AVOIDING PAYMENT BY PURSUING THE CONTRACTOR

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Summary

The refusal to pay for completed and accepted work under a defence contract fell first on the contracting company and then entirely on its owner, L., and made him personally bankrupt, with almost no opportunity to defend himself in person. In this story we see how the law becomes a means of avoiding payment: accepted work produces not a payment but a claim against the contractor for debt.

Main findings. The story began in 2015 and is still continuing at the time of writing (October 2026). In 2015 L.'s company concluded two contracts with an enterprise of the Ministry of Defence acting as head contractor: one for the power supply of a military airfield and one for design work. In 2016 the company delivered equipment to the airfield and carried out construction and installation work, and the head contractor accepted both and signed the acceptance certificates. The head contractor paid for the equipment but not for the work. In March 2017 the head contractor sued the company: it called the RUB 3 million advance paid to the company "unearned" and demanded its return with interest and a penalty calculated on the full contract price. Six weeks later the Ministry of Defence paid the head contractor for the work at this airfield. In May 2017 the company's records were stolen from its office. In 2019, in the company's bankruptcy proceedings, the court recognised the head contractor's claim as the company's debt: RUB 18.25 million, six times the advance; the claim also included a penalty under the second contract, although the design under that contract had passed the Ministry's expert review and remained unpaid. In March 2021 the court ruled that L., as owner, was liable for the company's debts together with the director. In October 2021 the police found the company's stolen records, and the insolvency practitioner, appointed by then in the bankruptcy proceedings, refused to collect them; we read this refusal as a sign of the insolvency practitioner's interest in the outcome of the case. L. received the documents in December 2021 and began challenging the court decisions in the company's cases. In 2022-2023 the court ordered L. to pay the company's entire outstanding debt, RUB 84.5 million; the court decided the amount of the debt and the list of L.'s personal creditors with no one present to defend L. In 2024 L. was declared bankrupt, and the Ministry of Defence became his personal creditor for the same RUB 18.25 million. L.'s personal bankruptcy is continuing.

The report analyses how accepted work gave rise not to payment but to a claim against the contractor for the recovery of a debt, and which violations of law at particular stages of the process led to these consequences. The details and documents are set out in Sections 4-8.

Recommendations. Judges who admit to the register of creditors' claims a claim for an "unearned" advance should ask the claimant for the acceptance certificates it signed itself and should state the original amount of any penalty the court reduces. Whenever a creditor is substituted in the bankruptcy of an individual, judges should add up the components of the claim and check the total against the ruling on the amount of liability. An ultimate customer that has become a personal creditor of the contractor's owner should, before creditors are paid, compare its claim with its own payment for the work on the site and with the acceptance documents for that work signed by its own units.

Intended Readership

This report is addressed to judges of commercial courts who admit head contractors' claims to the registers of contracting companies and hear the personal bankruptcies of the owners of those companies.

It is also addressed to insolvency specialists, lawyers who defend owners, researchers of defence procurement and anti-corruption organisations.

Objective of the Study

The objective of the study is to examine a real case in which completed work and an unpaid debt owed to the contractor were turned into a debt of the contractor itself, with liability subsequently imposed on the company's owner.

1. Introduction

In 2024, 5,331 people in Russia were held to vicarious (subsidiary) liability, that is, made to answer for the debts of companies they controlled, for a total of RUB 432.84 billion, about RUB 81 million per person on average (Fedresurs, 2025). In the same year creditors of bankrupt individuals received 5.5 per cent of the claims admitted, and a subsidiary liability debt is not written off on bankruptcy: almost all of it stays with the individual (Fedresurs, 2025; Federal Law No. 127-FZ of 26 October 2002 on Insolvency (Bankruptcy), Art. 213.28, paras. 5-6, hereafter the Bankruptcy Law). L.'s personal debt, RUB 84.5 million, is close to the average, but this case is of interest because its circumstances are unusually well documented, which allows a detailed analysis (appellate court decision of 4 May 2023; Fedresurs, 2025).

The central conflict of the report unfolds within a few months. In 2016 the head contractor, a federal state unitary enterprise of the Ministry of Defence, accepted work from L.'s company at a military airfield and signed the acceptance certificates (work acceptance certificates of 8 August 2016; commercial court ruling of 9 March 2017; Decree of the President of the Russian Federation No. 727 of 29 December 2016 on the Abolition of the Federal Agency for Special Construction, para. 4, hereafter Decree No. 727). In March 2017 the head contractor sued the company and demanded the return of the entire advance as "unearned", as if the company had done nothing in exchange for it (head contractor's statement of claim of 6 March 2017). Six weeks later, on 17 April 2017, the Ministry of Defence paid the head contractor itself RUB 36.47 million for construction and installation work on this site (payment order of 17 April 2017). Seven years later the same Ministry is listed as a personal creditor of the company's owner on the claim of its own enterprise (commercial court ruling of 9 March 2024; Decree No. 727, para. 5).

