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Russian National Convicted Of \$90M Hack-And-Trade Scheme

By *Chris Villani and Brian Dowling* · [Listen to article](#)

Law360, Boston (February 14, 2023, 12:20 PM EST) -- A Boston jury convicted a Russian national Tuesday of orchestrating a scheme to hack hundreds of companies' earning reports and use the ill-gotten insider information to reap nearly \$90 million in stock market gains.

The verdict handed prosecutors a victory in one of 2023's first major white collar trials and rejected a defense attorney's argument that Vladislav Klyushin, 42, was a "convenient target" due to his nationality and ownership of an IT company that provides media monitoring and cybersecurity for the Kremlin.

The jury reached its verdict after about 10 hours of deliberation over parts of three days. Klyushin, dressed in a navy suit, showed no emotion as the guilty verdict was read.

During two weeks of testimony, the government sought to prove that Klyushin and several others hacked [Donnelley Financial Solutions](#) and Toppan Merrill LLC, two firms that companies use to file quarterly earnings reports with the [U.S. Securities and Exchange Commission](#).

The hacks gave Klyushin and his alleged co-conspirators sneak peeks into the financial reports of a vast array of companies and resulted in unfathomable success in trading on earnings reports, prosecutors claimed.

"They were stock-trading nobodies," Assistant U.S. Attorney Seth Kosto told the jury during closing arguments. "And all of a sudden, just as DFIN and TM get hacked, the defendant became the GOAT of earnings trading. The greatest of all time."

Klyushin traded almost exclusively on earnings reports filed through DFIN and TM, despite the fact that those two firms only filed about 44% of all earnings reports during the more than two years in which prosecutors say the scheme unfolded.

Defense attorneys argued there were "gaping holes" in the government's case. Teams of agents scoured a massive trove of documents and communications seized after Klyushin was arrested and did not find a single message, photo or earnings report linking him to the scheme, or even the words DFIN or Toppan Merrill, his lawyer said.

Maksim Nemtsev of the Law Offices of [Martin G. Weinberg PC](#) argued that his client was already a wealthy man before he started trading and found himself under government scrutiny because he's such a "convenient target."

"He's wealthy, he's Russian, and he owns an IT company that provides media monitoring and cybersecurity for the Russian government. Those are the reasons the government targeted him," Nemtsev said during closing arguments. "They predetermined that a hack came from Russia, they worked to fill that story, that theory, and no one more conveniently fit that story than Vlad, a wealthy Russian IT professional."

Nemtsev argued throughout the trial that Klyushin used his company, M-13, to make sound predictions about stock movement because of his technology and its ability to cull public information. Klyushin even went so far as to develop a stock trading app, the defense argued, and there is no evidence he ever saw any nonpublic information.

But prosecutors claimed that Klyushin's trading success was statistically impossible without unlawful help. An SEC statistician testified that the probability of Klyushin randomly trading on DFIN and TM earnings reports so often is less than one in a trillion.

The statistician gave the same astronomical odds to Klyushin's track record of betting correctly on earnings reports up to 86% of the time when the reports themselves caught the rest of the market by surprise.

Disappointed by the jury's verdict, Nemtsev said the one-in-a-trillion statistic was the most "inflammatory" piece of evidence in the government's case.

"It would be harder than getting hit by a lightning bolt and winning the lottery at the same time," the attorney said.

Nemtsev and co-counsel Marc Fernich said they expect to appeal the verdict, with plenty of good legal issues to explore, including the reliability of the statistical evidence, a novel securities fraud theory, and the question of venue.

In a statement, U.S. Attorney Rachael Rollins called Klyushin a "cybercriminal and a cheat" who "repeatedly gamed the system and finally got caught."

"Klyushin compromised the integrity of our securities markets and cheated individual investors and pension funds," Rollins said. "This case demonstrates the Department of Justice's commitment to protecting our financial markets and computer networks by aggressively pursuing those who

seek to profit unfairly through intrusive cyber-attacks."

Klyushin alone netted \$21 million from the scheme on an initial \$2 million investment, prosecutors said, a 900% return that exponentially outpaced the stock market's 25% return during the time period in which the scheme allegedly took place.

Combined with his other associates, all of whom are at large in Russia, the scheme netted nearly \$90 million on an initial investment of \$9 million, prosecutors said.

Authorities arrested Klyushin in Switzerland and extradited him to the United States. He has been in a Massachusetts county jail since his arrest after a judge deemed him a flight risk due to his wealth. Prosecutors said he might be able to duck out of house arrest and step onto a waiting boat in Boston Harbor if given the chance to remain free.

During the trial, U.S. District Judge Patti B. Saris sought to limit references to Klyushin's wealth and nationality in front of jurors, barring any mention of Russian President Vladimir Putin or the ongoing war in Ukraine and limiting the number of photos prosecutors could show of Klyushin's \$4 million yacht.

Judge Saris set Klyushin's sentencing for May 4.

Early in the case as prosecutors argued for pretrial detention, they said the advisory federal sentencing guidelines would call for a more than 20-year sentence, while the Russian's defense team argued the government misapplied the guidelines, which are rarely adopted by sentencing judges.

The government is represented by Seth Kosto and Stephen E. Frank of the [U.S. Attorney's Office for the District of Massachusetts](#).

Klyushin is represented by Maksim Nemtsev of the Law Offices of Martin G. Weinberg PC, and Marc Fernich.

The case is U.S. v. Klyushin et al., case number [1:21-cr-10104](#), in the [U.S. District Court for the District of Massachusetts](#).

--Editing by Marygrace Anderson.

Update: This story has been updated with additional information.

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Marc Fernich

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Case Information

Case Title

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Case Number

[1:21-cr-10104](#)

Court

Massachusetts

Nature of Suit

Judge

[Patti B. Saris](#)

Date Filed

April 06, 2021

Law Firms

- [Martin G. Weinberg Attorney at Law](#)

Companies

- [Donnelley Financial Solutions Inc.](#)

Government Agencies

- [U.S. Attorney's Office for the District of Massachusetts](#)
- [U.S. District Court for the District of Massachusetts](#)
- [U.S. Securities and Exchange Commission](#)

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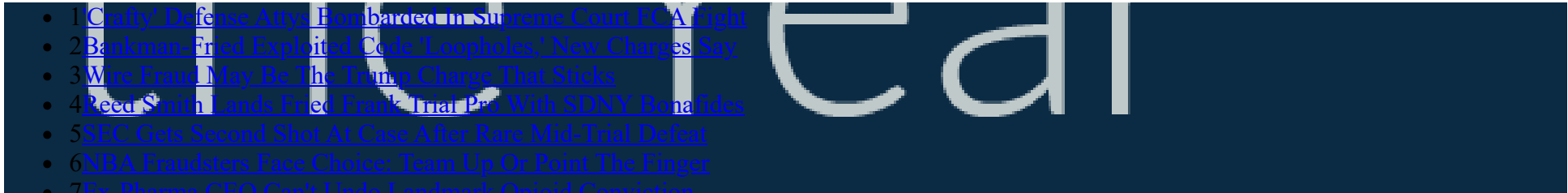
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