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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

18 Cr. 333 (JGK)

5 AKSHAY AIYER,

6 Defendant.

Arraignment

7 -----x  
8 New York, New York  
9 May 15, 2018  
3:00 p.m.

10 Before:

11 HON. JOHN G. KOELTL,

12 District Judge

13 APPEARANCES

14 U.S. DEPARTMENT OF JUSTICE  
15 Antitrust Division  
16 BY: BENJAMIN SIROTA  
ERIC C. HOFFMANN

17 MARTIN KLOTZ  
18 MICHAEL SCHACHTER  
19 Attorneys for Defendant

20 ALSO PRESENT:

21 U.S. Pretrial Services Officer Joseph Perry  
22  
23  
24  
25

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1 (Case called)

2 MR. SIROTA: Good afternoon, your Honor. Ben Sirota  
3 from the Department of Justice Antitrust Division, for the  
4 government.

5 THE COURT: Yes.

6 MR. HOFFMANN: Eric Hoffmann, Department of Justice  
7 antitrust.

8 MR. PERRY: Joseph Perry, Pretrial Services, sir.

9 THE COURT: OK.

10 MR. KLOTZ: Good afternoon, your Honor. Martin Klotz  
11 and Michael Schachter, Willkie Farr & Gallagher, for Mr. Aiyer,  
12 who is sitting to my left.

13 THE COURT: All right.

14 Good afternoon, all.

15 Where are we?

16 MR. SIROTA: So we are here for an arraignment and  
17 initial appearance, your Honor. The defendant was indicted on  
18 Thursday. This is his first appearance.

19 THE COURT: OK. Thank you.

20 Mr. Aiyer, am I pronouncing the name correctly?

21 THE DEFENDANT: Yes.

22 THE COURT: Mr. Aiyer, you have the right to remain  
23 silent. You need not make any statement. Even if you've  
24 already made statements to the authorities, you need not make  
25 any additional statements. Any statements that you do make can

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1 be used against you.

2 Do you understand?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: You have the right to be represented by a  
5 lawyer today and at all future proceedings in this case, and if  
6 you are unable to afford a lawyer I will appoint a lawyer to  
7 represent you.

8 Do you understand?

9 THE DEFENDANT: Yes.

10 THE COURT: You are being represented by Martin Klotz  
11 and Michael Schachter of Willkie Farr & Gallagher; is that  
12 correct?

13 THE DEFENDANT: Yes.

14 THE COURT: And so you are not asking me to appoint  
15 counsel for you, correct?

16 THE DEFENDANT: Correct.

17 THE COURT: OK.

18 I will arraign you on the indictment. Have you seen a  
19 copy of the indictment against you?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you discussed it with your lawyer?

22 THE DEFENDANT: I have.

23 THE COURT: Do you want me to read the indictment  
24 aloud to you in open court or do you wish to give up, or waive,  
25 the reading of the indictment?

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1 THE DEFENDANT: Waive the reading, please, sir.

2 THE COURT: All right.

3 How do you lead to the charges against you in the  
4 indictment? Guilty or not guilty?

5 THE DEFENDANT: Not guilty.

6 THE COURT: All right. The defendant's plea of not  
7 guilty will be entered.

8 Mr. Sirota, tell me about the case.

9 MR. SIROTA: Thank you, your Honor. The defendant  
10 here, Mr. Aiyer, was a trader of foreign currencies who worked  
11 for a major bank out of its New York office. He traded a  
12 bundle of foreign currencies that we call as a shorthand CEEMEA  
13 currencies. That is an acronym that stands for Central and  
14 Eastern European, Middle Eastern, and African, CEEMEA  
15 currencies.

16 We allege that the defendant conspired with his  
17 competitors, who were also traders of CEEMEA currencies at  
18 major banks, to suppress and eliminate competition by fixing  
19 prices and rigging bids and offers for these CEEMEA currencies  
20 that they commonly traded.

21 By doing so we allege that they violated the Sherman  
22 Antitrust Act, which is 15 United States Code, Section 1. The  
23 time period of the conspiracy that we allege is at least as  
24 early as October 2010, continuing through at least July 2013.

25 This is all laid out in the charging paragraphs of the

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1 indictment, which are paragraphs 20 and 21. And then more  
2 detail is provided in terms of means and methods in paragraph  
3 22.