For comparison we turn to British construction law, where the condition on which the head contractor's contract with L.'s company rested is governed by statute. A clause under which payment to a contractor depends on whether the party above it has received money from its own employer is known in English practice as a pay-when-paid clause ("I will pay when I am paid"). In the United Kingdom such a clause has been ineffective since 1996, except where the paying party higher up the chain is insolvent (Housing Grants, Construction and Regeneration Act 1996, s. 113); Bolton and colleagues (Bolton et al., 2022) link such clauses to the imbalance of power between large contractors and subcontractors. The head contractor's contract with L.'s company contained exactly such a clause: payment for work and equipment depended on money arriving from the general contractor (subcontract of 30 December 2015, cl. 4.2). In L.'s case the clause worked in reverse: the head contractor was paid, and it was the contractor that ended up as the debtor under the contract. The head contractor paid the company for the equipment, while the company's work remained almost unpaid; an advance of one and a half per cent of the price

turned into an interest-bearing loan, and the penalty was calculated on the entire contract price (payment order of 22 April 2016; reconciliation statement for the first half of 2016; commercial court ruling of 25 January 2019; subcontract, cls. 4.9 and 16.4).

Reports No. 1 and No. 2 of this series examined the criminal prosecution of the same man, while this report deals with the commercial court and bankruptcy side of the case (Limarau, 2026; Krukovskiy, 2026). The company's records were stolen from its office in May 2017, and the police found them in October 2021, when the time limits for appealing the main court decisions had already expired (police department letters of 3 December 2021). The court determined the amount of L.'s debt and the list of his personal creditors with no one present to defend L. (commercial court rulings of 30 March 2022 and 22 June 2023; commercial court rulings of 2023-2024 in L.'s personal bankruptcy case).

The central question of the report is how, at each step, a document of one participant (the head contractor, the insolvency practitioner, the court) deprived the contractor of the opportunity to challenge the previous step, and what this cost L. in roubles and in days. We add to the literature the path of a single sum from a payment under a contract to the owner's personal register of creditors' claims, verified against the documents of each party.

2. Legal Framework and Existing Approaches

Under Russian law, subsidiary liability makes the person who controlled a company answerable for all its outstanding debts. Its amount equals all unpaid claims on the register plus current payments, and it can be reduced only if the respondent proves that the harm to creditors was substantially smaller (Bankruptcy Law, Art. 61.11, para. 11). The literature notes the risk that this liability is applied "in all cases of unsuccessful business management" (Pirogova and Zhukova, 2021, citing Egorov and Usacheva).

Bolton and colleagues (Bolton et al., 2022) show that even after the British ban a late payment at the top is passed down the chain by a "domino effect", and that more than half of British subcontractors believe they must accept the terms of large contractors. In Bolton and colleagues' account the subcontractor waits for its money; in L.'s case the contractor ended up owing the head contractor for its own work.

3. Methodology

3.1. Case Documents and the Method of Verification

The report is based on copies of documents from two commercial court cases, the company's bankruptcy and L.'s personal bankruptcy, and on the contract documents: the subcontract, payment orders, acceptance certificates and reconciliation statements, the split statement of works, and letters from the head contractor and the customer (subcontract of 30 December 2015; payment orders of 22 April 2016 and 17 April 2017; work acceptance certificates of 8 August 2016; split statement of works of 13 April 2017). To these we added an order of the military investigators, replies from the military prosecutor's office, L.'s motions and statements, and an extract from the register of legal entities (military investigators' order of 10 July 2023; military prosecutor's office reply of 27 October 2025; L.'s motion of 28 March 2023; extract from the register of legal entities of 1 October 2026).

We checked each sum against the documents signed by the party that asserted it and against the documents of the other party, and we added up the sums from certificates of different years. From the hearing dates we established who appeared for L. at each hearing (court decisions in the company's bankruptcy case and in L.'s personal bankruptcy case, 2019-2026).

3.2. Scope of the Study

L. is identified by an initial; officials, courts and organisations are named by their roles, and the regions are designated Region 1 and Region 2. Case and contract numbers, registration numbers and addresses are not given.

4. Work and Payment

The head contractor treated equipment and work differently when it came to payment. The head contractor accepted two substations worth RUB 11.89 million and paid RUB 11.49 million for them (equipment acceptance certificates of 19 April 2016; reconciliation statement for the first half of 2016). The head contractor also signed certificates for work worth RUB 2.1 million, and the company had received a RUB 3 million advance; the head contractor then demanded the return of the entire advance as "unearned", with interest and a penalty, and the court credited the company with only RUB 0.3 million for its work and recognised the rest as the company's debt (work acceptance certificates of 8 August 2016; head contractor's statement of claim of 6 March 2017; commercial court ruling of 25 January 2019). The November 2016 certificates and the work recorded in the split statement of works, about RUB 6.65 million, were never paid, and neither was the work under the design contract (November 2016 certificates; split statement of works of 13 April 2017; reconciliation statement for the first half of 2016; fax from the customer's directorate of 2 April 2018). Meanwhile, in April 2017 the Ministry of Defence paid the head contractor RUB 36.47 million for work on the site; this sum covered substations worth RUB 29.82 million and the company's work worth RUB 6.65 million (payment order of 17 April 2017; appellate court decision of 24 July 2019).

4.1. The Contract. Terms of Advance and Payment

The head contractor and the company signed the subcontract for the power supply for the reconstruction of a military airfield in Region 1 on 30 December 2015, a week after the Ministry of Defence concluded a state contract for this site with the head contractor (military investigators' order of 10 July 2023; payment order of 17 April 2017). The contract price was about RUB 205 million, and the construction and installation work was to be completed by 10 July 2016 (subcontract, cls. 3.1 and 5.2). The site was handed over to the company on 1 March 2016, two months after signing, which left a little over four months for the work (site handover certificate of 1 March 2016).

