

1 ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
JEFFREY K. RIFFER, State Bar No. 87016  
2 *jriffer@elkinskalt.com*  
ANGELA M. BUTCHER, State Bar No. 242759  
3 *abutcher@elkinskalt.com*  
10345 W. Olympic Blvd.  
4 Los Angeles, California 90064  
Telephone: 310.746.4400  
5 Facsimile: 310.746.4499

6 Attorneys for Objector Ethan Fieldman  
7

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

10  
11 STEVEN LEVENTHAL, Individually  
and on Behalf of All Others Similarly  
12 Situated,

13 Plaintiff,

14 v.

15 CHEGG, INC., DANIEL L.  
ROSENSWEIG, ANDREW J. BROWN,  
16 and NATHAN SCHULTZ,

17 Defendants.  
18

Case No. 5:21-cv-09953-EJD

CLASS ACTION

**STATEMENT OF OBJECTIONS TO  
PROPOSED CLASS SETTLEMENT  
AND NOTICE OF INTENTION TO  
APPEAR**

Judge: P. Casey Pitts

ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
10345 W. Olympic Blvd.  
Los Angeles, California 90064  
Telephone: 310.746.4400 • Facsimile: 310.746.4499

1 The undersigned, Ethan Fieldman, hereby objects to the Proposed Settlement  
 2 and Plan of Allocation (“Proposed Settlement”)<sup>1</sup> in the above-captioned matter.  
 3 Mr. Fieldman has the right to object, as he purchased Chegg, Inc. common stock  
 4 between May 5, 2020, and November 1, 2021, and was damaged thereby.<sup>2</sup>

5 As discussed below, the Proposed Settlement: (1) violates California public  
 6 policy and is barred by California Insurance Code Section 533 (“Section 533”)<sup>3</sup>; and  
 7 (2) impermissibly rewards Defendant’s alleged misconduct. As such, the Proposed  
 8 Settlement is not fair, reasonable, or adequate as required by Federal Rule of Civil  
 9 Procedure 23(e) and should be rejected.<sup>4</sup>

10 **I. THE PROPOSED SETTLEMENT VIOLATES CALIFORNIA PUBLIC**  
 11 **POLICY**

12 **A. Section 533 Establishes California’s Fundamental Public Policy**  
 13 **Against Rewarding Wrongdoers.**

14 Section 533 bars insurers from covering “willful acts of the insured.”<sup>5</sup> The  
 15 statute is implied in every insurance contract and codifies California’s fundamental  
 16 public policy against allowing wrongdoers to profit from their wrongdoing, or from  
 17 being indemnified against the effects of their wrongdoing.<sup>6</sup>

18 \_\_\_\_\_  
 19 <sup>1</sup> The term “Proposed Settlement” is used as defined in the Notice of (I) Pendency of Class Action,  
 20 Certification of Settlement Class, and Proposed Settlement and Plan of Allocation; (II) Settlement  
 Fairness Hearing; and (III) Motion for An Award of Attorneys’ Fees and Reimbursement of Litigation  
 Expenses (hereafter, “Class Notice”).

21 <sup>2</sup> See Schedule of Fieldman Chegg Stock Transactions, attached as Exhibit A.

22 <sup>3</sup> Cal. Ins. Code § 533 (“An insurer is not liable for a loss caused by the willful act of the insured; but  
 he is not exonerated by the negligence of the insured, or of the insured’s agents or others.”)

23 <sup>4</sup> See Fed. R. Civ. P. 23(e)(2) (“[T]he court may approve [a settlement proposal] only after a hearing  
 and only on finding that it is fair, reasonable, and adequate”).

24 <sup>5</sup> Cal. Ins. Code § 533. See, e.g., *Certain Underwriters at Lloyd’s London v. ConAgra Grocery Products*  
 25 *Co., LLC*, 77 Cal. App. 5th 729, 739, 292 Cal. Rptr. 3d 712, 719-20 (Ct. App. 2022), review denied  
 (Section 533 reflects a fundamental public policy of denying coverage for willful wrongs and  
 discouraging willful torts).

26 <sup>6</sup> See *Shell Oil Co. v. Winterthur Swiss Ins. Co.*, 15 Cal. Rptr. 2d 815, 12 Cal. App. 4th 715, 740 (Ct.  
 27 App. 1993), rehearing denied and modified, review denied (Section 533 is implied in every insurance  
 contract and reflects public policy of denying coverage for willful wrongs and discouraging willful  
 28 torts); *Dart Industries, Inc. v. Liberty Mut. Ins. Co.*, 484 F.2d 1295, 1298 (9th Cir. 1973) (“Rationale of

