

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

<p>In the Matter of Claims for Award by:</p> <p style="margin-left: 40px;">Redacted (“Claimant”), Redacted</p> <p>In Connection with  Notice of Covered Action No. Redacted</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CFTC Whistleblower Award  Determination No. 24-WB-01</p>
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**ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS**

The Commodity Futures Trading Commission (“Commission”) received a whistleblower award application on Form WB-APP from Claimant in response to the above-referenced Notice of Covered Action regarding Redacted

(“Covered Action” or “CFTC Orders”). In addition to applying for an award on the Covered Action, Claimant applied for a related action award on an action by Redacted (“Authority”), Redacted (“Related Action” or “Related Order”).

The Claims Review Staff (“CRS”) evaluated the application in accordance with the Commission’s Whistleblower Rules (“Rules”), 17 C.F.R. pt. 165, promulgated pursuant to Section 23 of the Commodity Exchange Act (“Act”), 7 U.S.C. § 26, and issued a Preliminary Determination. The Preliminary Determination recommended an award of \*\*\* of the monetary sanctions collected in the Covered Action and an award of \*\*\* of the monetary sanctions collected in the Related Action. Claimant informed the Commission’s Whistleblower Office in writing that Claimant would not contest these aspects of the CRS’s Preliminary Determination, so they have become the CRS’s Proposed Final Determination.\* The Commission hereby adopts the CRS’s Proposed Final Determination for the reasons that the CRS provided.

**I. ELIGIBILITY FOR AWARD ON COVERED ACTION**

Claimant is eligible for a whistleblower award on the Covered Action because Claimant is a whistleblower who voluntarily provided the Commission original information that led to the

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\* This notice from Claimant also encompassed the portion of the Preliminary Determination that recommended denying Claimant’s related action claims that named two other authorities but did not name any action brought by either of these authorities during the ninety days prior to the date of Claimant’s Form WB-APP. Because Claimant has written that he/she is not contesting this recommendation for denial, pursuant to Rule 165.7(h), 17 C.F.R. § 165.7(h), this component of the Preliminary Determination has already become the Commission’s Final Order.

successful enforcement of the Covered Action. *See* 17 C.F.R. § 165.5. Further, Claimant does not fall into any of the categories of individuals ineligible for awards listed in Rule 165.6(a), *id.* § 165.6(a). Two aspects of Claimant’s eligibility for an award warrant additional analysis: (1) whether Claimant submitted his/her information voluntarily, and (2) which information of Claimant’s was original and led to the successful resolution of the Covered Action.

#### **A. Voluntariness of Claimant’s Submissions**

Claimant’s submissions of information to the Commission were voluntary; in particular, Claimant gave information to the Commission relating to the Covered Action before receiving a request, inquiry, or demand for information from the Commission, Congress, any other federal or state authority. *See* 17 C.F.R. § 165.2(o)(1). To begin with, Claimant brought up violations by certain of the respondents in the CFTC Orders (“Respondents”) during an interview with staff of the Commission’s Division of Enforcement (“Division”) <sup>Redacted</sup>, regarding an entity that is not among the Respondents (the “Entity”). Thus, Division staff’s inquiry or investigation into the Entity was not “a matter to which the information in the whistleblower’s submission is relevant.” 17 C.F.R. § 165.2(o)(1).

Also, to Division staff’s knowledge, neither the Commission or any other authority had requested information from Claimant about any of the Respondents prior to his/her mentioning some of the Respondents during this interview. The record that the CRS reviewed in making its Preliminary Determination is consistent with Division staff’s knowledge.

#### **B. Originality of Some of Claimant’s Information**

Not all the information that Claimant submitted to the Commission appears to be original under the Rules. In particular, Claimant published <sup>Redacted</sup> (“Online Report”) <sup>Redacted</sup>. However, Claimant does not claim to have contacted Division staff about the Online Report until <sup>Redacted</sup>, and the record that the CRS reviewed contains no indication of earlier contact. Meanwhile, a source other than Claimant submitted a link and copy of the Online Report to the Commission on the same day it was published. As a result, the Commission obtained the information from an “other source.” *See* 7 U.S.C. § 26(a)(4)(B). This other individual obtained the information not from Claimant but from <sup>Redacted</sup> (“Other Source”). To count the Online Report as Claimant’s original information, the Commission would need to determine that the Other Source was Claimant’s “representative,” so that Claimant could be the “original source” of this information. *See id.*; 17 C.F.R. § 165.2(l)(1).

In interpreting its analogous regulation regarding a whistleblower’s status as the original source of information under circumstances similar to those here, the Securities and Exchange Commission (“SEC”) observed that “[i]f individuals were motivated only to post information online—and not to provide that information directly to the Commission—then this core purpose of the whistleblower awards program [incentivizing individuals to come forward to assist the Government] would be undermined.” *See* SEC Whistleblower Award Proceeding File No. 2021-40, Release No. 34-91584, 2021 WL 1534697, at 4 (Apr. 16, 2021) (alterations in original) (internal quotation marks omitted). This reasoning applies with additional force here, given that

Division staff had encouraged Claimant to file a Form TCR regarding the Respondents that Claimant mentioned during the above-mentioned interview, which predated the Online Report.