The contract allowed an advance but did not promise one. The head contractor was "entitled" to pay 30 per cent of the price, RUB 61.5 million, if the money reached it "from the General Contractor" and if it accepted a bank guarantee from the company for the same amount (subcontract, cls. 4.8 and 19.2). The contract names as General Contractor another enterprise of the Federal Agency for Special Construction, the agency to which the head contractor itself was also subordinate until the end of 2016. According to the contract, it was that enterprise that concluded the state contract with the Ministry of Defence, yet under the state contract for this site the Ministry paid the head contractor directly (subcontract, cl. 1.10; Decree No. 727; payment order of 17 April 2017). The contract also made payment

for work and equipment conditional on the arrival of money: “subject to the receipt of the corresponding funds from the General Contractor” (subcontract, cls. 4.2 and 4.2.1). According to the head contractor’s letter, the company did not provide a guarantee, and the head contractor later cited this to explain its refusal to pay the full advance (head contractor’s letter of 21 February 2017). The RUB 3 million advance arrived on 22 April 2016, almost four months after the contract was signed, and amounted to 1.46 per cent of the price (payment order of 22 April 2016).

The contract placed the risk of delay on one side only. If the work fell behind schedule, the advance received turned into a commercial loan bearing interest from the day of receipt, and the penalty was calculated on the entire contract price rather than on the unperformed part (subcontract, cls. 4.9 and 16.4).

4.2. The Work. Accepted Volumes

The work went ahead and was accepted. On 19 April 2016 the head contractor accepted two transformer substations worth RUB 11.89 million from the company and on the same day handed them back to the company for installation (equipment acceptance certificates of 19 April 2016). On 8 August 2016 the work acceptance certificates and the cost-of-work statement for RUB 2.1 million were signed by the head contractor’s representative acting under a power of attorney, the deputy head of the airfield facilities complex, and stamped with the head contractor’s seal; the consolidated certificate names the Ministry of Defence as the investor, that is, the party financing the construction. At the same time the head contractor withheld by set-off 6 per cent of the value of this work as payment for its services as general contractor (set-off statement of 8 August 2016).

If the sums in the documents signed by the head contractor itself are added up, as of 8 August 2016 it was the head contractor that owed money under the two contracts (Table 1).

Table 1. Settlements with the company according to the head contractor’s documents as of 8 August 2016

Entry	Amount, RUB	Document
Substations accepted	11,890,749.45	equipment acceptance certificates
Work accepted	2,100,181.70	stamped cost statement
Advance	3,000,000.00	reconciliation statement
Payment for substations	11,487,673.20	reconciliation statement
Withheld as contractor’s fee	126,010.90	set-off statement
Debt under design contract	783,633.90	reconciliation statement
Balance in company’s favour	160,880.95	calculation

Source: case materials.

The company sent the November 2016 certificates on 12 December 2016, and the covering letter bears the receipt stamp of the head contractor’s central office dated 13 December 2016 (company’s letter of 12 December 2016). The volumes in these certificates were confirmed by the signature of the head contractor’s site foreman; the three certificates together come to about RUB 5 million (November 2016 certificates). The head contractor did not recognise them. In a letter of 16 March 2017 the head contractor wrote that two other letters from the company with certificates “did not reach our address”, and said nothing of the letter bearing the receipt stamp. Earlier still, on 1 February 2017, the head contractor had stated that the company’s work “may be accepted by the Enterprise only after its acceptance by the state

customer" (head contractor's letter of 1 February 2017). The head contractor also had its own ground for not accepting these certificates: the split statement of works records defects and missing as-built documentation, that is, the records and drawings showing how the work was done, and the company undertook to hand this documentation over by 28 April 2017 (split statement of works of 13 April 2017).

The split statement of works was drawn up on 13 April 2017 by an engineer of the head contractor's branch. Line by line, it separates the volumes performed by the company from the remaining work that the head contractor was to perform itself. The statement was signed by officials of the head contractor's branch, a representative of the company and a representative of the regional directorate of the customer, the Ministry of Defence, so the company's performance of the work is recorded with the participation of the Ministry itself. According to the statement, the company had excavated almost all the ground for 19 substations and carried out part of the installation. The statement records the volumes performed by the company; in money terms this work accounts for RUB 6.65 million of the Ministry of Defence payment (payment order of 17 April 2017; appellate court decision of 24 July 2019).

4.3. The Ministry of Defence Payment

By a payment order of 17 April 2017 the Ministry of Defence, through the Treasury, transferred RUB 36.47 million to the head contractor "for construction and installation work" on this airfield site under the state contract of 23 December 2015, against invoice and certificate No. 11, both dated 20 December 2016. The money arrived in the same separate bank account for defence procurement settlements from which the company's advance had been paid (supplementary agreement of 22 January 2016; payment orders of 22 April 2016 and 17 April 2017). Certificate No. 11 is dated the seventh day after the head contractor's central office received the company's letter with the November certificates, and the 11th day after the head contractor's demand letter to the company for the return of the advance (company's letter of 12 December 2016; head contractor's statement of claim of 6 March 2017).