1           **B.     Section 533 Bars Coverage for Securities Violations.**

2           Few federal cases have addressed what constitutes a “willful act” under  
 3 Section 533 in the context of federal claims. However, courts applying Section 533 to  
 4 California state claims have interpreted the exclusion for “willful” acts to include acts  
 5 where harm was intentional and inherently or predictably harmful – including cases  
 6 of alleged stock manipulation.<sup>7</sup> In *California Amplifier, Inc. v. RLI Ins. Co.*,<sup>8</sup> the  
 7 California Court of Appeal applied Section 533 to preclude coverage of a class action  
 8 settlement under a director’s and officer’s (“D&O”) liability policy, where the insureds  
 9 had allegedly engaged in securities fraud by knowingly making false statements  
 10 intended to inflate the company’s stock price.<sup>9</sup> The Court of Appeal held that the  
 11 insureds’ false statements and purposeful acts were intended to cause damage by  
 12 artificially altering the price of securities to induce their sale or purchase, and that  
 13 damage from the manipulation of the security was expected and “highly probable or  
 14 substantially certain to result.”<sup>10</sup>

15                           **1.     Section 533 Bars Coverage for Deliberate Recklessness,**  
 16   **the Scierter Standard for 10(b) and 10b-5 Violations.**

17           *California Amplifier* involved D&O coverage for alleged securities violations  
 18 under California Corporations Code § 25500. In this case, determining insurability

19 \_\_\_\_\_  
 20 this section is that, as a matter of public policy, the wrongdoer should not profit from his own  
 wrongdoing or that the wrongdoer should not be indemnified against the effects of his wrongdoing”).

21 <sup>7</sup> See, e.g., *Primary Color Systems Corp. v. Hiscox Ins. Co., Inc.*, 654 F. Supp. 3d 982, 987 (C.D. Cal.  
 22 2023), affirmed 2024 WL 489171 (fraud cause of action clearly qualifies as uninsurable willful act  
 23 under Section 533); *Swiss Re International SE v. Comac Investments, Inc.*, 212 F. Supp. 3d 797, 807  
 24 (N.D. Cal 2016) (for purposes of Section 533, a “willful act” includes an act deliberately done for the  
 25 express purpose of causing damage or intentionally performed with knowledge that damage is highly  
 probable or substantially certain to result, not merely acts performed with the intent to cause injury);  
*Save Mart Supermarkets v. Underwriters at Lloyd’s London*, 843 F.Supp. 597, 605 (N.D. Cal. 1994)  
 (Under Section 533, if an act is inherently harmful, only a showing of intent to engage in the harmful  
 act is required to preclude insurance coverage).

26 <sup>8</sup> *California Amplifier, Inc. v. RLI Ins. Co.*, 113 Cal. Rptr. 2d 915, 94 Cal. App. 4th 102 (Ct. App. 2001),  
 rehearing denied, review denied.

27 <sup>9</sup> *Id.*, 113 Cal. Rptr. at 926-27.

28 <sup>10</sup> *Id.*

1 under Section 533 for claims alleging violations of Securities Exchange Act Section  
 2 10(b) and SEC Rule 10b-5 depends on the meaning of scienter under the federal  
 3 securities laws.<sup>11</sup>

4 In the 1994 case, *Raychem Corp. v. Fed. Ins. Co.*, the District Court for the  
 5 Northern District of California considered whether Section 533 precluded D&O  
 6 coverage in a settlement for damages under Rule 10b-5. The District Court  
 7 concluded that coverage of the settlement was permissible under the statute, as  
 8 scienter in 10b-5 cases could be based on recklessness, and Section 533 permitted  
 9 coverage for reckless acts.<sup>12</sup> Notably, the District Court stated that “Section 533  
 10 would not *per se* bar insurance coverage for alleged violations of Section 10(b) and  
 11 Rule 10b-5.... [I]f [insurers] could show that the individual officers and directors  
 12 made knowing misrepresentations, they might be able to prove that the actions were  
 13 willful, and hence, invoke the prohibitions of Section 533.”<sup>13</sup> As detailed below in  
 14 Section B.2, the underlying Complaint in this case is rife with allegations that  
 15 Defendants made knowing misrepresentations and engaged in a course of fraudulent  
 16 conduct. Under the District Court’s reasoning in *Raychem*, Section 533 would  
 17 prohibit coverage of the settlement for Defendants’ willful acts.

18 After *Raychem*, the Ninth Circuit Court of Appeals held that, to establish  
 19 scienter under Section 10(b) and Rule 10b-5, a complaint must allege the defendants  
 20 “made false or misleading statements either intentionally or with *deliberate*  
 21 recklessness” (emphasis added).<sup>14</sup> Allegations of simple recklessness are insufficient  
 22 in 10b-5 cases; plaintiffs must state specific facts indicating “no less than a degree of  
 23 recklessness that strongly suggests actual intent.”<sup>15</sup> Indeed, in denying Defendants’  
 24

25 <sup>11</sup> *Raychem Corp. v. Federal Ins. Co.*, 853 F.Supp. 1170, 1179 (N.D. Cal. 1994).

