

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

_____)		
In the Matter of Claims for Award by:)		
Redacted)		
("Claimant 1"),)		
Form WB-APP Redacted)		
Redacted)		
("Claimant 2"),)		
Form WB-APP Redacted)		
Redacted)		
("Claimant 3"),)		
Form WB-APP Redacted)		
Form WB-APP Redacted)		
Redacted)		
("Claimant 4"),)		
Form WB-APP Redacted)		
In Connection with)		
Notice of Covered Action No. Redacted)		
_____)		

CFTC Whistleblower Award
Determination No. 22-WB-01

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Commodity Futures Trading Commission ("Commission") received whistleblower award applications from Claimant 1, Claimant 2, Claimant 3, and Claimant 4 (collectively, "Claimants") in response to Notice of Covered Action No. Redacted . The corresponding enforcement action is Redacted ("Covered Action"), in which the Commission Redacted

I. PRELIMINARY DETERMINATION

The Claims Review Staff ("CRS") evaluated Claimants' award claims in accordance with the Commission's Whistleblower Rules ("Rules"), 17 C.F.R. pt. 165 (2020), promulgated pursuant to Section 23 of the Commodity Exchange Act ("CEA" or "Act"), 7 U.S.C. § 26 (2018). On Redacted the CRS issued a Preliminary Determination recommending an award each to Claimant 1 and Claimant 2. The CRS recommended that the total award amount should be "" of the monetary sanctions collected in the Covered Action, split as "" to Claimant 1 and "" to Claimant 2. The CRS further recommended that the Commission deny Claimant 3's and Claimant 4's award applications because they failed to meet the requirements of Section 23 of the CEA and the Rules. Claimant 3 withdrew his/her award application after the issuance of the Preliminary Determination. None of the other claimants contested the Preliminary Determination. Pursuant to Rule 165.7(h), 17 C.F.R. § 165.7(h), the Preliminary Determination became the Proposed Final Determination with respect to Claimant 1 and Claimant 2, and the Preliminary Determination became the Final Order of the Commission with respect to Claimant 4. For the reasons set forth below, the CRS's determination is adopted.

II. LEGAL ANALYSIS

The CRS recommended that the Commission grant an award each to Claimant 1 and Claimant 2 for the Covered Action because their award applications meet the requirements of Section 23 of the CEA and the Rules. The recommendation of the CRS is adopted. Claimant 1 and Claimant 2 each voluntarily provided the Commission with original information that led to the successful enforcement of a covered action, as required under Section 23(b)(1) of the Commodity Exchange Act, 7 U.S.C. § 26(b)(1) (2018). Claimant 1 provided unique ^{Redacted} information that was previously unknown to the Commission. Claimant 1 provided information that was sufficiently specific, credible and timely that it, along with other documents and information, caused staff of the Commission's Division of Enforcement ("Division") to open the investigation that led to the Covered Action. Claimant 1's information also significantly contributed to the success of the Covered Action. Claimant 1 provided a voluntary submission because Claimant 1 voluntarily provided information to another regulatory authority, and subsequently provided that information directly to the Commission ^{Redacted}

Claimant 2 provided unique ^{Redacted} information, much of which was previously unknown to the Commission. Claimant 2 provided information that significantly contributed to the success of the Covered Action. Claimant 2 provided a voluntary submission, even though ^{Redacted}

Claimant 1 and Claimant 2 also meet all eligibility requirements for a whistleblower award. *See* 17 C.F.R. §§ 165.5(b), 165.6. Further, neither Claimant 1 nor Claimant 2 falls into any of the categories of individuals ineligible for an award, as set forth in Rule 165.6(a), 17 C.F.R. § 165.6(a).

The CRS recommended that the total award amount granted should be ^{Redacted} of the ^{Redacted} ^{Redacted} in monetary sanctions collected in the Covered Action, split as ^{Redacted} to Claimant 1 and ^{Redacted} to Claimant 2, which would result in payments of ^{Redacted} to Claimant 1 and ^{Redacted} to Claimant 2. The Commission has discretion in determining an award amount but must consider certain criteria specified in the CEA, 7 U.S.C. § 26(c)(1)(A). The Rules contain both factors that incorporate the statutory criteria for determining the award amount and factors that may increase or decrease the award amount. The determination of the appropriate amount of a whistleblower award involves a highly individualized review of the facts and circumstances. Depending upon the facts and circumstances of each case, some factors may not be applicable or may deserve greater weight than others. The analytical framework in the Rules provides general principles without mandating a particular result. The factors for determining the amount of an award in Rule 165.9, 17 C.F.R. § 165.9, are not assigned relative importance, and the factors for increasing or decreasing award amounts are not listed in any order of importance. The Rules also do not specify how much these factors should increase or decrease the award amount. Not satisfying any one of the positive factors does not mean that the award percentage must be less than 30%, and the converse is also true. The absence of all of the negative factors does not mean the award percentage must be greater than 10%.

In arriving at its recommended award amount, the CRS applied the factors set forth in Rule 165.9, 17 C.F.R. § 165.9, in relation to the facts and circumstances of Claimant 1's and Claimant 2's award applications. The recommendation of the CRS is adopted. Both Claimant 1 and Claimant 2 provided significant information and substantial assistance to Division staff. Each person's information supported and ultimately led to different charges the Commission brought in the Covered Action. However, allocating a higher award percentage to Claimant 1 is appropriate because of the key role that Claimant 1's information played in causing the Division to open the investigation that led to the Covered Action and focusing the Division's efforts during the investigation's earliest stages. Claimant 2 reported to the Commission while the investigation was ongoing. Opening investigations is crucial to the success and effectiveness of the Commission's enforcement program. In addition, the Rules specify that the Commission may consider conservation of the Commission's resources when determining whether to increase the award amount. *See* 17 C.F.R. § 165.9(b)(1)(i), (b)(2)(iii). Claimant 1's submission of documents and sharing of knowledge about ^{Redacted} during the earliest stages of the matter helped Division staff conserve time and resources, as well as better focus the staff's investigative efforts. Granting a larger award to Claimant 1 properly recognizes this added value of Claimant 1's information.

However, increasing Claimant 1's award amount above the recommended percentage, which would correspondingly decrease Claimant 2's award amount, is unwarranted because Division staff considered Claimant 1 and Claimant 2 to have contributed equally to the investigation, with each person providing significant information and substantial assistance to Division staff that supported, and ultimately led to, different charges in the Covered Action. In addition, the recommended award allocation takes into account that, while Claimant 1 provided Division staff with unique ^{Redacted} information that was previously unknown to the Commission, ^{Redacted}.

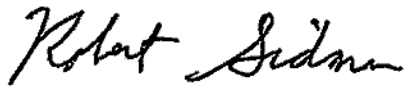
The CRS recommended in the Preliminary Determination that the Commission deny the award application of Claimant 4 because it failed to meet the requirements of Section 23 of the Act and the Rules. Pursuant to Rule 165.7(h), 17 C.F.R. § 165.7(h), the Preliminary Determination became the Final Order of the Commission with respect to Claimant 4.

III. CONCLUSION

It is hereby ORDERED that Claimant 1 shall receive *** and Claimant 2 shall receive *** of monetary sanctions collected in the Covered Action. It is further ORDERED that Claimant 4's award claim shall be, and is, denied.

PUBLIC VERSION

By the Commission.



Robert Sidman
Deputy Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Dated: November 22, 2021