The Ministry of Defence payment consists of two parts: the value of the substations, RUB 29.82 million, and the company's construction and installation work, RUB 6.65 million; all the company's work certificates together come to about RUB 7.6 million. The company makes no claim to the substations, because it returned them to the supplier (payment order of 17 April 2017; appellate court decision of 24 July 2019; work acceptance certificates of 8 August 2016; November 2016 certificates).

In 2023 the military investigators recorded, on the head contractor's word, that the company's work had been "presented to the state customer and credited" against the advance the head contractor received under the state contract (military investigators' order of 10 July 2023). The customer's certificates do not back this entry, but it is consistent with the payment order of 17 April 2017, in which the customer pays for work on the site.

The question of the substations worth RUB 29.82 million remains open. The company returned them to the supplier six months after the customer's payment, and in 2023 an official of the head contractor told the investigators that after the contract was terminated the enterprise had concluded a contract with the same supplier for the delivery of substations (appellate court decision of 24 July 2019; military investigators' order of 10 July 2023). Whether the customer's payment covered the very substations that the company later returned to the supplier remains to be checked.

5. The Company’s Debt

5.1. The Head Contractor’s Claim

The head contractor terminated the contract for breach of deadlines, declaring it terminated as of 3 January 2017, demanded that the company vacate the site and wrote that it would complete the work through third parties at the company’s expense (commercial court ruling of 25 January 2019; head contractor’s letters of 2017). The termination notice and the demand letter for the return of the advance with interest and a penalty bear the same date, 9 December 2016 (Table 2): four months after the head contractor signed the certificates for the company’s work, and four days before the head contractor’s central office received the company’s letter with the November certificates (commercial court ruling of 25 January 2019; head contractor’s statement of claim of 6 March 2017; work acceptance certificates of 8 August 2016; company’s letter of 12 December 2016).

In its statement of claim of 6 March 2017 the head contractor demanded RUB 17.6 million from the company: the entire advance as “unearned”, interest, and a penalty for 210 days calculated on the full contract price. However, the head contractor’s own documents do not support this: the cost-of-work statement for RUB 2.1 million that it signed and the substations it accepted are named neither in the claim nor in the list of attachments. The court twice required the defects in the claim to be remedied and on 28 April 2017 returned it without consideration, 11 days after the customer’s payment for work on the site (commercial court rulings of 9 March 2017, 23 March 2017 and 28 April 2017; payment order of 17 April 2017).

The head contractor asserted the same claim on 10 April 2018 in the company’s bankruptcy proceedings, together with a claim under the design contract for special-purpose roads, for a total of RUB 34.2 million. The company’s insolvency practitioner sent no representative to the hearing of 21 January 2019 and asked for an adjournment; L.’s representative opposed the claim and asked for the penalty to be reduced; the court refused to adjourn. The court entered RUB 18,246,581.65 in the company’s register of creditors’ claims (commercial court ruling of 25 January 2019).

Table 2. The head contractor’s claim against the company, RUB

Document	“Unearned” advance	Interest	Penalty
Demand letter 9 December 2016	3,000,000.00	238,000.00	10,522,574.00
Claim 6 March 2017	3,000,000.00	295,000.00	14,348,964.00
Company register 2019	2,699,149.78	404,557.57	15,142,874.30
L.’s personal register 2024	2,699,149.78	404,557.57	15,142,874.30

Source: case materials. The 2019 penalty covers two contracts.

The court arrived at the “unearned” advance by subtraction: from RUB 3 million it deducted RUB 300,850.22, credited “in proportion to the value of the work performed” (commercial court ruling of 25 January 2019). That is 14.3 per cent of the work the head contractor accepted in the cost-of-work statement bearing its own seal; the accepted substations and the payment of RUB 11.49 million do not appear in the court’s calculation (cost-of-work statement of 8 August 2016; reconciliation statement for the first half of 2016). The court says it “reduces” the penalty to RUB 15.14 million, but does not name the original amount, and gives the penalty under the two contracts as a single line (commercial court ruling of 25 January 2019). The ratio of six roubles of debt to one rouble of advance is therefore

arithmetically correct, but part of the penalty relates to the design contract, under which the company received neither an advance nor payment (reconciliation statement for the first half of 2016; fax from the customer's directorate of 2 April 2018).

Measured by the work and equipment the head contractor accepted according to its own documents, the head contractor could have treated no more than RUB 0.62 million as unearned, yet RUB 18.25 million, 29 times as much, went into the company's register and then into L.'s personal register; once the design contract is taken into account, the same documents show the head contractor itself as the debtor (equipment acceptance certificates of 19 April 2016; work acceptance certificates of 8 August 2016; reconciliation statement for the first half of 2016; commercial court rulings of 25 January 2019 and 9 March 2024).

It was the customer itself that asked about non-payment for the work under the design contract. By a fax of 2 April 2018 the customer's directorate at the Ministry of Defence instructed the head contractor to be ready to report at a meeting on 3 April 2018 "on the reasons for not providing an advance to the contractor and for refusing … to pay for work actually performed" under this contract. Seven days after the meeting the head contractor filed its claim against the company, which included a penalty under the same contract (commercial court ruling of 25 January 2019). In the same fax the customer describes the company's design documentation as having "received a positive opinion from the State Expert Review of the Ministry of Defence of Russia". By L.'s calculation, the debt for this work amounts to RUB 18.5 million (L.'s crime report of 2026).