26 <sup>12</sup> *Id.* at 1180.

27 <sup>13</sup> *Id.*

28 <sup>14</sup> *Siracusano v. Matrixx Initiatives, Inc.*, 585 F.3d 1167, 1180 (9th Cir. 2009), *aff’d*, 563 U.S. 27 (2011).

<sup>15</sup> *In re Apple Computer, Inc., Sec. Litig.*, 243 F. Supp. 2d 1012, 1023 (N.D. Cal. 2002)

1 Motion to Dismiss, this Court held “scienter is a mental state that not only covers  
2 intent to deceive, manipulate, or defraud, but also deliberate recklessness.”<sup>16</sup>

3 In the context of omissions under Section 10(b) and Rule 10b-5, the Ninth  
4 Circuit Court of Appeals defined scienter as a highly unreasonable omission that  
5 constitutes “an extreme departure from the standards of ordinary care, and which  
6 presents a danger of misleading buyers or sellers that is either known to the  
7 defendant or is so obvious that the actor must have been aware of it.”<sup>17</sup>

8 The Ninth Circuit scienter standard for alleged violations of Section 10(b) and  
9 Rule 10b-5 strongly supports application of Section 533 to bar insurance coverage for  
10 the claims in this case. While Section 533 would permit coverage for *reckless* acts,  
11 which are not viewed as “willful” under the statute,<sup>18</sup> simple recklessness is a lesser  
12 allegation than deliberate recklessness. Coverage of claims involving intentional,  
13 deliberate recklessness such as the Section 10(b) and 10b-5 claims here, would  
14 violate California’s public policy against rewarding wrongdoers for their misconduct.

15 **2. Defendants’ Conduct Was Deliberately Reckless and is**  
16 **Therefore Uninsurable.**

17 The Complaint effectively pleads scienter under the Ninth Circuit’s standard,  
18 and portrays Defendants’ conduct not only as willful but as egregious. The Complaint  
19 offers substantial evidence to support Defendants’ deliberate and fraudulent course  
20 of conduct, motivated by personal financial gain:

21 Defendants were deliberately capitalizing on rampant student cheating on  
22 Chegg’s platform— which was the real reason for the Company’s dramatic

23 <sup>16</sup> *Leventhal v. Chegg, Inc.*, 721 F. Supp. 3d 1003, 1015 (N.D. Cal. 2024), *reconsideration denied*, 2024  
24 WL 3447516 (N.D. Cal. July 17, 2024).

25 <sup>17</sup> *Siracusano*, 585 F.3d at 1180. *See also Leventhal*, 721 F. Supp.3d at 1016 (“[T]o establish a strong  
26 inference of deliberate recklessness, the plaintiff must plead “a highly unreasonable omission,  
27 involving not merely simple, or even inexcusable negligence, but an extreme departure from the  
standards of ordinary care, and which presents a danger of misleading buyers or sellers that is either  
known to the defendant or is so obvious that the actor must have been aware of it”).

28 <sup>18</sup> *See J. C. Penney Cas. Ins. Co. v. M. K.*, 52 Cal. 3d 1009, 1021 (Cal. 1991) (Section 533 does not  
preclude coverage for acts that are negligent or reckless).

ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
10345 W. Olympic Blvd.  
Los Angeles, California 90064  
Telephone: 310.746.4400 • Facsimile: 310.746.4499

1 growth during the Class Period.<sup>19</sup>

2 [T]here is no question that Defendants were aware that it was far more than  
3 an ‘extremely small portion’ of Chegg’s users who were using its services to  
4 cheat during the Class Period, as they had represented to investors. The stark,  
5 obvious reality of students’ clear rampant use of Chegg to cheat—and  
6 Defendants’ repeated statements stating the exact opposite— is highly  
7 probative of Defendants’ scienter.<sup>20</sup>

8 Plaintiffs’ allegations support a strong inference of fraudulent intent on the  
9 part of the Defendants or, at the very least, the strong inference that  
10 Defendants’ conduct was highly unreasonable and an extreme departure from  
11 standards of ordinary care. In either case, Lead Plaintiffs have adequately pled  
12 scienter.<sup>21</sup>

13 Accordingly, Defendants were highly motivated to perpetuate the fraud to  
14 capitalize on Chegg’s artificially inflated share price, which they knew was  
15 almost certain to plummet once remote learning ended. The extensive insider  
16 selling by the Individual Defendants and other senior officers and directors  
17 during the Class Periods adds to the strong scienter inference.<sup>22</sup>

18 This Court previously denied the Defendants’ Motion to Dismiss the  
19 underlying class action, in part, on the grounds that the Complaint pled  
20 “particularized facts that support a strong inference of scienter as  
21 to Chegg’s knowledge about cheating on its platform.”<sup>23</sup>

22 In stark contrast to the Complaint, the Class Notice and briefing for  
23 Preliminary Approval of Class Action Settlement are devoid of reference to  
24 Defendants’ alleged recklessness, fraudulent intent, or any mental state at all.  
25 Relying solely on those documents, members of the Settlement Class<sup>24</sup> might be  
26 unaware of the egregiousness of Defendants’ alleged misconduct.

