

THE AM LAW LITIGATION DAILY

Litigators of the Week: Judge Tosses CFTC's My Forex Funds Case After Agency's 'Obfuscation and Avoidance'

By Ross Todd

May 16, 2025

It's a serious understatement to say that the enforcement staff at the Commodity Futures Trading Commission comes off looking rough in the reports and recommendations from retired U.S. District Judge Jose Linares, the special master in the agency's case against Traders Global Group Inc. and its founder Murtuza Kazmi.

When the agency went to court *ex parte* to get a freeze on company assets in 2023, it pointed to \$31.5 million in Canadian dollars it said were transferred to an "unidentified Kazmi account."

The company's defense team—a group led by **Rob Zink** and **Avi Perry** of **Quinn Emanuel Urquhart & Sullivan** and **Craig Carpenito** of **King & Spalding**—were quick to point out that a quick Google search would have revealed the bank codes associated with the transfers in question indicated they were to the Canadian tax authorities. Worse still, the CFTC investigator and line prosecutor on the case received an email indicating the payments were for corporate taxes from a securities



Courtesy photos

L-R: Rob Zink and Avi Perry of Quinn Emanuel and Craig Carpenito of King & Spalding.

regulator in Canada before they even filed the case. Instead of coming clean about that email in a standalone letter to the court, the agency first mentioned it in a footnote in a reply brief.

Linares found the agency chose "a path of obfuscation and avoidance" and "acted willfully and in bad faith on several occasions." This week, U.S. District Judge Edward S. Kiel of the District of New Jersey adopted Linares' report and granted a motion for case-ending sanctions.

Litigation Daily: Who do you represent and what was at stake here?

Craig Carpenito: We represent Murtuza Kazmi and his firm Traders Global Group, which operated an electronic simulated trading platform called “My Forex Funds.” It’s hard to overstate what was at stake here. Regulatory enforcement actions can carry severe consequences—as this case starkly illustrated.

Our clients’ hard-earned reputations, the survival of My Forex Funds and the jobs of many My Forex Funds employees were on the line in this case, to say nothing of Mr. Kazmi’s livelihood and his ability to provide for his family. One of the great tragedies of this ordeal was Mr. Kazmi’s inability to pay for a sick family member’s medications or cover his children’s tuition while his funds were frozen.

From a more philosophical perspective, due process and the rule of law were at stake. The CFTC has never before brought an enforcement action like this—against a simulated trading firm like this—and they did so in the absence of clear rules or regulations authorizing the action. Another example of so-called “regulation by enforcement.” And despite that lack of clarity, the staff obtained an *ex parte* order restraining all of our clients’ funds on the basis of a slapdash investigation and in reliance on misrepresentations to the court, all of which they later attempted to cover up.

This case was not only about restoring our clients’ good names and livelihoods, but making the point that we must hold law enforcement agencies to a high standard.

How did this matter come to you and your firms?

Rob Zink: This matter came to Mr. Kazmi and his companies as a lightning bolt from the blue. In September 2023, Mr. Kazmi and his companies received notice that they were being sued for fraud, among other things, and that the CFTC already had gone to court—without his knowledge—to obtain an order freezing all of his money and all of his companies’ money.

Mr. Kazmi needed help. Quickly. He was looking for a firm that understood the existential stakes at issue and could handle a true bet-the-company case; a firm that could hit the ground running; and, importantly, he wanted a firm with a reputation for fighting, and winning, the toughest cases. Mr. Kazmi reached out to one of our fantastic partners, **Alex Spiro**, and from that moment Mr. Kazmi entrusted his case and, in many respects, his life, to our care. We’re forever grateful for that trust and have worked every day to validate his decision to select us to be his counsel.

After we were retained, we quickly teamed up with our close friends at K&S. There is no one better nationally than Craig Carpenito, and certainly no one better in the world to partner with in a matter pending in federal court in New Jersey. Craig and his team were, and have been, nothing short of spectacular in every aspect of the case and our partnership.

Who all has worked on the matter and how have you divided the work?

Avi Perry: This has been a true team effort from the beginning. I can’t express enough how much we appreciate, and benefited from, the close working relationship with Craig and his team at King & Spalding.

At Quinn Emanuel, our core team included our partner **Kurt Wolfe** and associates **Dakota Speas** and **Matt Feibert**. The King & Spalding team included **TJ Scrivo**, **Alex Kazam**, **Paige Tenkhoff** and **Jeff Bucholtz**.

Everyone rolled up their sleeves on this one. Kurt, Dakota, Matt, TJ, Jeff and Alex wrote compelling briefs and marshaled the facts for our sanctions motion. At the evidentiary hearing, Craig opened and closed, I crossed the CFTC's lead trial attorney and Rob crossed their investigator.

The biggest thanks, of course, go to our clients, for trusting us and our strategy.

You wrote in a filing less than a month into this dispute that “*the CFTC misrepresented that Traders Global transferred \$31.55 million CAD to Mr. Kazmi, when in reality Traders Global transferred that money to the Canadian tax authorities.*” [Those are your bold italics, not mine.] Why did it take so long for the CFTC to come clean about that misrepresentation?

Zink: That's one of the great mysteries in this case. On some level, the CFTC never owned up to its missteps, and that fact ultimately played a critical role in Judge Linares' recommendation to sanction the CFTC. After we first brought the CFTC's critical false statement to the attention of the agency, the staff—for months—chose to engage in a series of deliberate decisions not to correct the record in a comprehensive manner, and not to be fully transparent regarding when they knew of their critical error. This, of course, led the special master to conclude that the staff, “[i]n multiple instances, with full knowledge of the error in a sworn Declaration submitted to the Court, rather than be upfront, direct and

transparent, the CFTC took deliberate steps down a path of obfuscation and avoidance.”