5.2. The Head Contractor's Statements to Military Investigators

In 2023 the head contractor gave the military investigators different figures. The investigators' order records, citing the head contractor's accounts, that RUB 32.47 million of the company's work had been accepted, RUB 33.97 million had been paid to the company, and the company's debt under the contract was RUB 1.47 million (military investigators' order of 10 July 2023). That is one twelfth of the sum that the court, at the request of the same head contractor, entered in the company's register (commercial court ruling of 25 January 2019).

The figures in the order also diverge from other documents. The order gives the "advance" as RUB 22.97 million; however, two years later the military prosecutor's office wrote that its review had established payment of an advance of RUB 3 million, and the payment order confirms this (military prosecutor's office reply of 27 October 2025; payment order of 22 April 2016).

The military investigators and the military prosecutor's office refused L. an inquiry, calling the matter a "dispute between business entities" (military investigators' order of 10 July 2023; military prosecutor's office reply of 27 October 2025). By then that dispute had already been decided against L. in the company's bankruptcy proceedings, and his personal register received the figure that the court entered in the company's register in 2019, not the one the head contractor gave the investigators (commercial court rulings of 25 January 2019 and 22 June 2023; appellate court decision of 4 May 2023).

5.3. The Second Head Contractor

On a site under a federal targeted programme, a civil airport in Region 2, the story is different, and it weakens the main argument of the report. The second head contractor transferred an advance of RUB 10 million to the company and accepted work worth RUB 1.33 million (commercial court judgment of 26 October 2017). At first instance in 2017 the company did not appear and did not ask for the penalty

to be reduced, so the appellate court declined to reduce it (appellate court decision of 16 February 2018). The penalty is 15.7 times the value of the accepted work. This creditor's claim entered L.'s subsidiary liability debt at RUB 30.52 million, of which RUB 21.07 million was penalty. Here the issue is a penalty that the company failed to challenge in time, and in size it exceeds L.'s personal debt to the Ministry of Defence (commercial court ruling of 22 June 2023).

6. The Owner's Debt

6.1. The Respondent and the Grounds

Since 25 August 2015 L. has been the company's sole member, with a 100 per cent share, while the general directors in 2015-2018 were three other people (extract from the register of legal entities of 1 October 2026; commercial court ruling of 22 March 2021). On applications that the insolvency practitioner filed in 2019, on 2 March 2021 the court held liable L., the director who managed the company during the months of construction, and the accountant; the court released the two subsequent directors for lack of evidence of their fault and postponed the determination of the amount until the settlements with creditors were completed (commercial court ruling of 22 March 2021). The appellate court later released the accountant, leaving that director and L., as owner, liable (appellate court decision of 4 May 2023).

As the first ground the court named the failure of L. and the director to file for the company's bankruptcy by 1 April 2016, counting from the company's debt to its own subcontractor under a certificate of 29 December 2015 (commercial court ruling of 22 March 2021). It follows that, in the court's view, the company should have declared its own bankruptcy a month after the construction site was handed over to it, and three weeks before the head contractor transferred the advance, the first money under the airfield contract (site handover certificate of 1 March 2016; payment order of 22 April 2016). The court applied the rules of the 2017 law to the events of 2015-2016 because the applications were filed after 1 July 2017 (Federal Law No. 266-FZ of 29 July 2017, Art. 4, Part 3; commercial court ruling of 22 March 2021).

As evidence of the diversion of funds the court cited the increase in staff from 28 to 43 positions by an order of 13 May 2016, during the months of work at the airfield; the insolvency practitioner described this as "diversion of funds through employees" (commercial court ruling of 22 March 2021). We read the same documents differently: the staff grew in the weeks when the company was due to finish the work on the site, so the people were hired for that work, and the wage arrears owed to these employees, RUB 7.19 million, became part of L.'s personal debt (appellate court decision of 4 May 2023). On the RUB 26 million supposedly transferred in 2015 "to shell companies", the ruling relies on the insolvency practitioner's words and does not name the companies (commercial court ruling of 22 March 2021).

The court rejected L.'s motion for a financial and economic expert examination. The ruling on the grounds describes L. as having acted "as a teacher" instead of "as a founder", two words that look alike in Russian (commercial court ruling of 22 March 2021). The one-word error stands in the ruling under which L. answers for RUB 84.5 million (appellate court decision of 4 May 2023).

6.2. The Equipment. A Lawful Return and a Ground for Debt

The company returned the substations worth RUB 29.82 million to the supplier unpaid, after the head contractor terminated its contract with the company. For this equipment the supplier had earlier recovered from the company RUB 34.58 million in debt and RUB 3.46 million in penalties (appellate court decision of 24 July 2019). The insolvency practitioner challenged the return. On 17 July 2019 the appellate court found it lawful: it was a “return of unpaid goods”, not a withdrawal of assets, and the agreement “fully meets the criteria of good-faith and reasonable conduct”. The district cassation court and the Supreme Court upheld this decision. The question before the courts at that time was whether the return could be declared an invalid transaction, and they found the conditions for that unproven (Supreme Court ruling of 25 December 2019).