27 <sup>19</sup> Complaint at ¶ 214.

28 <sup>20</sup> Complaint at ¶ 265.

<sup>21</sup> Complaint at ¶ 300.

<sup>22</sup> Complaint at ¶ 299.

<sup>23</sup> *Leventhal*, 721 F. Supp.3d at 1017.

<sup>24</sup> The term “Settlement Class,” as used here, has the same meaning as defined in the Class Notice.  
*See* Class Notice at 1.

1           Nevertheless, the determination whether Section 533 precludes coverage  
 2 requires the Court to evaluate the allegations in the Complaint – not the language of  
 3 a settlement agreement, which could be recast to portray Defendants as innocents.<sup>25</sup>  
 4 Just as insurers may not recharacterize negligent conduct as intentional to deny  
 5 coverage, the Defendants’ intentional conduct may not be recharacterized as merely  
 6 negligent to obtain coverage.<sup>26</sup> The Complaint sufficiently establishes that  
 7 Defendants engaged in “willful acts,” as required by Section 533, and with “deliberate  
 8 recklessness,” as required by Section 10(b) and Rule 10b-5. Defendants’ conduct is  
 9 therefore uninsurable, and it would violate California public policy for the D&O  
 10 Insurers<sup>27</sup> to fund the Proposed Settlement.

11           **C. Section 533 Bars Coverage of the Proposed Settlement.**

12           In keeping with California’s public policy against insuring against willful acts,  
 13 Section 533 bars coverage of settlements - without adjudication of insureds’  
 14 misconduct - where, as here, Defendants allegedly engaged in willful acts. To  
 15 determine whether Section 533 applies to settlements, courts examine the allegations  
 16 in the underlying complaint, regardless of whether there has been an adjudication of  
 17 the allegations.<sup>28</sup>

18           In a recent unpublished decision, the Ninth Circuit Court of Appeals held that  
 19 Section 533 barred coverage of a class action settlement, absent adjudication of the

20 \_\_\_\_\_  
 21 <sup>25</sup> See, e.g., *Coit Drapery Cleaners, Inc. v. Sequoia Ins. Co.*, 14 Cal. App. 4th 1595, 1602, 18 Cal. Rptr.  
 22 2d 692, 697 (Ct. App. 1993), *as modified on denial of reh’g* (May 12, 1993) (review of claimants’ sexual  
 23 harassment allegations showed no credible evidence that the alleged wrongful conduct could be  
 anything other than intentional and willful; “just as we cannot allow insurers to recharacterize  
 negligent conduct as intentional, we cannot allow the insured to recast intentional conduct as merely  
 negligent”).

24 <sup>26</sup> *Id.*

25 <sup>27</sup> The term “D&O Insurers,” as used here, has the same meaning as defined in the Class Notice. See  
 Class Notice at 6.

26 <sup>28</sup> See, e.g., *California Amplifier*, 113 Cal. Rptr. 2d at 919-20 (where insureds settled lawsuit alleging  
 27 that they engaged in stock manipulation in violation of California Corporations Code § 25500,  
 “coverage is precluded by Insurance Code § 533 as a matter of law” because “a defendant must  
 28 knowingly and intentionally make a false or misleading statement to be liable under [Corporations  
 Code] section 25500”).

1 defendants' underlying acts, as the claim involved categorically willful conduct.<sup>29</sup>  
 2 This decision follows a line of California cases where Section 533 precluded coverage  
 3 for class action settlements where the complaint alleged essentially willful acts.<sup>30</sup>

4 As discussed above, claims for violation of Section 10(b) and Rule 10b-5 involve  
 5 "false or misleading statements either intentionally or with *deliberate* recklessness"  
 6 (emphasis added).<sup>31</sup> Allegations of simple recklessness are insufficient in these cases;  
 7 plaintiffs must state specific facts indicating "no less than a degree of recklessness  
 8 that strongly suggests actual intent."<sup>32</sup>

9 As this Court previously held when denying the Motion to Dismiss, the  
 10 allegations in the Complaint, construed on their face, satisfy the scienter  
 11 requirement of Section 10(b) and Rule 10b-5. Defendants' conduct was characterized  
 12 as fraudulent, intentionally deceptive, and, at a minimum, an "extreme departure  
 13 from the standards of ordinary care," presenting a "danger of misleading securities  
 14 buyers or sellers that was either known to the Defendants or so obvious that the  
 15 Defendants must have been aware of it."<sup>33</sup> As a matter of law, Section 533 bars  
 16 coverage for these willful acts and warrants rejection of the Proposed Settlement.<sup>34</sup>

17 \_\_\_\_\_  
 18 <sup>29</sup> *Aspen Specialty Ins. Co. v. Miller Barondess, LLP*, No. 22-55032, 2023 WL 2523841, \*1-2 (9th Cir. Mar. 15, 2023).

