

III. Atty Turned Stock Tip Into 'Cold Hard Cash,' Jury Hears

By **Celeste Bott**

Law360 (January 17, 2023, 6:36 PM EST) -- Prosecutors urged a Chicago federal jury Tuesday to convict an Illinois attorney of insider trading, saying he was a trained lawyer who willfully used inside information to make more than \$110,000 investing in Chegg Inc., conspiring with a college friend who worked there.

But the attorney, David Sargent, maintains that that investment was simply part of **an ongoing strategy** to invest in companies he thought would stand to benefit from the pandemic and lockdown, with his counsel telling jurors that the government has a "myopic" view of the case that lacks important context.

Both sides began making closing remarks to the jury following six days of trial in Chicago federal court before U.S. District Judge Manish Shah. Sargent and former senior Chegg employee Christopher Klundt are facing one count of conspiring to commit securities fraud and six counts of committing securities fraud through insider trading.

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.

Assistant U.S. Attorney Vikas Kumar Didwania said Sargent turned a gift of valuable, secret information from his friend into "cold hard cash," purchasing Chegg shares within 40 minutes of their phone call.

"Was this the most magical, lucky coincidence? No. It was the obvious," Didwania said.

The options Sargent bought depended on a sudden jolt in the stock price to turn a profit, he said. His risky purchases, his timing and his decisions to empty his retirement account all illustrate his confidence in what he was doing, Didwania argued.

"Unlike other market participants, Sargent had certainty," he said.

Prosecutors also point to Klundt texting Sargent an emoji face with dollar signs for the eyes shortly after Chegg's public earnings call.

The emoji was congratulatory in nature, based on "a shared understanding between them about the insider trading they were doing," Didwania said.

And the insider trading was willful, particularly given that Sargent was an attorney, Didwania said.

"He has familiarity with the law and understands the law," he said.

But Christopher Grohman of Benesch Friedlander Coplan & Aronoff, representing Sargent, told jurors that the government is "completely guessing" what happened during the May 1 phone call between Sargent and his longtime friend.

Looking beyond the "tiny" time frame prosecutors want to focus on, in the weeks ahead of the Chegg investments, Sargent had already made roughly \$27,000 with his "COVID-positive strategy," including by betting against United Airlines. He was also buying options in health care companies and other online education companies around the same time frame, and he continued to trade in Chegg after his initial profit, with mixed results, Grohman said.

"He's just gambling his profits, it's not exactly all in," Grohman said.

Sargent was an unsophisticated, novice trader with disposable income, including more than \$300,000 in immediately liquid assets and over \$1.2 million in property assets in Chicago, he said. With that privilege comes a certain tolerance for risk, he said.

And it's not like his interest in Chegg came out of the blue, he pointed out. Years earlier, along with Klundt, he had co-founded StudyBlue.com, an online studying platform for high school and college students. Chegg eventually acquired StudyBlue, and Klundt took a job managing it under Chegg's umbrella. The jury saw text messages between the two that showed they continually talked about the company's success, and that Sargent followed the news about Chegg, Grohman noted.

Sargent told another friend who was helping manage his investments that he was interested in investing in Chegg in mid-April, long before Klundt would be privy to any inside earnings information, Grohman said, and there's no evidence in the record that Sargent even knew Chegg was having a pre-earnings call May 1.

"They have a suspicious timeline and they have an emoji. That is not proof beyond a reasonable doubt," Grohman said Tuesday. "The scant evidence you have heard in this courtroom doesn't come close to meeting that burden."

Closing arguments will resume Wednesday morning, with final remarks given by Klundt's attorneys and a rebuttal from the federal government, after which the jury will begin deliberations.

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.

Both defendants **pled not guilty** to the charges shortly after they were indicted in January 2022.

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 of Taft Stettinius & Hollister LLP.

Klundt is represented by Terence H. Campbell and Michael Maione 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 Patrick Reagan.