

Securities Regulation Daily Wrap Up, ENFORCEMENT—N.D. III.: CFTC, Chicagoland software developer close to settling aiding and abetting charges in connection with spoofing scheme, (Jan. 22, 2020)

Securities Regulation Daily Wrap Up

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By [Brad Rosen, J.D.](#)

The Commodity Trading Futures Commission, Jitesh Thakkar, and his firm, Edge Financial, have asked the court to stay all matters related to discovery while they look to finalize matters related to resolving this controversial and contentious litigation.

In an agreed motion to stay discovery deadlines, the CFTC and defendants Jitesh Thakkar and his firm Edge Financial Technologies, Inc. have requested that Judge Andrea Wood stay and suspend all discovery deadlines for a three-month period while the parties look to finalize the settlement of this administrative action. Specifically, the parties have asked the court to freeze the deadlines in connection with the close of fact discovery, disclosure of expert witnesses, submission of expert reports, supplementing initial disclosures, as well as providing rebuttal expert disclosures. Likewise, the parties have also requested a three-month stay in connection with the deadline for dispositive motion ([CFTC v. Thakkar](#), January 21, 2020).

Settlement is imminent. In the motion, the parties informed the court that they are close to resolving the case and have agreed on proposed settlement terms. However, it was noted that the CFTC's Division of Enforcement attorneys cannot bind the agency to a negotiated consent order that resolves the case without first obtaining approval from the five CFTC commissioners. Consequently, the parties advised the court that time is needed to (1) prepare a mutually-acceptable proposed consent order containing findings of fact and conclusions of law that resolves the CFTC's claims against the defendants; and (2) recommend the consent order to the full CFTC for its approval.

Moreover, the parties noted that suspending the applicable deadlines for the requested three-month period would provide ample time to finalize the case resolution and minimize the likelihood that the parties will need to return to court and request an extension of the stay. The parties also asserted that resolving the case through a consent order would result in no additional judicial resources being consumed as another reason for granting the requested stay.

Case background and the upcoming sentencing of Navinder Sarao. Previously, Jitesh Thakkar was charged and tried criminally for aiding and abetting the spoofing activities of convicted felon, Navinder Sarao, the purported perpetrator of the infamous 2010 flash crash. In April 2019, a jury voted 10-2 to acquit Thakkar in connection with software consulting services he provided to Sarao. Rather than retry Thakkar, the [DOJ dismissed the outstanding charges](#) against him.

As for Sarao, he is finally scheduled to be sentenced in federal court in the Northern District of Illinois on January 28, 2020. In recognition of Sarao's extraordinary cooperation with law enforcement authorities, the DOJ recommended that any jail sentence [be limited to time served](#). Sarao had previously been in prison for four months in the U.K. prior to being extradited to the United States to face charges. Under the DOJ's advisory guidelines, a suggested sentence ran from 78 to 97 months.

The CFTC vigorously resumes its administrative action. Despite the DOJ's unsuccessful prosecution and its dismissal of criminal charges, in September 2019, the CFTC [resumed its enforcement action](#) against Thakkar with gusto. The civil action had been stayed during the pendency of the criminal matter. Once the stay was

removed, the parties engaged in contentious motion practice, while [the CFTC sought extensive discovery](#) even though the agency had access to a massive trove of documents from the criminal matter.

The industry continues to watch closely. The futures and derivatives community, as well as the financial technology industry, will continue to monitor developments in this high-profile case closely. The CFTC's aggressive pursuit of Thakkar and seeming disconnect with the DOJ in the matter have resulted in persistent criticism from members of public and business community. Over 2500 individuals have signed on to a petition titled [Justice for Jitesh](#), which has asserted the CFTC's continued pursuit of this matter has resulted in an injustice and has been detrimental to the futures industry.

The case is [No. 1:18-cv-00619](#).

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Companies: Edge Financial Technologies, Inc.

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