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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

How Chicago Became The Center Of A Spoofing Test Case

By **Jessica Corso**

Law360, New York (July 21, 2016, 9:15 PM EDT) -- While the rapid-fire nature of modern-day trading can make the commodities industry difficult to prosecute, that hasn't stopped the U.S. Attorney's Office in Chicago from taking aim at high-frequency trading, as the recent first-of-its-kind conviction in a "spoofing" case demonstrates.

Following the July 13 **sentencing** of Michael Coscia, convicted in November of engaging in the market manipulation tactic known as spoofing, U.S. Attorney Zach Fardon told reporters his office was dedicated to prosecuting wrongdoing on the nation's futures exchanges.

The Chicago branch of the U.S. Department of Justice may have "precious few resources," but it has chosen to dedicate them toward the newly created securities and commodities fraud section in order to protect "fairness and integrity in the markets," according to Fardon.

Although he declined to be interviewed for this story, several former federal prosecutors who worked in the section under Fardon have said Chicago's top federal prosecutor was inspired by the city's strong presence in the futures markets.

"Chicago is a hub for commodities," Rachel Cannon of Dentons said, pointing to the CME Group Inc. and the Chicago Board of Exchange, or CBOE, both headquartered in the city. "I think [Fardon] felt those cases were big and challenging and deserved a certain amount of attention."

Cannon was already working as an assistant U.S. attorney when the section was created in 2014 to spotlight Ponzi schemes, deceptive trading and other violations in the securities and commodities markets, according to information provided by Justice Department spokesman Joe Fitzpatrick.

A few months after its creation, the section nabbed a blockbuster indictment when it charged Coscia, owner of trading firm Panther Energy Trading LLC, with six counts of spoofing and six counts of commodities fraud.

It was the first time anyone had been charged with the crime of spoofing, a trading strategy that became illegal under the Dodd-Frank Act of 2010. According to the U.S. Commodity Futures Trading Commission, a trader "spoofs" by placing large orders on the marketplace with the intent to cancel them before they can be acted on by another market participant.

Prosecutors say that, over a three-month period in 2011, Coscia made $1.3 million by placing deceptive bids on CME and ICE Futures Europe, and using the price fluctuations to his advantage.

In statements following the indictment, **conviction** and three-year sentence handed down against Coscia, Fardon repeatedly highlighted the case as one of the reasons his office established a section dedicated to prosecuting securities and commodities fraud.

According to Fitzpatrick, 25 cases have been filed by attorneys with the section since its creation, though he didn't immediately have numbers at hand to compare current activity to historic securities and commodities fraud cases in the office.

Cliff Histed of K&L Gates LLP, who was at one time a deputy chief of the securities and commodities fraud section, says the futures industry can be difficult to prosecute due to the speed of computer-initiated transactions, but that hasn't stopped the U.S. Attorney's Office or regulators from trying.

The CFTC has filed its own major cases in the federal courthouse in Chicago over suspicious trading activity, including a **separate spoofing case** and a case against Kraft Food Inc. **alleging** the manipulation of wheat futures prices.

And the regulator dinged Coscia in 2013 over the same 2011 activity he was prosecuted for, ordering him and his trading firm to pay $2.8 million and banning them from any CFTC-regulated exchange for a year.

Chicago's historic trading platform, now called CME Group, is one of the reasons the federal government keeps a watchful eye on the commodities market in the city, Histed said.

The Chicago Board of Trade began centralizing commodities trades in 1850, and the fledgling industry began building momentum in the city "back when Jesse James was robbing stage coaches," Histed said.

In 2007, the CBOT folded into the Chicago Mercantile Exchange to become CME Group, which one year later brought on board the New York Mercantile Exchange. CME Group says it currently handles around 3 billion contracts worth $1 quadrillion every year.

"Chicago is the home to futures, and [CME] is the world's largest futures market," the former prosecutor said. Fardon would have been aware of that fact, he said.

--Editing by Philip Shea and Catherine Sum.