Now that you have this ruling in hand, are there any moments from the evidentiary hearing before Judge Linares that stand out to you?

Carpenito: For sure. Rob, Avi and I are all former regulators and prosecutors. We understand the awesome power that the government possesses when it undertakes investigations and enforcement actions. As Special Master Linares correctly recognized, it is a higher duty than your average civil litigant because of the office that enforcement attorneys hold. The allegations levied alone are devastating to any subject. Nevertheless, the CFTC staff testified openly that it did not keep track of its evidence, nor did they read important emails from its agency partners, confirm representations made in court filings or adequately prepare for hearings and sworn testimony in federal court. As officers of the court and former public officials, this shocked us to our core. I have never seen such a cavalier attitude toward a federal agency's responsibilities to the court, defense counsel and to the defendants.

What do you hope the CFTC takes from this experience?

Perry: No case is worth your reputation. The CFTC was pretty far outside its core jurisdiction on this case, which involved simulated (not real) forex trading with no actual trades and no actual counterparties. They investigated for a year before charging, but didn't identify a single victim and never engaged with our clients. I think they saw big dollar amounts and rushed to file a half-baked complaint before doing their

diligence. There are real investigative lessons to be learned here. And of course, sometimes the right course of action is to admit a mistake, even if that means dismissing.

We also hope this case stands as a reminder, not just to the CFTC but to all law enforcement agencies, that the government has awesome powers at its disposal—and for good reason—but those powers can cause great harm if misused. Here, the CFTC's allegations destroyed a thriving business overnight. Mr. Kazmi, initially, did not have access to funds to retain counsel. And for months he and his family had to survive on credit cards and the charity of friends and family. No one should suffer this fate in our justice system.

That said, I should note that the Commission appears to be taking this matter very seriously. We appreciated Acting Chair Pham's recent statement on the court's ruling in this matter. Of course, we completely agree with her observation that "Americans rightly demand the highest level of conduct, candor, professionalism, and ethics from the federal government—especially law enforcement agencies like the CFTC." And we are encouraged by the proactive steps the agency is taking to ensure problems like this aren't repeated at the CFTC.

What can others who find themselves in a similar position to the defendants here take from what you were able to accomplish?

Zink: Fight. We hope and believe that cases like this are, and will prove to be, exceedingly rare going forward. That said, anyone who, like Mr. Kazmi and his companies, has not been afforded due process and is innocent of the charges and allegations brought by the government against them should fight. The

principle of due process is sacrosanct in our country and those who are denied due process, like Mr. Kazmi and his companies, have every right to punch back, even though it may be hard to do. And I can tell you, this particular fight has taken a considerable toll on Mr. Kazmi and his family.

As we've said from the beginning, the conduct at issue in this case was extreme and entirely inconsistent with the way a regulatory agency like the CFTC should behave. We feel especially passionate on this point because many of us on the team are former government enforcement attorneys or prosecutors who have long held the CFTC in the highest regard and were unfamiliar with the troubling behavior and positions undertaken by the CFTC in this specific case. Unfortunately, and far too often, defendants are railroaded into settlements, resolutions and unfavorable outcomes because they lack the resources to mount a fair fight against the government.

Bloomberg reported that four lawyers and an investigator in this case have been put on leave from the CFTC. You ultimately got case-ending sanctions. The CFTC's acting chair called this a "wake-up call" to the agency. What's working and what's broken here?

Perry: As Rob said, all of us have deep respect for the CFTC as an agency. When we were prosecutors at the DOJ's Fraud Section, Rob and I worked closely with the CFTC to build our parallel commodities enforcement programs. We know that the vast majority of the staff are principled, hard-working lawyers. That's why what happened here was so disappointing. Ultimately, this was an ethical failure by the line attorneys

on the case and a failure of supervision by their managers. Someone should have had the judgment and experience to recognize the severity of the issue after we flagged it and to take immediate remedial steps. Instead, there was a cover-up. That can't be allowed to happen anywhere, especially at a federal law enforcement agency. We are gratified that the Commission and the Enforcement Division have committed themselves to ethical and skills-based training to ensure this type of failure doesn't recur.

What will you remember most about this matter?

Perry: The lead CFTC trial attorney's demeanor on cross-examination. There was no remorse. And there came a moment on cross when he doubled down and lied, leading the special master to conclude that his testimony wasn't credible on key points. I never thought I'd see a federal enforcement attorney lie on the stand, and it just brought into sharp relief for us and the court how deeply problematic the conduct here was.

Carpenito: During closing arguments at the hearing, the CFTC asked the special master to have mercy on the lawyers and investigator that were the subject of the sanctions motion, because they were now remorseful and had been through enough scrutiny and punishment for their conduct already. CFTC's counsel pleaded for sympathy for its staff. What is shocking to me to this day is that they never expressed remorse for what they put our clients through. They never apologized. This conduct occurred because the staff treated Mr. Kazmi and his company as if it deserved no due process—as if they were not entitled to their basic rights. That is why we are here. As a result of the CFTC's conduct, Mr. Kazmi could not pay for his family's needs. He had to go to the receiver to do things like pay for groceries and medication. And, unfortunately, it is clear as day that the CFTC staff still have no remorse for what they did to our client.

Zink: The moment we told the client and his family the case was over, for good. It ranks up there as one of my proudest moments practicing law.