

Mass. Judge Delays Ex-State Street Exec's Fraud Trial

By [Jon Hill](#)

Law360, New York (July 10, 2017, 10:37 PM EDT) -- A former State Street Global Markets LLC executive accused of charging clients hidden commissions on securities trades will have more time to gather the evidence he says is necessary for his defense after a Massachusetts federal judge agreed to push back the start of his trial by eight months.

U.S. District Judge Leo T. Sorokin granted Ross McLellan's request for a continuance on Friday, saying that the unusual circumstances of the case warranted moving his trial's start date from Oct. 23 to June 4.

"The case involves sophisticated financial transactions, made more complicated by the fact it involves persons and evidence overseas, including literally millions of documents and hundreds of telephone calls recorded in the ordinary course of defendant's employer's business," Judge Sorokin wrote in his order.

McLellan [was indicted](#) last year on charges of conspiracy, securities fraud and wire fraud stemming from the government's allegations that he secretly marked up transition fees for moving investments between asset managers or liquidating large portfolios.

Although McLellan originally requested the October trial date last July, he told the court [earlier this month](#) that he needed additional time to chase down internal documents from the alleged victims, all of whom are overseas. Those documents could show that the alleged secret markups on transition management fees weren't actually important or unknown to the sophisticated institutional investors, McLellan argued.

But the government opposed McLellan's request, arguing in part that it was unnecessary to delay the trial because McLellan has known what the case was about since before he was even indicted. It was unfair "to the extreme" for him to wait this long and then ask for more time to engage in foreign litigation, prosecutors told the court.

Judge Sorokin acknowledged the government's position in his order Friday but explained that he would nevertheless allow McLellan his requested continuance.

"Plainly, the motion was not filed for the purpose of delay, whether or not the letters rogatory were sought as soon as reasonably possible," the judge wrote. "The reasons advanced by the defendant in support of the motion are substantial and concern the opportunity to gather evidence that counsel believes is necessary to prepare a zealous defense."

The judge added that he does not anticipate any further postponements after granting this "generous" extension, which he said should accommodate both McLellan's needs and prosecutors' schedules.

"Given that pivotal and potentially exculpatory foreign evidence remains unavailable to the defendant, the court properly determined that a trial continuance was in the interests of justice," McLellan's attorney, Martin G. Weinberg, told Law360 in an email.

McLellan, a former executive vice president of State Street and president of its broker-dealer subsidiary in the U.S., is one of three former State Street executives who were charged in the alleged scheme. The two others, Edward Pennings and Richard Boomgaardt, have copped to their roles in the scheme. Pennings has already pled guilty, and Boomgaardt is expected to plead guilty this week.

A representative for the U.S. attorney's office declined to comment Monday. The United States is represented by Assistant U.S. Attorneys Stephen Frank and Aisling O'Shea.

McLellan is represented by Martin G. Weinberg.

The case is USA v. McLellan et al., case number [1:16-cr-10094](#), in the U.S. District Court for the District of Massachusetts.