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*If Rep. Christopher Collins is convicted after a trial, one expert predicts that he could be sentenced to as long as seven to eight years in prison. (Jefferson Siegel/Special to The News)*

## Previous insider trading cases offer clues if Collins is convicted

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By **Matthew Spina** ([https://buffalonews.com/author/matthew\\_spina/](https://buffalonews.com/author/matthew_spina/)) | Published September 22, 2018

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Fei Yan was a research scientist at MIT when he bought stock options in a Colorado mining company. Just three weeks later, news broke that the company was being taken over by a large South African firm.

The stock price spiked, and Yan made more than \$100,000. But pure luck did not account for his windfall. He had bought his options based on

insider information gleaned from his wife, a lawyer working on that corporate merger in 2016.

Yan was not a director of either company. He did not tip off others with his information. He did not lie to federal agents as they investigated his trades. He was not a member of Congress, an individual expected to meet high ethical standards.

Still, Yan was sentenced to 15 months in prison (<https://www.justice.gov/usao-sdny/pr/cambridge-massachusetts-man-sentenced-manhattan-federal-court-insider-trading>).

Investors convicted of insider trading can be locked away for up to 20 years. While it's rare for any defendant to receive the maximum sentence, history shows there's a good chance Rep. Chris Collins will land behind bars if found guilty.

One expert predicts that it could be for as long as seven to eight years if Collins is convicted after a trial.

Collins, a Republican from Clarence, has pleaded not guilty (<https://buffalonews.com/2018/08/08/chris-collins-pleads-not-guilty-at-insider-trading-charge-arraignment/>) and recently said he will be exonerated after fighting the case in court. Defending him are lawyers in New York City and Washington, D.C., including Jonathan Barr, who worked for both the U.S. Justice Department and the Securities and Exchange Commission.

Like  
Barr,



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**Chris Collins, two others indicted on insider trading charges**  
([https://buffalonline.com/2018/08/collins-charged-with-conspiracy-to-commit-security-fraud/](https://buffalonline.com/2018/08/09/collins-charged-with-conspiracy-to-commit-security-fraud/))

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Christopher Bruno is a former Justice Department prosecutor and senior counsel with the SEC. He now defends insider trading cases for the firm Bruno & Degenhardt in Fairfax, Va. After examining the federal sentencing guidelines, Bruno predicted a stiff sentence for Collins if Collins is convicted, when considering he might have abused his post as a company director.

"Given all of the very strong direct and circumstantial proof," Bruno said, "in conjunction with the fact he most likely abused a position of trust, it is very likely Congressman Collins will face a term of incarceration, regardless of whether he pleads or goes to trial."

Judges need not follow the federal sentencing guidelines exactly. But as Bruno reads them, Collins could be sentenced to anywhere from 57 to 71 months if he "accepts responsibility," the term found in the guidelines for pleading guilty. Or he could go away for 78 to 97 months if found guilty in a trial.

When the indictment first surfaced, lawyers who defend insider trading cases said they were impressed by the evidence (<https://buffalonews.com/2018/08/10/legal-experts-collins-insider-trading-case-will-be-difficult-to-defend/>) prosecutors used to conclude Collins triggered a selloff by a close circle of shareholders. Together, they staved off \$768,000 in losses, prosecutors say.

"Based on the facts I've seen from the indictment, this appears to be a very egregious case of insider trading," said David R. Chase, a Florida

attorney who used to prosecute insider trading cases as a senior counsel for the SEC's enforcement division "These facts, these allegations," he said in August, "you don't often get much better evidence than this."

Federal prosecutors in Manhattan say the three-term congressman, who sat on the board of a biotech company, tipped off his son within moments after learning the company's experimental drug had failed its trial. Cameron Collins, prosecutors allege, then went about selling almost 1.4 million shares before the news went public and the stock price sank. Cameron's future in-laws sold their shares as well, according to court papers.

The congressman, Cameron Collins and Cameron's future father-in-law then lied to FBI agents as they investigated the trades, according to the federal indictment (<https://buffalonews.com/2018/08/08/pdf-indictment-detailing-charges-against-collins-collins-son-zarsky/>) issued against the three in the Southern District of New York.