19 <sup>30</sup> See, e.g., *California Amplifier*, 113 Cal. Rptr. 2d at 919-20; *Marie Y. v. Gen. Star Indem. Co.*, 110  
 20 Cal.App.4th 928, 953-954, 2 Cal. Rptr. 3d 135, 153-54 (Ct. App. 2003) (under Section 533, barring  
 21 coverage of settlement before adjudication of liability because the complaint on its face alleged a  
 22 "willful act"); *Coit Drapery*, 18 Cal. Rptr. 2d 692, 695 (court reviewed allegations of the complaint and  
 held that coverage for the settlement was barred by Section 533, as there was "no credible argument  
 that this alleged wrongful conduct could be anything other than intentional and willful").

23 <sup>31</sup> *Siracusano v. Matrixx Initiatives, Inc.*, 585 F.3d 1167, 1180 (9th Cir. 2009), *aff'd*, 563 U.S. 27 (2011).

24 <sup>32</sup> *In re Apple Computer, Inc., Sec. Litig.*, 243 F. Supp. 2d 1012, 1023 (N.D. Cal. 2002).

25 <sup>33</sup> *Siracusano*, 585 F.3d at 1180. See also *Leventhal*, 721 F. Supp. 3d at 1016 ("[T]o establish a strong  
 26 inference of deliberate recklessness, the plaintiff must plead "a highly unreasonable omission,  
 involving not merely simple, or even inexcusable negligence, but an extreme departure from the  
 standards of ordinary care, and which presents a danger of misleading buyers or sellers that is either  
 known to the defendant or is so obvious that the actor must have been aware of it").

27 <sup>34</sup> See *California Amplifier*, 113 Cal. Rptr. 2d at 919-20 (where insureds settled lawsuit alleging they  
 28 engaged in stock manipulation, Section 533 barred coverage of the settlement as a matter of law  
 because "a defendant must knowingly and intentionally make a false or misleading statement to be  
 liable under [Corporations Code] section 25500").



ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
10345 W. Olympic Blvd.  
Los Angeles, California 90064  
Telephone: 310.746.4400 • Facsimile: 310.746.4499

1 **II. THE PROPOSED SETTLEMENT IMPERMISSIBLY REWARDS**  
2 **DEFENDANTS’ MISCONDUCT**

3 **A. Under the Proposed Settlement, Defendants Would Pay Nothing**  
4 **After They Profited from Harming Investors.**

5 The Complaint alleges that Defendants, individually and in concert, engaged  
6 in a “continuous course of conduct that operated as a fraud and deceit upon Lead  
7 Plaintiffs and the other members of the Class.”<sup>35</sup> The Complaint contains substantial  
8 evidence to establish that Defendants’ misrepresentations and omissions were  
9 intended to, and did: “(a) deceive the investing public, including Lead Plaintiffs and  
10 the other members of the Class...; (b) artificially inflate and maintain the market  
11 price of Chegg stock; and (c) cause Lead Plaintiffs and the other members of the  
12 Class to purchase the Company’s common stock at artificially inflated prices, and to  
13 suffer losses when the true facts became known.”<sup>36</sup>

14 The Complaint also persuasively alleges that Defendants engaged in their  
15 fraudulent course of conduct to perpetrate a high-level pump and dump scheme,  
16 where Chegg officers, directors, and other insiders sold their personal Chegg shares  
17 at inflated prices totaling nearly \$100 million in gross proceeds. Of this amount,  
18 Defendants Rosensweig and Schultz alone realized a staggering \$74.5 million.<sup>37</sup>

19 More specifically:

20 With the stock price inflated as a result of the Defendants’ false and  
21 misleading statements, Defendant Rosensweig sold more than 550,000 shares,  
22 or nearly 30% of his Chegg holdings, for proceeds of \$49.5 million. Defendant  
23 Schultz sold over 340,000 shares, nearly a staggering 90% of his Chegg  
24 holdings, for proceeds of nearly \$25 million.<sup>38</sup>

25 The over 2.2 million shares sold by Defendants Rosensweig and Schultz during  
26 the Class Period—for over \$74 million in proceeds—were highly unusual in  
27 both amount and timing. For instance, on February 18, 2021, mere days after  
28 Chegg’s stock price reached its Class Period and record high of \$113.51 on

26 <sup>35</sup> Complaint at ¶ 316.

27 <sup>36</sup> Complaint at ¶ 316.

28 <sup>37</sup> Complaint at ¶ 294.

<sup>38</sup> Complaint at ¶ 295.