Then, 594 days later, the same return became a ground for L.’s personal liability. The court wrote that L. “disposed of the only significant property … and personally transferred all the property to one of the creditors”, and itself noted that this fact had previously been assessed as a return of unpaid property (commercial court ruling of 22 March 2021).

6.3. The Amount

The amount of L.’s debt was calculated under the general rule, as all unpaid claims on the register (Bankruptcy Law, Art. 61.11, para. 11; appellate court decision of 4 May 2023). The court determined it on 17 February 2022 at a hearing attended only by the insolvency practitioner: RUB 84.8 million, payable jointly and severally by L. and the former director (commercial court ruling of 30 March 2022). On 26 April 2023 the appellate court, with L.’s representative present, reduced the sum by RUB 280,000, to RUB 84,519,421.82, by recalculating the insolvency practitioner’s fee, and rejected the argument that fault had not been proven: the grounds had already been established, and the dispute concerned only the amount (appellate court decision of 4 May 2023).

Almost half of the sum, RUB 41.4 million, consists of penalties and fines. A further RUB 7.19 million is wage arrears, RUB 864,897 the insolvency practitioner’s fee and expenses, RUB 837,500 the lawyer engaged by the insolvency practitioner and RUB 66,000 state duty (appellate court decision of 4 May 2023). Along with the register, L.’s personal debt took in, rouble for rouble, the insolvency practitioner’s fee, the practitioner’s lawyer and everything the practitioner did not collect for the settlements with creditors (Bankruptcy Law, Art. 61.11, para. 11).

The components that the appellate court itself lists add up to RUB 84,419,421.82, so RUB 100,000 more was recovered than the court’s own calculation shows; the court of first instance added up its components correctly (appellate court decision of 4 May 2023; commercial court ruling of 30 March 2022).

7. Personal Bankruptcy

L.’s personal bankruptcy was opened on 14 May 2020 on the petition of a private creditor, and in 2021 the case was stayed until the amount of subsidiary liability was determined (commercial court ruling of 14 May 2020; commercial court judgment of 14 February 2024). Even before the stay, on 17 December 2020, the court entered in L.’s personal register “the amount of subsidiary obligations” towards the company without any sum; the insolvency practitioner had asked for RUB 79.3 million to be entered. This happened 75 days before the court in the company’s case announced that there were grounds for

such liability (commercial court rulings of 22 December 2020 and 22 March 2021). The court later relied on this entry without a sum when it entered specific creditors in the personal register by way of succession, that is, by substituting the company's creditors for the company (commercial court rulings of 12 October 2023 and 9 March 2024).

On 6 June 2023, in the absence of the parties and on the basis of the insolvency practitioner's report, the court distributed the claim against L. among four of the company's creditors and the insolvency practitioner, so the insolvency practitioner also became L.'s personal creditor (commercial court rulings of 22 June 2023 and 12 October 2023). The head contractor's claim passed into L.'s debt at the same sum that was entered in the company's register in 2019: RUB 18,246,581.65, of which RUB 15.14 million was penalty (commercial court rulings of 25 January 2019 and 22 June 2023). The court then entered the creditors in L.'s personal register by five rulings of 2023-2024 (Table 3).

Table 3. L.'s personal creditors under subsidiary liability

Creditor	Amount, RUB	Date of decision
Second head contractor	30,522,730.65	3 October 2023
Company's insolvency practitioner	1,617,638.00	10 October 2023
Another creditor of company	4,775,408.46	21 November 2023
Petitioner's successor	11,112,619.76	21 November 2023
Ministry of Defence	18,246,581.65	27 February 2024
Total	66,274,978.52	

Source: case materials. The Ministry of Defence is entered in the register as represented by the head contractor.

The insolvency practitioner is entered in the personal register for RUB 1,617,638, made up of RUB 864,897 and RUB 752,741. According to the appellate court's calculation, repeated in the same ruling, the RUB 864,897 already includes the RUB 752,741, so the fee is counted twice (commercial court ruling of 12 October 2023; appellate court decision of 4 May 2023). Together with the appellate court's excess, this puts RUB 852,741 too much into L.'s personal debt.

In 2023 L.'s company itself asked for its claim to be removed from L.'s personal register, and the court refused: the company's creditors had not yet chosen how to dispose of the claim against L. (commercial court ruling of 17 March 2023). The conflict of interest in this episode lies on L.'s side: it was his own company that was giving up the claim against him.

On 6 February 2024, with no one present to defend L., the court declared him bankrupt and rejected his written request to adjourn the hearing (commercial court judgment of 14 February 2024). L.'s personal bankruptcy has lasted 2,352 days, and the sale of L.'s property to pay creditors (realisation of property) 989 days, 3.5 times longer than the national average (commercial court ruling of 14 May 2020; commercial court judgment of 14 February 2024; Fedresurs, 2025).

8. The Defence, Date by Date

The hearing on the amount of liability at first instance, the distribution of the debt among creditors, all five hearings on personal creditors and the declaration of bankruptcy took place with no one

present to defend L. (commercial court rulings of 30 March 2022, 22 June 2023, 12 October 2023, 24 November 2023 and 9 March 2024; commercial court judgment of 14 February 2024). These hearings are shown in Table 4.

Table 4. Hearings in the cases of the company and of L.