It's not uncommon for insider-trading defendants to work out their penalties in an agreement with the SEC. Cameron Collins' fiancée (<https://buffalonews.com/2018/08/08/cameron-collins-fiancee-and-her-mother-settled-insider-trading-charges-with-sec/>) and his future mother-in-law did so after selling their shares in Innate Immunotherapeutics based on the inside information the congressman allegedly let loose. Rep. Collins, however, rejected a plea deal

(<https://buffalonews.com/2018/08/28/collins-turned-down-a-plea-deal-in-insider-trading-case/>) and decided to fight the charges.

## **ImClone sentence: 87 months**

Should Collins lose, prison appears likely, based on the outcome of other insider trading cases, including one of this century's most famous, the one involving ImClone.

It was similar to the Collins situation. Samuel Waksal was CEO of the drug-maker ImClone Systems. When the Food and Drug Administration rejected ImClone's application for a new cancer drug, Waksal tried to sell his own ImClone stock and tipped family members to do the same before the public learned the disappointing news.

Waksal pleaded guilty in 2002. In sentencing him, the judge spun out some of those words that defense lawyer Bruno said could come into play if Collins is sentenced. The words are "abused" and "trust."

"You abused your position of trust as the chief executive officer of a major corporation and undermined the public's confidence in the integrity of the capital markets, then you tried to lie your way out of it," U.S. District Court Judge William Pauley said to the CEO standing before him in 2003.

The judge then sentenced Waksal to 87 months in prison

([https://money.cnn.com/2003/06/10/news/companies/waksal\\_sentencing/](https://money.cnn.com/2003/06/10/news/companies/waksal_sentencing/)).

That's within the range of 84 to 97 months that Bruno sees Collins serving if he goes to trial and is found guilty.

Even lesser players in the ImClone case went to prison. Waksal's stockbroker also served as the broker to style maven Martha Stewart. At her broker's urging, Stewart sold her ImClone shares before the general public learned the FDA rejected ImClone's cancer drug. Stewart and broker Peter Bacanovic were each sentenced to five months in prison

(<https://www.nytimes.com/2004/07/16/business/stewart-sentenced-to-5-months-in-prison-for-lying-to-investigators.html>).

An analysis by the Reuters news service in 2014 found judges were giving out longer sentences in insider trading cases, in part because the amounts of stock gains involved were growing.

Some recent examples:

- Sean Stewart specialized in health care deals for JP Morgan Chase and Perella Weinberg Partners when he was accused of passing tips on five deals to his father, Robert, who then used the information to make more than \$1 million. Sean Stewart was sentenced

(<https://www.justice.gov/usao-sdny/pr/managing-director-investment-bank-sentenced-3-years-prison-insider-trading>) to three years in prison in 2016. (He has been released on an appeal that raised doubts about the admissibility of key evidence.)

- Investment banker Frank "Perk" Hixon made more than \$700,000 on trades based on insider information derived from his clients and tried to cover his tracks by using his father's accounts, federal prosecutors in Manhattan alleged. Hixon pleaded guilty in 2014 and was ordered to serve 30 months behind bars

(<https://www.wsj.com/articles/ex-evercore-senior-managing-director-sentenced-for-insider-trading-1406923777>).

- In Seattle, Jonathan Ly was sentenced (<https://www.seattletimes.com/seattle-news/crime/former-expedia-it-worker-sentenced-for-insider-trading-scheme-that-netted-him-330k/>) to 15 months in prison after admitting that, as a computer support technician for Expedia, he stole information from the emails of senior executives to fuel his insider trading. Prosecutors said he netted \$331,000. He had to repay that money and reimburse Expedia for the \$81,592 it spent investigating how its system had been infiltrated.

Prison would be an abrupt turnaround for Collins, who headed private companies before serving as Erie County executive and in Congress.

"To have this come down as one of the last chapters of my political life," he recently told television station WIVB, "is hard for me to wrap my head around."



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