1 February 12, 2021, Defendant Rosensweig sold 300,000 shares of Chegg stock  
 2 for more than \$30 million, his largest sale ever. Similarly, Defendant Schultz  
 3 sold more than 140,000 shares of Chegg stock between December 2020 and  
 4 April 2021, when Chegg shares traded above \$90 per share. Following these  
 5 sales, the price of Chegg's common stock steeply declined, falling by  
 6 approximately 70% to close at \$32.12 at the end of the Class Period.

7  
 8 Moreover, at the same time Chegg's insiders were dumping their stock,  
 9 Defendants caused the Company to repurchase hundreds of millions of dollars'  
 10 worth of Chegg shares, initiating a \$500 million stock buyback on June 16,  
 11 2020, which was completed on December 31, 2021, thus further inflating the  
 12 stock price and Defendants' illicit insider trading profits.<sup>39</sup>

13  
 14 Despite Defendants' "staggering" profits from the alleged fraudulent scheme,  
 15 the Proposed Settlement would require the D&O Insurers to fund the entire  
 16 settlement amount,<sup>40</sup> with no contribution from Defendants, no admission of  
 17 wrongdoing, and with full dismissal and release of any current or future claims  
 18 against the Defendants.<sup>41</sup> Such an unfair result necessitates application of Section  
 19 533 to prevent the Defendants from reaping the unlawful rewards of their willful  
 20 acts.

21  
 22 **B. Approval of the Proposed Settlement Leaves Defendants**  
 23 **Undeterred from Engaging in Future Misconduct and Further**  
 24 **Harming Investors.**

25  
 26 Given that Defendants face no accountability in the Proposed Settlement, it is  
 27 unsurprising that Defendant Rosensweig still holds a position as Executive  
 28 Chairman of Chegg.<sup>42</sup> More surprising is the fact that Defendant Schultz was  
 recently *promoted* to CEO of Chegg and appointed to the Company's Board of  
 Directors.<sup>43</sup> As these Defendants continue to occupy controlling positions within the

39 *Id.* at ¶ 297-98.

40 Class Notice at ¶¶ 2, 47.

41 Class Notice at ¶ 35.

42 *See* Chegg, Inc., SEC Form 10-K (filed Feb. 24, 2025) ("Chegg 10-K"), Executive Chairman Agreement at Ex. 10.01, available at <https://www.sec.gov/Archives/edgar/data/1364954/000136495424000042/ex10012024-03x31.htm>. (last visited March 27, 2025)

43 *Id.*, Employment Agreement at Ex. 10.02.

1 company, the Proposed Settlement leaves them undeterred from future misconduct  
2 that may again harm the company and its shareholders.

3 Notably, in October 2024 Australia’s Tertiary Education Quality and  
4 Standards Agency (TEQSA) initiated a regulatory action against Chegg for multiple  
5 breaches of a 2020 anti-cheating law that makes it illegal to provide or advertise  
6 academic cheating services to students.<sup>44</sup> This marked the first time the agency  
7 initiated proceedings for alleged contraventions of the academic cheating law.<sup>45</sup>  
8 TEQSA alleged Chegg breached the anti-cheating law five times across 2021 and  
9 2022, and stated the agency took action after “receiving concerns from multiple  
10 institutions about Chegg’s operations in Australia.”<sup>46</sup> In the action, TEQSA seeks  
11 “declarations about the alleged contraventions, civil penalties, costs and other orders”  
12 from the Federal Court of Australia.<sup>47</sup>

13 In response to TEQSA’s allegations, Chegg predictably denied that its platform  
14 is used for cheating.<sup>48</sup> To note, Chegg’s most recent Form 10-K filed with the SEC  
15 does not reference the TEQSA action. Rather, it merely states: “TEQSA *may* apply  
16 under section 127A to the Federal Court for an injunction requiring carriage service  
17 providers to take steps to disable access to websites” found to violate the law, and  
18 that the law “provides for other financial or custodial penalties where an offense is  
19 proven.”<sup>49</sup> (emphasis added).

20  
21  
22 <sup>44</sup> See Press Release, TEQSA, *TEQSA commences legal proceedings against Chegg* (Oct. 8, 2024),  
available at <https://www.teqsa.gov.au/about-us/news-and-events/latest-news/teqsa-commences-legal-proceedings-against-chegg> (last visited March 27, 2025).

23 <sup>45</sup> *Id.*

24 <sup>46</sup> *Id.*

25 <sup>47</sup> *Id.*

26 <sup>48</sup> See Ross, John, Inside Higher Ed, *Chegg Accused of Breaching Australia’s Anti-Cheating Law* (Oct.  
27 <https://www.insidehighered.com/news/tech-innovation/teaching-learning/2024/10/11/chegg-accused-breaching-australias-anti-cheating>. (last visited March 26, 2025.)

28 <sup>49</sup> Chegg 10-K at 9.

