank as his personal private-equity fund. "He controlled the bank as chairman and headed its credit committees, but on the other hand, he was the beneficiary and controlling shareholder of the borrowers," Prosyankin says. "He controlled both sides of the deals."

Proving Ablyazov's ownership in court was going to be tough, Hardman says. "We couldn't just follow the money," Hardman says. "We had to follow his people." Diligence detectives hired by BTA watched Ablyazov's

A FIVE-YEAR ODYSSEY

BTA's asset hunters have pursued Ablyazov and the bank's missing $6 billion in Kazakhstan, in U.K. courtrooms and on the French Riviera.

2009

- FEB. — The Kazakh government takes over BTA; the hunt begins. — Ablyazov leaves Almaty for the U.K.
- AUG. — BTA sues Ablyazov for civil fraud in the U.K.; the High Court freezes his worldwide assets.
- OCT.–DEC. — Ablyazov denies the charges, saying the Kazakh government is hounding him.

2010

- FEB. — BTA tells the court Ablyazov is using shell companies to hide his assets.
- JULY — The court orders Ablyazov's holdings placed in receivership.
- SEPT.–JAN. — Seeking clues, BTA's investigators shadow Ablyazov and some of his associates in Cyprus and London.

2011

- JAN. — Ablyazov says Scotland Yard warns him he's a potential murder or kidnap target.
- FEB. — BTA's lawyers say data link Ablyazov assets to a network of shell companies.

2012

- FEB. — The court holds that Ablyazov violated the freezing order; he receives a 22-month prison sentence. — Ablyazov flees the U.K. and goes underground.

2013

- MAR. — The court finds Ablyazov defrauded BTA and orders restitution. — Ablyazov lodges a European Court of Human Rights appeal, saying he didn't get a fair trial in the U.K.; the case is pending.
- JULY — French police arrest Ablyazov; he's jailed pending rulings on extradition bids from Russia and Ukraine.
- DEC. — A judge in Aix-en-Provence hears arguments in the extradition requests.

2014

Sources: Bloomberg, court records

BLOCKBUSTER RIP-OFFS

The courts have dealt with perpetrators of some of the world's costliest cons. Ablyazov, charged with criminal fraud in three countries, hasn't been convicted.

	BERNARD MADOFF	PHILLIP BENNETT	RAMON BAEZ FIGUEROA
OCCUPATION	MONEY MANAGER	FUTURES BROKER	BANKER
LOCATION	NEW YORK	NEW YORK	SANTO DOMINGO, DOMINICAN REPUBLIC
SIZE OF FRAUD	$17 billion	$2.4 billion	$2.2 billion
SCHEME	Ran the biggest Ponzi scheme in history, cashing out investors with proceeds from newcomers.	Hid losses off the books at Refco before it was acquired in a leveraged buyout.	Raided deposits to finance a lavish lifestyle and impress politicians.
OUTCOME	*Sentenced in 2009 to 150 years in prison.*	*Sentenced in 2008 to 16 years in prison.*	*Sentenced in 2007 to 10 years in prison; released in 2013.*

Sources: Bloomberg, Dominican Today

seven-bedroom mansion in London's Hampstead neighborhood. They saw that a silver Lexus SUV made regular visits to the home, and on Oct. 11, 2010, they tailed the Lexus to a nearby self-storage facility. When the driver got out of the car and walked inside the Big Yellow facility, the private eyes recognized him as Salim Shalabayev, Syrym's younger brother.

On the afternoon of Dec. 10, 2010, investigators saw Salim and another man remove 25 document boxes from storage and transport them to Eastbridge's accounting firm in the City of London. The next morning, according to court records, they watched the pair return the boxes to unit E2010.

It was two months later that Hardman's warrant got him into E2010, leading to the revealing spreadsheet. He says the document shows that Eastbridge had managed hundreds of shell companies, many of which had never been disclosed to the court. E-mails found in Shalabayev's Yahoo accounts showed that he'd been overseeing the transfer of these companies from Eastbridge to a Cyprus-based firm called Euroguard Assets Ltd., according to court papers.

With BTA's lawyers able to link both Eastbridge and Euroguard to Ablyazov, Justice Nigel Teare ruled in February 2012 that by concealing holdings from BTA, Ablyazov had violated the August 2009 asset-freezing order. Teare held that Ablyazov "acted in contempt of court as alleged by the bank." Shortly before he was sentenced to 22 months in prison, Ablyazov fled the country. So, too, did the Shalabayev brothers, who were eventually found in contempt as well; they couldn't be reached for comment. In March 2013, Teare ruled that Ablyazov had defrauded the bank and ordered him to make restitution. As of Dec. 9, he owed BTA $4.1 billion.

Hardman dusted off the follow-his-people strategy. After a court hearing in London in July, several of BTA's detectives shadowed one of Ablyazov's lawyers, a Ukrainian woman named Olena Tyshchenko, all the way to a seaside villa just west of Cannes, France, where they spotted the fugitive banker, according to one of the investigators. French police jailed Ablyazov after arresting him on an Interpol warrant issued by Ukraine, which, along with Russia and Kazakhstan, had charged him with fraud. In two hearings in December, with the hunt for the $6 billion shifting to a French courthouse in Aix-en-Provence, Ablyazov pleaded with a three-judge tribunal not to extradite him to Ukraine or Russia.

If Ablyazov stays behind bars in France or elsewhere, Prosyankin says, the hunt for the $6 billion might get easier. The BTA adviser says he suspects that when Ablyazov was on the run, he continued to shield assets from BTA by burying them in newly created daisy chains of shell companies. "It was a complex fraud machine," Prosyankin says. Now in jail, Ablyazov can no longer manage such a convoluted structure so easily, Prosyankin says.

In response to growing concerns surrounding transparency, particularly in London, U.K. Prime Minister David Cameron said in November that he would push for a law in 2014 requiring closely held companies to disclose their "ultimate beneficial owners" in a public database. "Today, you can create anonymous shell companies with multiple levels of complexity and start moving money freely across international boundaries in an afternoon," says Robert Palmer, a senior policy analyst at Global Witness, a London-based anticorruption organization. "But it can take years to follow the money backwards and find out who owns it."

For all of their efforts, BTA's hunters will probably recover only $2 billion to $3 billion, Prosyankin says. Ablyazov invested the bank's capital in property at the peak of the global real estate boom in 2007 and 2008, and many of those developments are still just holes in the ground. "Even if we are successful in getting ahold of the assets, they may be worth only a fraction of the money he paid in 2008," Prosyankin says.

After a five-year safari across three continents, BTA's asset hunters are confronting a reality that isn't likely to change unless the world's financial regulations are overhauled: It's easier to make $6 billion disappear than it is to find it.

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