

Proposed Final Determination with respect to Claimant 1. For the reasons set forth below, the CRS's determination is adopted.¹

II. LEGAL ANALYSIS

The CRS recommended that the Commission grant an award to Claimant 1 on the Covered Action because his/her Covered Action claim met the requirements of Section 23 of the CEA and the Rules. Claimant 1 voluntarily provided the Commission with original information that led to the successful enforcement of the Covered Action. *See* 17 C.F.R. § 165.5(a). Claimant 1 also met all eligibility requirements for an award. *See* 17 C.F.R. § 165.5(b). Further, Claimant 1 did not fall 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 award amount for Claimant 1 should be *** of the monetary sanctions collected in the Covered Action. The Commission has discretion in determining the 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 recommendation, the CRS applied the factors set forth in Rule 165.9 in relation to the facts and circumstances of Claimant 1's award claim in the Covered Action. The Commission agrees with the CRS's recommendation. According to internal records maintained by the Division of Enforcement ("Division"), the Commission opened an investigation shortly after Claimant 1 submitted a Form TCR regarding suspicions that Redacted

Division staff found Claimant 1's Form TCR to be highly credible given that Claimant 1, while a Redacted

¹ The Preliminary Determination also recommended denying the award claims from the remaining claimants and denying the related action claim from Claimant 1. None of the claimants contested the Preliminary Determination to deny their claims, so pursuant to Rule 165.7(h), 17 C.F.R. § 165.7(h), the Preliminary Determination became the Commission's Final Order with regard to the denials.

Redacted

Based on Claimant 1's Form TCR, the Division decided to open an investigation of Company. The resulting Order described conduct that Claimant 1 discussed in his/her original information. Claimant 1's Form TCR identified that Company may be harming its customers by Redacted

In its Order, the Commission found that Company was providing Redacted

After providing the initial information that led to the opening of the investigation, Claimant 1 provided a very high degree of additional, ongoing support to Division staff. *See* 17 C.F.R. § 165.9(a)(2), (b)(2). This ongoing support and cooperation included: (1) further explaining the problematic violations and providing evidence that the conduct was ongoing; (2) interpreting key evidence for Division staff; (3) facilitating the appearance of another witness to corroborate the violations; (4) providing additional analysis to further support Division staff's inquiry and determining the amount of harm; and (5) potentially conserving Commission resources, including with a declaration in support of Redacted. Division staff found Claimant 1's additional information to be highly important to its investigation. Notably, Claimant 1's explanation of the Redacted directly contradicted an explanation Company had provided, and in fact, made more sense than the explanation Company had provided. This led Division staff to expand its analysis of Redacted to further analyze the harm suffered by customers as a result of the violations.

Overall, the information supplied by Claimant 1 proved to be highly significant to the Commission's enforcement action against Company. *See* 17 C.F.R. § 165.9(a)(1), (b)(1). Without Claimant 1's information, Company's violations may have gone undetected longer. Given the importance of Claimant 1's information to both the opening and ultimate success of the Covered Action, and also Claimant 1's extensive assistance throughout the investigation, an award of^{***} to Claimant 1 is appropriate.

III. CONCLUSION

It is hereby ORDERED that the award amount for Claimant 1 should be^{***} of the total monetary sanctions collected in the Covered Action. As the Commission has collected Redacted in connection with the Covered Action, Claimant 1 would receive an award payment of Redacted

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PUBLIC VERSION

By the Commission.

A handwritten signature in black ink that reads "Robert Sidman". The signature is written in a cursive style with a large initial "R".

Robert Sidman
Deputy Secretary of the Commission
Commodity Futures Trading Commission

Dated: September 19, 2023