4 THE COURT: OK. Thank you.

5 There is the issue of bail, conditions of release.  
6 Let me come back to that.

7 Has the government begun to make discovery?

8 MR. HOFFMANN: Not yet, your Honor. We reached an  
9 agreement with counsel on a protective order. We believe we  
10 will be able to start making discovery in approximately two  
11 weeks.

12 THE COURT: How much time for discovery?

13 MR. HOFFMANN: To produce it all out?

14 THE COURT: Yes.

15 MR. HOFFMANN: We believe the bulk, which addresses  
16 Rule 16 and our obligations under *Brady* and *Giglio* we can get  
17 out let's say by July.

18 If there is any additional material that defendant's  
19 counsel may want, that could take longer.

20 THE COURT: All right.

21 So the government estimates at this point it will make  
22 discovery by the end of July.

23 What I would normally do is to set the case down for  
24 another conference after the defense has had an opportunity to  
25 review the discovery and to determine what motions, if any, the

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1 defense intends to make. Of course, that would give the  
2 defense the opportunity to ask for additional discovery from  
3 the government. So I would set it down for another conference  
4 probably toward the end of September.

5 But before I do any of that, let me listen to defense  
6 counsel for anything defense counsel wants to tell me.

7 Mr. Klotz?

8 MR. KLOTZ: Thank you, your Honor.

9 I think, Judge, that would be perfectly satisfactory,  
10 and that is in fact what we were going to propose in terms of  
11 the schedule.

12 I am not certain that by the end of September we will  
13 be in a position to know what motions we intend to make.  
14 Discovery in the case is going to be quite voluminous, and  
15 there are several components of it.

16 I think there is a core of discovery that is  
17 undisputed. Then we are also going to be getting indices from  
18 the government that indicate other areas where we may want to  
19 pursue more documents.

20 So I think we're just going to be in a position of  
21 getting a handle on the scope of what we have and what we still  
22 want by the end of the summer and into September, but I think  
23 it makes sense to set this down for a conference at that point  
24 and we will have a better idea how much time we need to  
25 evaluate motions at that point.

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1 THE COURT: Sounds fine to me.

2 How about Wednesday, October 17, at 4:30?

3 Is that good?

4 MR. HOFFMANN: Yes, your Honor.

5 MR. KLOTZ: Yes, your Honor.

6 THE COURT: OK.

7 Another conference, Wednesday, October 17, at 4:30

8 p.m.

9 I will exclude prospectively the time from today until  
10 October 17 from Speedy Trial Act calculations. The continuance  
11 is designed to assure effective assistance of counsel. It's  
12 required because of the complexity of the case and the amount  
13 of discovery.

14 The Court finds that the ends of justice served by  
15 ordering the continuance outweigh the best interest of the  
16 defendant and the public in a speedy trial. This order of  
17 exclusion is made pursuant to 18 U.S.C. Section 3161(h)(7)(A).

18 Mr. Sirota, what is the status of the speedy trial  
19 clock?

20 MR. SIROTA: I believe in the order we received from  
21 your Honor your Honor excluded the time between the indictment  
22 and today's date, so I don't think there are any days accrued  
23 at this point.

24 THE COURT: So no time off the speedy trial clock at  
25 this point?

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1 MR. SIROTA: That's correct. That's my understanding.

2 THE COURT: Do you agree with that, Mr. Klotz?

3 MR. KLOTZ: I do, your Honor.

4 THE COURT: OK.

5 Which takes us, then, to the issue of conditions of  
6 release.

7 What are the parties' positions?

8 MR. HOFFMANN: Yes, your Honor, the government's view  
9 is that Mr. Aiyer presents a flight risk. However, we have  
10 reached an agreement with defense counsel on a combination of  
11 conditions that we think will reasonably assure his continued  
12 appearance and safeguard the community.

13 I can go over those.

14 The agreement calls for a \$650,000 bond that would be  
15 cosigned by two financially solvent individuals who the  
16 government has had the opportunity to speak to.

17 The defendant would also deposit \$150,000 cash as  
18 security.

19 There are travel restrictions, Southern and Eastern  
20 District of New York, to and from Martha's Vineyard.

21 THE COURT: I'm sorry. Southern and Eastern District  
22 of New York.

23 MR. HOFFMANN: And travel to and from a property that  
24 the defendant owns in Martha's Vineyard.

25 THE COURT: OK. Massachusetts.



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1 MR. HOFFMANN: Yes, and travel incidental to and from.