Date	Court decision	Present for L.
21 January 2019	claim in register	representative
2 March 2021	grounds for liability	representative
17 February 2022	amount of liability	nobody
28 March 2023	hearing on amount	L.'s motion
26 April 2023	amount on appeal	representative
6 June 2023	debt distributed	nobody
3 October 2023	personal creditor	nobody
10 October 2023	personal creditor	nobody
21 November 2023	two personal creditors	nobody
6 February 2024	declared bankrupt	nobody
27 February 2024	Ministry of Defence	nobody

Source: case materials.

The company's records were stolen from its office in May 2017, and the time limits for appealing the main court decisions expired before they were found. On 27 October 2021 officers of the Troparevo-Nikulino district police department found the documents. On 18 November 2021 the police invited the insolvency practitioner, the company's sole executive body, to collect them, and the insolvency practitioner refused "categorically" (police department letters of 3 December 2021). This refusal is of a piece with the insolvency practitioner's other actions. To the hearing on the head contractor's claim the insolvency practitioner sent only a request for adjournment (commercial court ruling of 25 January 2019). The insolvency practitioner sold the company's rights of claim for 10 per cent of their face value to the sole bidder, who then became L.'s personal creditor (auction record of 11 October 2021; commercial court ruling of 24 November 2023). The court determined the amount of L.'s debt at a hearing where the insolvency practitioner was the only participant present (commercial court ruling of 30 March 2022), and when this debt was distributed the insolvency practitioner took part of the claim and so also became L.'s personal creditor (commercial court ruling of 22 June 2023). We read this as a sign of the insolvency practitioner's interest in the outcome of the case; a separate report in the series will be devoted to this line. L. received the company's records in full, against an inventory, on 23 December 2021 (L.'s receipt of 23 December 2021). After this L. began challenging the court decisions in the company's cases. L. filed an appeal against the ruling on the grounds of liability on 30 June 2022, 485 days after it was announced, stating that he had been unaware of the proceedings and had not received the ruling; the court found that he had been notified, and his representative had attended the hearing on the grounds (appellate court ruling of 27 October 2022; commercial court ruling of 22 March 2021). L. filed an application for review on the basis of new circumstances with the court of first instance, although its ruling had already been amended by the appellate court, and the application was returned (Supreme Court ruling of 28 February 2023).

On 28 March 2023 L. asked the appellate court in writing to adjourn the hearing on the amount: he could not attend in person because he is the full-time carer of a disabled child, and he had no representatives (L.'s motion of 28 March 2023). The same day, in the absence of the parties, the appellate

court set the hearing for 26 April 2023, and by that date L. had a new representative (appellate court ruling of 28 March 2023; appellate court decision of 4 May 2023).

The military prosecutor's office and the Ministry of Defence corresponded with L. by email (military prosecutor's office reply of 27 October 2025; letter of the Ministry of Defence's construction department of 20 June 2024). On 20 June 2024 the Ministry's construction department wrote to L. that it had instructed the head contractor to carry out a review and to "engage with a view to the possible settlement of the situation that has arisen"; by that day the Ministry, represented by the same head contractor, was already L.'s personal creditor (commercial court ruling of 9 March 2024).

9. Conclusion

In L.'s case the refusal to pay for completed and accepted work on a defence site became first a debt of the contracting company and then a personal debt of its owner to the very Ministry that had paid for that work. The head contractor, an enterprise of the Ministry of Defence, paid the company for the equipment (reconciliation statement for the first half of 2016). The head contractor accepted the company's work and signed the certificates for it, but did not pay for the work and instead declared the advance a debt of the company, with interest and a penalty (work acceptance certificates of 8 August 2016; head contractor's statement of claim of 6 March 2017). For the same work the head contractor itself received payment from the Ministry of Defence (payment order of 17 April 2017; appellate court decision of 24 July 2019). The design under the second contract passed the Ministry's expert review and remained unpaid (fax from the customer's directorate of 2 April 2018; reconciliation statement for the first half of 2016). The head contractor's claim passed without recalculation through the company's bankruptcy, the owner's liability and the owner's personal bankruptcy (commercial court rulings of 25 January 2019, 22 June 2023 and 9 March 2024).

The case file contains the following documents that diverge from other documents in the same case or from simple addition:

1. The head contractor's statement of claim of 6 March 2017 calls the entire RUB 3 million advance unearned, whereas the head contractor itself signed and stamped the cost-of-work statement of 8 August 2016 for RUB 2.1 million and accepted the substations worth RUB 11.89 million on 19 April 2016 (head contractor's statement of claim of 6 March 2017; work acceptance certificates of 8 August 2016; equipment acceptance certificates of 19 April 2016).
2. By the payment order of 17 April 2017 the Ministry of Defence pays the head contractor RUB 36.47 million for construction and installation work on the site under a certificate of 20 December 2016, which is dated the seventh day after the head contractor's central office received the company's work certificates; at that time the claim for the "unearned" advance is pending before the court (company's letter of 12 December 2016; commercial court ruling of 28 April 2017).
3. The split statement of works of 13 April 2017, signed by the head contractor's branch and the customer's regional directorate, records line by line the volumes performed by the company, while in 2019 the court credited about RUB 0.3 million against the advance (commercial court ruling of 25 January 2019).
4. The fax from the customer's directorate of 2 April 2018 demands an explanation for the non-payment for work actually performed under the design contract, and a week later a penalty

under that contract is included in the head contractor's claim against the company (commercial court ruling of 25 January 2019).

