

Legal experts say Chris Collins will find it tough to clear his name

By [Dan Herbeck](#) By [Jerry Zremski](#) | Published August 10, 2018 | Updated August 10, 2018

Rep. Chris Collins says the insider trading charges filed against him are “meritless,” and the Clarence Republican vows to go to trial to clear his name.

But in a federal court where more than 90 percent of criminal cases end up in plea deals, clearing his name won’t be easy for Collins or his two co-defendants, according to defense attorneys who spoke to The Buffalo News about the case.

“Based on the facts I’ve seen from the indictment, this appears to be a very egregious case of insider trading. ... These facts, these allegations – you don’t often get much better evidence than this,” said David R. Chase, a Florida attorney who used to prosecute insider trading cases as a senior counsel for the Securities Exchange Commission’s enforcement division and now defends people accused of the crime.

Felony charges were filed Wednesday against Collins; the congressman’s son, Cameron; and Stephen Zarsky, the father of Cameron Collins’ fiancée.

Despite Collins’ proclamation that he plans to go to trial, Chase predicts the case will eventually wind up in plea deals for the three defendants.

“On the face of it, this looks like a difficult case to defend,” said Michael S. Taheri, an Amherst defense lawyer. “It’s not illegal for a father to call his son on the phone, and it’s not a crime for the son to dump stock. But the timeline of these calls and stock transactions is crippling to the defense. You’ve got to give a jury some alternate explanation for everything that happened.”

“This certainly looks very bad,” said David A. Westbrook, a law professor who directs the New York City Program on Finance and Law at UB Law School, speaking about the indictment.

“It is a strong case,” added John Q. Barrett, a law professor at St. John’s University. He said the indictment “tells a strong, powerful and corrupt story.”

Chris Collins indicted

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Six experienced defense attorneys spoke to The News after the Collins indictment, all of them suggesting that Collins and his co-defendants face some difficult hurdles if they hope to walk away from the case without going to prison.

The three men are accused of insider stock trading and lying to FBI agents.

The congressman is accused of using a cellphone in June 2017 to call his son and tell him that a drug designed to fight multiple sclerosis had failed an important trial. Collins was a director and major stockholder of the Australian company that developed the drug, and his son was also a stockholder. The indictment alleges that Cameron Collins passed on the information to his fiancée, his future father-in-law and several other stockholders, urging them to sell their stock before the bad news became public. Cameron Collins and others quickly sold off a total of 1.78 million shares of company stock, enabling them to avoid \$768,600 in losses, federal prosecutors allege.

If convicted on all charges, Chris Collins could face up to 150 years in prison, federal officials said. But under federal court sentencing guidelines, the actual prison terms are almost always far less than the maximum penalties.

'Difficult dynamic for the family'

In a case like this, the pressure of facing long years in prison can cause emotional strife and divisions between Collins, his son and their future in-law, defense lawyers said.

“It sets up a difficult dynamic for the family,” said Buffalo defense attorney Paul J. Cambria. “You may see a situation where prosecutors go to Chris Collins and say, ‘Don’t you want to save your son? We’ll give your son a good plea deal if you agree to plead guilty, go to prison and take the fall for your family.’ I’ve seen it many times over the years. The ‘protect your family’ card is one that the government loves to play, and I am sure they will play it in this case.”

The indictment contains many more allegations about the conduct of Cameron Collins than it does about his father, Cambria said.

“From my reading of the indictment, Chris Collins makes one phone call to his son to tell him that the drug failed the trial. I see no proof of Chris Collins telling his son to dump stock,” Cambria said. “The indictment is much more pointed and focused on the actions of Chris Collins’ son.”

Cambria said he envisions a possible defense in which Chris Collins maintains that he only told his son about the failed drug trial because he was disappointed that the drug would be unable to help people afflicted with multiple sclerosis and knew his son would want to hear the news.

Evidence a challenge for defense

Among the first challenges for the defense will be to try to suppress evidence from text messages and cellphone calls that is cited extensively in the 30-page criminal indictment.

Chris Collins background

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Evidence gleaned from cellphone communications between Collins and his son seem to be the “bedrock” of the government’s case, said Buffalo defense lawyer Barry N. Covert.

“Did the FBI agents obtain that evidence properly under the law? Did they obtain the proper search warrants for the cell records and text messages? Were some of these communications turned over willingly by witnesses in the case? These are some of the questions I would be asking,” Covert said. “If you can knock that evidence out, keep it out of the trial, that could be the crux of the case.”

Westbrook said Chris Collins and his co-defendants compounded their problems by allegedly lying to the FBI. All three men are accused of making false statements to FBI agents when they were interviewed in April of this year. The indictment says Chris Collins denied telling his son about the failed drug trial before it became public knowledge, and the other defendants are accused of falsely telling the FBI that inside information about the failed drug trial had nothing to do with their decisions to sell stock.

"It's shades of Martha Stewart," Westbrook said, noting that the television homemaking queen went to federal prison for lying to federal agents about her investments.

Collins should have called his lawyer before calling his son, Westbrook added.

"To put the best possible face on it, he could argue that he was trying to protect his family and its wealth," Westbrook said. "But he behaved awfully rashly."

Barrett said he expects Collins to pose a "state-of-mind" defense, where the lawmaker acted impulsively but without a premeditated criminal intent.

"On the other hand, an impulsive act can also be a criminal act," Barrett said.

Timeline 'pretty devastating'

Anthony Ogorek, a Williamsville financial planner was among the first people in America to note the unusual events surrounding the Australian drug company's public announcements late in June 2017 – the very events cited in the indictment. He said the timeline presented in the indictment is "pretty devastating" for the defendants.

"No member of Congress should be holding onto individual securities," he said. "And none should ever be on the board of a publicly traded company."

Ogorek said the case – like all insider trading cases – is important because some people did apparently get hurt as a result of the insider actions.

"The people who got hurt were those on the other side of the trade" – the people who bought Innate stock when Cameron Collins and others cited in the indictment sold it.

"This case goes to the heart of our capital markets," Ogorek said. "If investors see stuff like this, they can think the game is rigged. And if the game is rigged, who wants to play?"