

FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON JULY 27, 2021 PURSUANT TO SECTION 165.7(h) OF THE WHISTLEBLOWER RULES, 17 C.F.R. PART 165, ADOPTED PURSUANT TO SECTION 23 OF THE COMMODITY EXCHANGE ACT, 7 U.S.C. § 26.

In the Matter of Claims for Award by:)
)
)
 Redacted (“Claimant 1”),)
 Form WB-APP Redacted)
 Form WB-APP Redacted)
)
 Redacted (“Claimant 2”),)
 Form WB-APP Redacted)
)
 Redacted (“Claimant 3”),)
 Form WB-APP Redacted)
)
 In Connection with)
 Notice of Covered Action No. Redacted)
)

PRELIMINARY DETERMINATION OF THE CLAIMS REVIEW STAFF

The Commodity Futures Trading Commission (“Commission”) received whistleblower award applications on Form WB-APP from Claimant 1, Claimant 2, and Claimant 3 in response to the Commission’s Notice of Covered Action No. Redacted regarding Redacted Redacted

(the “Order” or “Covered Action”). The Claims Review Staff (“CRS”) has evaluated each of the applications in accordance with the Commission’s Whistleblower Rules (the “Rules”), 17 C.F.R. pt. 165 (2020), promulgated pursuant to Section 23 of the Commodity Exchange Act (the “CEA” or “Act”), 7 U.S.C. § 26 (2018).¹ The CRS sets forth its Preliminary Determination for each Claimant as follows:

¹ The determination of the appropriate percentage of a whistleblower award involves a highly individualized review of the facts and circumstances. The analytical framework in the Rules provides general principles without

1. The CRS has determined to recommend that the Commission deny awards to the Claimant 1, Claimant 2, and Claimant 3 because each of their award applications did not meet the requirements of Section 23 of the CEA and the Rules.

2. To become a whistleblower under the CFTC's Whistleblower Program, an individual must submit a Form TCR to the Commission. *See* 17 C.F.R. §§ 165.2(p), 165.3. Claimant 1 and Claimant 3 never filed a Form TCR with the Commission. Therefore, Claimant 1 and Claimant 3 may not be considered whistleblowers under the Rules and are ineligible for an award. However, as further discussed below, even if Claimant 1 and Claimant 3 had filled out and submitted a Form TCR, the information provided by Claimant 1 and Claimant 3 did not significantly contribute to the Covered Action.

3. Claimant 1, Claimant 2, and Claimant 3 did not provide information to the Division of Enforcement ("Division") that led to the opening of the investigation that would later result in the Order. The Division opened an investigation in this matter not because of Claimant 1, Claimant 2, or Claimant 3 but because it received a Form TCR on Redacted from an individual other than Claimant 1, Claimant 2, or Claimant 3. Claimant 1, Claimant 2, and Claimant 3 each contacted Division staff for the first time after the Commission filed its Complaint against the Defendants Redacted. *See* 17 C.F.R. §§ 165.2(i).

4. Even if Claimant 1 had filed a Form TCR to qualify as an eligible whistleblower, Claimant 1's assistance did not significantly contribute to the success of the Covered Action. Claimant 1 first approached the Commission on Redacted, after the Commission filed its complaint against the Defendants in the Covered Action. On Redacted, Claimant 1

mandating a particular result. The criteria for determining the amount of an award in Rule 165.9, 17 C.F.R. § 165.9(b) (2020) does not mean that the presence of negative factors will result in an award percentage lower than 30%, nor does the absence of negative factors in Rule 165.9(c) mean the award percentage will be higher than 10%. Not all factors may be relevant to a particular decision.

submitted

Redacted

. Although

Division staff found that the documents provided by Claimant 1 to be somewhat helpful, all of Claimant 1's assistance came after the Commission had completed its investigation and filed the enforcement action against the Defendants. In addition, much of the information provided by Claimant 1 was already known to Division staff because Division staff was already aware of the

Redacted

. Overall, Division staff found Claimant 1 to be only

minimally helpful in the enforcement action against the Defendants given that the information

Redacted

. Division staff was already aware of Redacted

, at the time it filed its Complaint against the

Defendants on Redacted

. For the above reasons, Claimant 1 did not significantly

contribute to the Covered Action.

5. Claimant 2 did not significantly contribute to the success of the Covered Action.

On Redacted, Claimant 2 contacted Division staff via email. Claimant 2, however, did not file a Form TCR with the Commission until Redacted

. On Redacted, Division staff exchanged emails with Claimant 2, and also

interviewed Claimant 2 via telephone. During the telephone interview, Claimant 2 described ***

Redacted

; however, much of the information provided by Claimant 2 was already

known to Division staff. Division staff found Claimant 2's information to be only minimally

helpful given that, by the time Claimant 2 came forward, Division staff was already aware of the

Redacted

Claimant 2. Claimant 2 did not provide any documents to

Division staff. Overall, Division staff found that Claimant 2 provided little, if any, meaningful

assistance to Division staff in its enforcement action against the Defendants given that ***

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information [Redacted]. Division staff was already aware of [Redacted] at the time it filed its Complaint against the Defendants on [Redacted]. For that reason, Division staff did not find the information to be particularly helpful to the enforcement action against the Defendants.

6. Even if Claimant 3 had filed a Form TCR to qualify as an eligible whistleblower, Claimant 3's assistance did not significantly contribute to the success of the Covered Action. On [Redacted], Claimant 3 contacted Division staff via email. On [Redacted], Division staff exchanged emails with Claimant 3, and interviewed Claimant 3 by telephone that same day.

During this telephone call, Claimant 3 explained [Redacted]. On [Redacted], Claimant 3 submitted a [Redacted]

[Redacted]. All of Claimant 3's assistance came after the Commission had completed its investigation and filed an enforcement action against the Defendants. Overall, Division staff found Claimant 3 to be only minimally helpful in the enforcement action against the Defendants given that the information

[Redacted]. Division staff was already aware of [Redacted], at the time it filed its Complaint against the Defendants on [Redacted]. For the above reasons, Claimant 3 did not significantly contribute to the Covered Action.

7. For the above reasons, the CRS has determined to recommend that the Commission deny the award applications of Claimant 1, Claimant 2, and Claimant 3.

Dated: May 25, 2021

By: Whistleblower Claims Review Staff
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581