

III. Atty Defends Chegg Investment As COVID Strategy

By **Celeste Bott**

Law360 (January 10, 2023, 4:29 PM EST) -- Counsel for a Chicago lawyer facing insider trading charges told a federal jury Tuesday that his May 2020 decision to invest in online education company Chegg Inc. wasn't based on a friend sharing nonpublic information, but part of a broader strategy to buy stock in companies that would benefit from the COVID-19 pandemic and lockdown.

During the second day of **opening statements** in the securities fraud trial of Illinois attorney David Sargent and his longtime friend and former senior Chegg employee Christopher Klundt, one of Sargent's lawyers told the jury the government is purposefully asking them to focus on a very condensed window of time and "their conjecture of what it means."

The government alleges that Klundt attended an earnings preview with senior management officials on May 1, 2020, to discuss the first-quarter numbers to be released May 4, which would show that Chegg's profits had soared to \$131.6 million, a 35% year-over-year increase. That same day, prosecutors claim that Klundt and Sargent spoke on the phone, and Sargent bought hundreds of shares and almost 50 call options of Chegg stock that he later sold for a profit of more than \$110,000.

Carly Chocron of Taft Stettinius & Hollister LLP, representing Sargent, urged jurors Tuesday to take a step back and look at the whole picture of her client's trading. Sargent started ramping up his investing in 2019 when he teamed up with another friend and began using his trading model, funding accounts through a platform called TradeStation with \$54,000 of Sargent's money, Chocron said.

By early 2020, they'd already made \$20,000 in profit, she said. And when the COVID-19 pandemic hit and the market became volatile, the pair decided to keep that momentum going by adopting a "COVID-positive strategy," she told jurors.

Part of that strategy involved investing in Chegg, along with other companies and industries they expected to thrive under the unusual circumstances: alcohol, online gambling and healthcare, to name a few, she said.

"It doesn't take a rocket scientist to figure out what companies would do well," Chocron said. "When the pandemic hit and school went virtual, it only made sense to Sargent that Chegg would benefit."

Sargent was already intimately familiar with online education platforms. Years earlier, along with Klundt, he had co-founded StudyBlue.com, an online studying platform for high school and college students, she said. Chegg eventually acquired StudyBlue, and Klundt took a job managing it under Chegg's umbrella.

On Monday, prosecutors told the jury that Sargent spent more than \$40,000 on Chegg stock and options minutes after his May 1 phone call with Klundt, emptying his retirement account and spending more cash than he had in his brokerage account to do so.

But despite the contention that Sargent went "all-in" on Chegg, this was not a "bet the farm" investment, Chocron said. Sargent and his wife were well-off, with more than \$100,000 in a checking account and over \$1 million in Chicago real estate holdings, she said. And he continued to trade Chegg stock after the May 4 public earnings call.

"Sometimes he won, sometimes he lost," she told the jury.

The government has no direct evidence that the communication between Sargent and Klundt on May 1 was to share inside information, so it's not the smoking gun prosecutors think it is, she said.

"Dave [Sargent] and Chris were close friends. They talked a lot," she said.

Sargent and Klundt are both facing one count of conspiring to commit securities fraud and six counts of committing securities fraud, charges to which they **pled not guilty** shortly after they were **indicted** in January 2022. Their jury trial began Monday and is expected to take six days.

At the time of the alleged tip, Sargent was an attorney in private practice and was the vice president of a privately held software company based in Chicago. At the time of his indictment, he was assistant general counsel for a privately held Chicago business and was on the faculty of Loyola University Chicago's School of Environmental Sustainability, according to the government.

The government is represented by Matthew M. Getter and Vikas Kumar Didwania of the U.S. Attorney's Office for the Northern District of Illinois.

Sargent is represented by Christopher T. Grohman of Benesch Friedlander Coplan & Aronoff and Carly A. Chocron, Elizabeth Winkowski and Peter Deegan of Taft Stettinius & Hollister LLP.

Klundt is represented by Terence H. Campbell, Michael Maione and Eric Pruitt of Cotsirilos Tighe Streicker Poulos & Campbell LLP.

The case is USA v. David Sargent et al., case number 1:22-cr-00015, in the U.S. District Court for the Northern District of Illinois.

--Editing by Dave Trumbore.