1 The allegations in the instant Complaint clearly indicate that Defendants  
 2 Rosensweig and Schultz, still at the helm of the company, cannot be trusted to  
 3 handle the Australian investigation or other company business with integrity. This is  
 4 particularly true where both Defendants intentionally made material misstatements  
 5 and omissions about rampant cheating on Chegg's online platforms to further enrich  
 6 themselves. Mishandling of the Australian regulatory action could result in civil  
 7 penalties or costs, and could significantly impact or even forestall Chegg's business  
 8 operations in Australia. If accepted by the Court, the Proposed Settlement would  
 9 endorse Defendants' leadership of the company, even where their personal interests  
 10 sharply diverge from those of Chegg and its shareholders.

11 **III. THE PROPOSED SETTLEMENT IS UNFAIR, UNREASONABLE, AND**  
 12 **SHOULD BE DENIED**

13 The Proposed Settlement, taken as whole, must be examined for overall  
 14 fairness, and it must stand or fall in its entirety.<sup>50</sup> As detailed above, the Proposed  
 15 Settlement violates California's longstanding public policy against insuring willful  
 16 acts. If approved, the Proposed Settlement would effectively reward Defendants'  
 17 misconduct, releasing all claims against them without any monetary or other  
 18 contribution toward the settlement. Moreover, Defendants' continued control of  
 19 Chegg – despite their obvious conflicts of interest – leaves them in a position to harm  
 20 the company and its shareholders again in the future. For the foregoing reasons, the  
 21 Proposed Settlement is not fair, as required by Federal Rule 23(e)(2). Application of  
 22 Section 533 precludes coverage of the Defendants' willful acts and requires that the  
 23 Proposed Settlement be denied.

24 The objector is aware that denying the Proposed Settlement might  
 25 unintentionally result in a future settlement or damages of lesser value than \$55  
 26 million. However, the public policy codified in Section 533 requires wrongdoers to  
 27

28 <sup>50</sup> *Staton v. Boeing Co.*, 327 F.3d 938, 960 (9th Cir. 2003)

1 bear the burden and fees arising from their intentional acts and prohibits them from  
2 passing that burden to their insurer.<sup>51</sup> The parties to this action may not contract or  
3 settle around this fundamental principle. As a matter of California law, the D&O  
4 Insurers may not fund the Proposed Settlement for the Defendants' willful violation  
5 of the federal securities laws.

6 **IV. NOTICE OF INTENTION TO APPEAR**

7 Counsel for Mr. Fieldman is submitting a Notice of Intention to Appear at the  
8 Settlement Hearing on his behalf (*see* Notice of Intention to Appear, attached as  
9 Exhibit B).

10 DATED: March 27, 2025

*/s/ Ethan Fieldman*

Ethan Fieldman  
2510 NW 16<sup>th</sup> Ave.  
Gainesville, FL 32605  
T: (352) 246-3842

14 DATED: March 27, 2025

ELKINS KALT WEINTRAUB REUBEN  
GARTSIDE LLP

By: *Angela Butcher*

JEFFREY K. RIFFER  
ANGELA M. BUTCHER  
Attorneys for Objector Ethan Fieldman

26 \_\_\_\_\_  
27 <sup>51</sup> *Combs v. State Farm Fire & Casualty Co.*, 49 Cal. Rptr. 3d 917, 923-924, 143 Cal. App. 4th 1338,  
28 1346-1347 (Ct. App. 2006) (denying insurance coverage for willful acts may limit the recovery of  
victims of intentional misconduct, but the public policy behind Section 533 requires that the burden of  
paying such fees be borne by the intentional wrongdoer and not by the wrongdoer's insurance carrier).

ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
10345 W. Olympic Blvd.  
Los Angeles, California 90064  
Telephone: 310.746.4400 • Facsimile: 310.746.4499

# **EXHIBIT A**



**Account Number** XXXXXX742 **Account Name** Mr. Ethan Henry Fieldman

**CUSIP** 163092109 **Product Description** CHEGG, INC. CMN

Trade Date	Transaction Type	Quantity	Price	Principal Amount	CUSIP
May 05 2020	Beginning Position	0.00			163092109
Feb 26 2021	BUY	10.00	96.53	(965.33)	163092109
Mar 03 2021	BUY	5.00	76.41	(382.06)	163092109
Apr 30 2021	SALE	(10.00)	90.97	909.63	163092109
May 07 2021	SALE	(5.00)	73.29	366.42	163092109
Jun 11 2021	BUY	5.00	76.41	(382.06)	163092109
Sep 24 2021	SALE	(5.00)	73.29	366.42	163092109
Jan 28 2022	Ending Position	0.00			163092109