2 THE COURT: Right.

3 MR. HOFFMANN: We also understand the defendant has  
4 today his Indian passport which he is willing to surrender, and  
5 the agreement we have reached is that he turns that over and  
6 not seek to get a replacement.

7 He also agrees not to violate any state or local laws  
8 on release.

9 THE COURT: I'm sorry. I didn't get that.

10 MR. HOFFMANN: He also agrees not to violate any  
11 federal state or local laws on release.

12 THE COURT: Right.

13 All of those conditions appear to be reasonable to  
14 assure the presence of the defendant and the safety of the  
15 community.

16 So you agree with all those conditions, Mr. Klotz?

17 MR. KLOTZ: I do, your Honor. This was a negotiated  
18 agreement.

19 There is one additional travel waiver that I have  
20 discussed with the government and I believe they agree to.  
21 That is, over Memorial Day weekend Mr. Aiyer would like to  
22 travel to California to a wedding.

23 It is an important event for him. We have his flight  
24 reservations. We're happy to give them to the prosecutors or  
25 to pretrial services or anyone who needs them. He will be

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1 leaving May 24, returning May 29.

2 We ask that that be a one-time waiver from the  
3 restrictions that Mr. Hoffmann recited.

4 THE COURT: OK. The government?

5 MR. HOFFMANN: The government has no objection.

6 THE COURT: OK. That trip is authorized.

7 The defendant should make sure to provide the travel  
8 plans to pretrial services. And the conditions that were  
9 listed by the government I will include in an order of release.

10 Has the government approved the cosigners already?

11 MR. HOFFMANN: Yes, your Honor. We had the  
12 opportunity to speak to both of them, and we think they both  
13 understand their obligation and have the financial resources.

14 THE COURT: OK. And how much time to put up the  
15 \$150,000?

16 MR. HOFFMANN: It's contemplated within seven days.

17 THE COURT: OK.

18 MR. KLOTZ: Judge, if I may request, I would ask the  
19 same amount of time for the cosigners to get in and sign the  
20 bonds. At least one of them had some business restrictions  
21 that might cause him to take a day or so.

22 THE COURT: OK. Seven days to post the cash security  
23 and for the financially responsible cosigners to sign.

24 Yes, sir?

25 MR. PERRY: Your Honor, since the defendant admitted

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1 to pretrial that he used marijuana maybe two or three months  
2 ago, we recommend drug testing and treatment, random drug  
3 testing and treatment.

4 THE COURT: OK. Fine.

5 Random drug testing.

6 MR. PERRY: Thank you, sir.

7 THE COURT: Anything else?

8 MR. SIROTA: I have one additional relatively minor  
9 issue, your Honor.

10 THE COURT: Whatever.

11 MR. SIROTA: In a case like this the government is  
12 bound to notify potential victims of the proceedings in this  
13 case. Rather than doing it via individual notice, given the  
14 voluminous nature of the potential victims, we've proposed what  
15 we call alternative notification procedures.

16 It's the same procedures we have used in every case in  
17 this investigation. They are twofold. One is to post notice  
18 of the proceedings on our website, the Antitrust Division's  
19 website.

20 The second is to notify plaintiff counsel in the class  
21 action proceeding that is pending before Judge Schofield. It  
22 is an FX matter that has some similarities to this case.

23 THE COURT: Who is the judge? I'm sorry.

24 MR. SIROTA: Judge Schofield.

25 THE COURT: OK.

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1 MR. SIROTA: We have a proposed order and a motion  
2 which we're happy to pass up, or we can submit it through the  
3 normal channels. Either one is fine with us.

4 THE COURT: Have you shown it to defendant?

5 MR. SIROTA: Yes, it's on consent. They have not  
6 opposed it.

7 THE COURT: It is on consent?

8 MR. KLOTZ: Yes, your Honor.

9 THE COURT: Why don't you hand it up.

10 MR. SIROTA: Thank you, your Honor.

11 THE COURT: OK. I've signed the order.

12 We will put it on ECF.

13 Anything else?

14 MR. SIROTA: Thank you, your Honor.

15 Nothing further from the government.

16 MR. KLOTZ: Nothing further for the defense, your  
17 Honor.

18 THE COURT: OK. Good to see you all.

19 (Adjourned)  
20  
21  
22  
23  
24  
25