However, Claimant provided other information directly to Division staff after the Online Report, information that “[wa]s not known to the Commission from any other source,” 7 U.S.C. § 26(a)(4)(B). This information included both information that Claimant provided from nonpublic sources and Claimant’s analysis of publicly available information, so that these types of information respectively derived from his/her independent knowledge and independent analysis. *See id.* § 26(a)(4)(A); 17 C.F.R. § 165.2(g)–(h). The record, which the CRS reviewed, contains numerous examples of original information that Claimant provided Division staff following the Online Report.

This original information led to the successful enforcement of the Covered Action by significantly contributing to the success of the Covered Action. *See* 17 C.F.R. § 165.2(i)(2). Much of Claimant’s original information related to specific charges in the CFTC Orders, and certain items of information appeared directly in the CFTC Orders. Also, Claimant’s original information enhanced Division staff’s ability to resolve the Covered Action. Specifically, Division staff noted that Claimant’s documents would have been useful for litigation that might have taken place, and that Division staff might not have been able to establish certain facts underlying the Covered Action without Claimant’s information.

## II. COVERED ACTION AWARD PERCENTAGE

For the determination of the appropriate award percentage, three factors are especially relevant here. First, the Commission believes an award above the minimum 10% is warranted because of the “significance of the information provided by the whistleblower to the success of the covered ... action,” 7 U.S.C. § 26(c)(1)(B)(i)(I); 17 C.F.R. § 165.9(a)(1); *accord* 17 C.F.R. § 165.9(b)(1). According to its language, this factor does not refer to “original” information, only information “provided by the whistleblower.” Thus, the Commission may include Claimant’s Online Report, which Claimant provided to the Commission in a Form TCR and directly to Division staff, in assessing this factor. The Online Report was significant not only because it caused Division staff to open their investigation into Respondents, but also because it introduced one of the key issues in the Covered Action

Redacted

More generally, because Claimant’s information relates to various charges in the CFTC Orders or even appears in these orders, it strongly “supported one or more successful claims brought in the Commission action,” 17 C.F.R. § 165.9(b)(1)(ii). Also, because Claimant’s information made it easier for Division staff to collect information

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and

helped to avoid litigation, this information “resulted in the conservation of Commission resources,” *id.* § 165.9(b)(1)(i). Accordingly, the significance-of-information factor supports a high award amount.

Second, Claimant provided a high degree of assistance. *See* 17 C.F.R. § 165.9(b)(2). Claimant provided all the assistance Division staff requested throughout the investigation, including with phone calls or interviews on various dates. Also, Claimant answered their questions by email and at times proactively emailed them additional information. Division staff

appreciated not only the amount, but also the quality of Claimant's assistance, which helped them interpret key evidence Redacted

Third, the Commission has a substantial law enforcement interest in the subject matter of the Covered Action where, as here, certain violations in the Covered Action presented a great "danger[] to market participants," 17 C.F.R. § 165.9(b)(3)(iv); and given the "repetitive" and "ongoing nature of the violations," *id.* § 165.9(b)(3)(iii).

Based on these factors, the Commission agrees with the CRS's recommendation of a \*\*\* award on the Covered Action. As Redacted of the monetary sanctions imposed in the Covered Action has been collected, this award would yield a payment of Redacted .

### III. RELATED ACTION AWARD

The CRS has determined to recommend that the Commission grant Claimant's application for an award on the Related Action. To begin with, the Authority is in one of the categories of entities listed in Rule 165.11(a)(1), 17 C.F.R. § 165.11(a)(1). Also, under Rule 165.11(a)(2), *id.* § 165.11(a)(2), the Related Action was "based on" Claimant's original information, which Claimant voluntarily submitted, and which led to the successful enforcement of the Covered Action. Claimant directly provided information to the Authority that brought the Related Action. The record that the CRS reviewed shows that the sets of information that Claimant provided to the CFTC and to the Authority have the same nucleus of operative facts.

The original information of Claimant's that led to the CFTC Orders was also a basis for the Related Action. The Related Order contains some of the same allegations as the CFTC Orders. Also, Claimant's information caused the Authority to open its investigation leading to the Related Action and included lines of questioning for the respondents in the Related Order ("Related Order Respondents"). Additionally, staff of the Authority stated that no complainants reported to the Authority other than Claimant until after the resolution of the Related Action. For these reasons, Claimant is eligible for an award on the Related Action

As was the case for the CFTC Orders, Claimant's information was highly significant because it caused the Authority to begin investigating Related Order Respondents' conduct, and because some of it either appeared in the Related Order or led staff of the Authority to information for the Related Order. Claimant also provided a high degree of assistance. Specifically, the Authority maintained consistent contact with Claimant during the investigation had communications with Claimant that staff of the Authority deemed crucial. Also, the Authority relied on Claimant's knowledge to develop questions and lines of inquiry.

Based on these two factors, the CRS recommended an award of \*\*\* on the Related Action. As Redacted of the monetary sanctions imposed in the Related Action has been collected, this award would yield a payment of Redacted for Claimant. Between the Covered Action and the Related Action, Claimant's total award payment would be Redacted .

#### IV. CONCLUSION

The Commission adopts the CRS's Proposed Final Determination for Claimant's claims on the Covered Action and the Related Action. It is hereby ORDERED that Claimant shall receive \*\*\* of the monetary sanctions collected, or to be collected, in the Covered Action; and \*\*\* of the monetary sanctions collected, or to be collected, in the Related Action.

By the Commission.

A handwritten signature in black ink, appearing to read "Robert Sidman", written over a horizontal line.

Robert Sidman  
Deputy Secretary of the Commission  
Commodity Futures Trading Commission

Dated: October 12, 2023