DISCLOSURES: This information is provided at your request as an accommodation to you in the review of your investment activity. This material is based upon information included in our records and/or information received from you and/or a third party. It is not an official report nor in a form customarily provided to our clients nor is it maintained in such a format by us as part of our official books and records. We do not represent that such information is accurate or complete and it should not be relied upon as such. Prices shown in the material do not necessarily reflect realizable values. In the event of any discrepancy between the information contained herein and the information contained in your monthly account statements at Goldman Sachs or another institution, the latter shall govern. Please immediately notify your Private Wealth Advisor of any discrepancies. Information and opinions are as of the date of this material only and are subject to change without notice. Please note that this report may include accounts that do not qualify for the applicable Class Period, as defined in the Proof of Claim and Release Form (the "Form") relating to the positions described herein, but may hold positions relevant to the 90-Day Look-Back Period, as defined in the Form. Goldman Sachs does not provide tax or legal advice or advise clients on securities class actions. All investors are strongly urged to consult with their own advisors regarding any potential strategy or investment. Services offered through Goldman, Sachs & Co. Member SIPC/FINRA. © Copyright 2020, The Goldman Sachs Group, Inc. All rights reserved.



**Account Number** XXXXXX130

**Account Name**

Mr. Ethan H Fieldman & Ashley Fieldman  
Ten Ent

**CUSIP** 163092109

**Product Description**

CHEGG, INC. CMN

Trade Date	Transaction Type	Quantity	Price	Principal Amount	CUSIP
May 05 2020	Beginning Position	0.00			163092109
Oct 11 2021	BUY	10.00	63.14	(631.43)	163092109
Dec 20 2021	SALE	(10.00)	29.78	297.77	163092109
Jan 28 2022	Ending Position	0.00			163092109

DISCLOSURES: This information is provided at your request as an accommodation to you in the review of your investment activity. This material is based upon information included in our records and/or information received from you and/or a third party. It is not an official report nor in a form customarily provided to our clients nor is it maintained in such a format by us as part of our official books and records. We do not represent that such information is accurate or complete and it should not be relied upon as such. Prices shown in the material do not necessarily reflect realizable values. In the event of any discrepancy between the information contained herein and the information contained in your monthly account statements at Goldman Sachs or another institution, the latter shall govern. Please immediately notify your Private Wealth Advisor of any discrepancies. Information and opinions are as of the date of this material only and are subject to change without notice. Please note that this report may include accounts that do not qualify for the applicable Class Period, as defined in the Proof of Claim and Release Form (the "Form") relating to the positions described herein, but may hold positions relevant to the 90-Day Look-Back Period, as defined in the Form. Goldman Sachs does not provide tax or legal advice or advise clients on securities class actions. All investors are strongly urged to consult with their own advisors regarding any potential strategy or investment. Services offered through Goldman, Sachs & Co. Member SIPC/FINRA. © Copyright 2020, The Goldman Sachs Group, Inc. All rights reserved.



# **EXHIBIT B**

1 ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
JEFFREY K. RIFFER, State Bar No. 87016  
2 *jriffer@elkinskalt.com*  
ANGELA M. BUTCHER, State Bar No. 242759  
3 *abutcher@elkinskalt.com*  
10345 W. Olympic Blvd.  
4 Los Angeles, California 90064  
Telephone: 310.746.4400  
5 Facsimile: 310.746.4499

6 Attorneys for Objector Ethan Fieldman  
7

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

10  
11 STEVEN LEVENTHAL, Individually  
and on Behalf of All Others Similarly  
12 Situated,

13 Plaintiff,

14 v.

15 CHEGG, INC., DANIEL L.  
ROSENSWEIG, ANDREW J. BROWN,  
16 and NATHAN SCHULTZ,

17 Defendants.  
18  
19

Case No. 5:21-cv-09953-PCP

**NOTICE OF INTENTION TO  
APPEAR AT THE HEARING ON  
MOTION FOR FINAL APPROVAL  
OF SETTLEMENT AND PLAN OF  
ALLOCATION**

Date: April 24, 2025  
Time: 10:00 a.m.  
Place: 280 South First Street  
Courtroom 8, 4th Floor  
San Jose, CA 95113

Judge: P. Casey Pitts

ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
10345 W. Olympic Blvd.  
Los Angeles, California 90064  
Telephone: 310.746.4400 • Facsimile: 310.746.4499

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TO THE HONORABLE COURT, ALL PARTIES, AND THEIR  
ATTORNEYS OF RECORD:**

**PLEASE NOTICE** that the undersigned, Angela M. Butcher, on behalf of  
Objector Ethan Fieldman, wishes to appear at the hearing on the Motion for  
Approval of Settlement and Plan Allocation scheduled to be heard on April 24, 2025  
at 10:00 a.m., at the above-referenced courthouse.

DATED: March 27, 2025

ELKINS KALT WEINTRAUB REUBEN  
GARTSIDE LLP

By: Angela Butcher  
ANGELA M. BUTCHER  
Attorneys for Objector Ethan Fieldman

ELKINS KALT WEINTRAUB REUBEN GARTSIDE LLP  
10345 W. Olympic Blvd.  
Los Angeles, California 90064  
Telephone: 310.746.4400 • Facsimile: 310.746.4499