5. The 2019 ruling admitting the claim to the register "reduces" the penalty to RUB 15.14 million without naming the original amount (commercial court ruling of 25 January 2019).

6. The military investigators' order of 10 July 2023, citing the head contractor, describes the company's work as "credited" by the customer and the company's debt as RUB 1.47 million, one twelfth of the claim entered in the register (commercial court ruling of 25 January 2019).

7. A ruling in the personal case, announced on 17 December 2020, enters a subsidiary liability debt without a sum in L.'s register 75 days before the court found grounds for liability (commercial court rulings of 22 December 2020 and 22 March 2021).

8. The 2023 appellate decision recovers from L. RUB 100,000 more than the sum of its own components, and the ruling in the personal case admitting the insolvency practitioner to L.'s register counts the practitioner's fee of RUB 752,741 twice (appellate court decision of 4 May 2023; commercial court ruling of 12 October 2023).

The cost to L. in roubles: RUB 84.5 million of personal debt, jointly and severally with the former director, almost half of it penalties and fines; RUB 18.25 million owed to the Ministry of Defence on a RUB 3 million advance; RUB 852,741 of arithmetical excess (appellate court decision of 4 May 2023; commercial court rulings of 25 January 2019 and 12 October 2023). The cost in years: the dispute over liability lasted more than four years, and the personal bankruptcy has been going on for more than six (commercial court rulings of 14 May 2020, 22 March 2021 and 22 June 2023). The company's records, stolen from its office in May 2017, were found in October 2021, when the time limits for appealing the main court decisions had already expired, and the insolvency practitioner, whom the police invited to collect them, refused (police department letters of 3 December 2021). The court took the main decisions on the personal debt with no one present to defend L. (commercial court rulings of 30 March 2022, 22 June 2023, 12 October 2023, 24 November 2023 and 9 March 2024; commercial court judgment of 14 February 2024). The law preserves a subsidiary liability debt even after personal bankruptcy, and creditors of bankrupt individuals receive on average 5.5 per cent of the claims admitted (Bankruptcy Law, Art. 213.28, paras. 5-6; Fedresurs, 2025).

Judges who admit to the register a claim for an "unearned" advance should check it against the certificates signed by the claimant itself, and the ultimate customer should compare its claim against the contractor's owner with its own payment for the same work (work acceptance certificates of 8 August 2016; payment order of 17 April 2017).

Sources

Sources are grouped by section of the study.

1. Introduction

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2. Legal Framework and Existing Approaches

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6.1. The Respondent and the Grounds

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Case Materials (copies, Faro Austral archive)

Subcontract of 30 December 2015 between the head contractor and the company for an airfield site of the Ministry of Defence; supplementary agreement to it of 22 January 2016; site handover certificate of 1 March 2016.

Equipment acceptance certificates and certificates of handover for installation of 19 April 2016; work acceptance certificates and cost-of-work statement of 8 August 2016; set-off statement of 8 August 2016; reconciliation statement for the first half of 2016.

Company’s letter to the head contractor of 12 December 2016 with the work acceptance certificates for November 2016; split statement of works of 13 April 2017.

Payment order of the head contractor to the company of 22 April 2016 (advance); payment order of the Ministry of Defence to the head contractor of 17 April 2017.

Head contractor’s letters to the company of 2017: letter terminating the contract in reply to the company’s letter of 24 January 2017, and letters of 1 February 2017, 21 February 2017 and 16 March 2017.

Head contractor’s statement of claim against the company of 6 March 2017; commercial court rulings on this claim of 9 March 2017, 23 March 2017 and 28 April 2017.

Fax from the directorate of the customer, the Ministry of Defence, of 2 April 2018; letter of the Ministry of Defence’s construction department to L. of 20 June 2024.

Decisions in the company’s bankruptcy case: commercial court ruling of 25 January 2019 admitting the head contractor’s claim to the register; appellate court decision of 24 July 2019 and Supreme Court ruling of 25 December 2019 on the return of the equipment to the supplier; commercial court ruling of 22 March 2021 on the grounds for subsidiary liability; commercial court ruling of 30 March 2022 on its amount; appellate court ruling of 27 October 2022 and Supreme Court ruling of 28 February 2023 on L.’s appeals; appellate court

ruling of 28 March 2023; appellate court decision of 4 May 2023 on the amount of liability; commercial court ruling of 22 June 2023 distributing the claim against L. among creditors.

Decisions in L.’s personal bankruptcy case: commercial court ruling of 14 May 2020 opening the case; ruling of 22 December 2020 entering subsidiary obligations in the register without a sum; ruling of 17 March 2023 on the company’s application to remove its claim; rulings of 12 October 2023 and 24 November 2023 (two each) and of 9 March 2024 on L.’s personal creditors; commercial court judgment of 14 February 2024 declaring L. bankrupt.

Commercial court judgment of 26 October 2017 and appellate court decision of 16 February 2018 on the second head contractor’s claim against the company.

Record of the auction of the company’s rights of claim of 11 October 2021 (auction organised by the insolvency practitioner).

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Military investigators’ order of 10 July 2023 refusing to open a criminal case on L.’s complaint; military prosecutor’s office reply to L. of 27 October 2025.

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