

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

---

In the Matter of Claims for Award by: )  
)  
Redacted (“Claimant 1”), )  
Redacted )  
)  
Redacted (“Claimant 2”), )  
Redacted )  
)  
Redacted (“Claimant 3”), ) CFTC Whistleblower Award  
Redacted ) Determination No. 24-WB-06  
)  
Redacted (“Claimant 4”), )  
Redacted )  
)  
Redacted (“Claimant 5”), )  
Redacted )  
)  
Redacted (“Claimant 6”), )  
Redacted )  
)  
In Connection with )  
Notices of Covered Action Nos. Redacted )  
Redacted )  
)

---

**ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS**

The Commodity Futures Trading Commission (“Commission”) received whistleblower award applications from Claimant 1, Claimant 2, Claimant 3, Claimant 4, Claimant 5, and Claimant 6 (collectively, “Claimants”) in response to Notices of Covered Action Nos. Redacted

The Related Actions will be referred to herein as the<sup>Redacted</sup>

## **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 (2023), promulgated pursuant to Section 23 of the Commodity Exchange Act (“CEA” or “Act”), 7 U.S.C. § 26. On <sup>Redacted</sup>, the CRS issued a Preliminary Determination recommending granting Claimant 1’s award application because it met the requirements of Section 23 of the CEA and the Rules. The CRS recommended that the award amounts should be <sup>Redacted</sup>

This would result in a total amount awarded of <sup>Redacted</sup>. Claimant 1 did not contest 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. For the reasons set forth below, the CRS’s determination is adopted.<sup>1</sup>

## **II. LEGAL ANALYSIS**

The CRS recommended that the Commission grant Claimant 1’s award application because it 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 multiple covered actions and Related Actions. *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 amounts should be <sup>Redacted</sup>

The Commission has discretion in determining the award amount but must consider

---

<sup>1</sup> The Preliminary Determination also recommended denying the award claims from the remaining Claimants. Claimant 4 and Claimant 5 did not contest 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 for these Claimants. Claimant 2, Claimant 3, and Claimant 6 have withdrawn their award applications from this award determination.

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 application. The Commission agrees with the CRS's recommendation. Claimant 1 provided significant information and assistance that led the Redacted to open multiple investigations and cooperate with each other, with his/her contribution being the most significant in Redacted investigations. However, decreasing the award amount is appropriate because of Claimant 1's culpability. Based on the amount of sanctions collected, Claimant 1 would receive Redacted

Claimant 1's contribution was the most significant in Redacted

Ultimately, without Claimant 1, the CFTC's Division of Enforcement would not have brought

---

<sup>2</sup> The Commission has collected Redacted

cases against Redacted

Claimant 1 should also receive awards in the Related Actions because Claimant 1 led to the successful enforcement of Redacted. A whistleblower can receive an award on a Related Action if the whistleblower's information led to the successful enforcement of a Related Action. 7 U.S.C. § 26(b)(1). A Related Action is a judicial or administrative action brought by any of the following entities: the DOJ; an agency or department of the U.S. government; a registered entity, registered futures association, or self-regulatory organization; a State criminal or civil agency acting within the scope of its jurisdiction; or a foreign futures authority. See 7 U.S.C. §§ 26(a)(5), (b)(1), (h)(2)(C)(i)(I)-(VI); 17 C.F.R. § 165.11(a)(1). A Related Action must be "based on" the information that the whistleblower provided to the Commission. *Id.* § 165.11(a)(2). This information must be the original information voluntarily submitted by the whistleblower that led to the successful resolution of the Commission action. See *id.*; *id.* § 165.2(m). A Related Action award would also be between 10% and 30% of what has been collected of the monetary sanctions imposed in the Related Action. 7 U.S.C. § 26(b)(1).

The CRS recommended granting Claimant 1 the same award percentages in Redacted Actions as Redacted

Although a whistleblower could receive a different award amount in a related action than in the covered action, in this case, the CRS recommended that the award amounts be the same because Claimant 1's contribution to the Redacted was similar to his/her contribution to the CFTC. Claimant 1 contacted the CFTC and Redacted around the same time, and Claimant 1's information also caused Redacted to open multiple investigations. Staff from the CFTC and Redacted worked very closely together, conducted interviews jointly, and Redacted. Claimant 1 gave the same information he/she gave to the CFTC to Redacted. The CFTC's and Redacted investigations proceeded and progressed at the same time. Claimant 1's assistance to Redacted was comparable to his/her assistance to CFTC, in that it was also significant and substantial.

Regarding Redacted, the CRS recommended Claimant 1 receive Redacted amount of sanctions collected. Redacted opened an investigation into Redacted because the CFTC was investigating Redacted with the assistance Redacted. Based on information Redacted provided, Redacted

Redacted staff confirmed that Redacted would not have started its investigation without the CFTC. Because the CFTC would not have started its investigation without Claimant 1, the Redacted investigation piggybacked on the CFTC's and Redacted investigations. Further, Redacted conserved time and resources by obtaining information the CFTC and Redacted staff already gathered, and by building off the CFTC's and Redacted investigations, Redacted

Claimant 1 argued that double-counting of the amount of offset sanctions should apply and therefore asked for a total award amount in the range of 10% to 30% of Redacted for the

Redacted, despite that the Commission and Redacted collectively imposed and obtained Redacted. The CEA states that the award amount should be no less than 10% and no greater than 30% of “what has been collected of the monetary sanctions imposed in the action or related actions.” 7 U.S.C. § 26(b)(1). What has been collected by the Commission and Redacted was Redacted combined, not Redacted. To allow Claimant 1 to double count would impermissibly increase the bases for calculating the award amount and effectively eviscerate the 30% award ceiling Congress created when it established the CFTC’s whistleblower program.

Claimant 1’s reliance on Redacted was misplaced, as that order only determined that the phrase “what has been collected of the monetary sanctions” should include sanctions collected by an authority other than the CFTC. There was no double counting because Redacted


Indeed, the SEC, which has a similar whistleblower program, explicitly prohibits double-counting the amount of offset sanctions when calculating the award amount. Seeking to discourage a claimant from taking “multiple bites at the apple,” the SEC determined that, “Monetary sanctions collected by the [SEC] in the Covered Action or by the [Criminal Authority] in the Related Criminal Action that are either deemed to satisfy or are in fact used to satisfy any payment obligations of the defendants in the other action shall not be double counted for purposes of paying an award.” Order Determining Whistleblower Award Claim, Exchange Act Release No. 34-77530, 2016 WL 1328926, at \*3 n.1 (April 5, 2016); Order Determining Whistleblower Award Claims, 2019 WL 1353776, at \*8 n.7 (internal quotations omitted). Similarly, the CFTC believes that the purpose of incorporating an offset provision is to ensure that a defendant is not liable for duplicative payment obligations in parallel proceedings brought by multiple authorities. To allow double-counting would create a windfall recovery for the award claimant relative to the obligation of the defendant.

### III. CONCLUSION

It is hereby ORDERED that the award amounts for Claimant 1 would be Redacted

This would amount to a total payment Redacted

By the Commission.

A handwritten signature in black ink, reading "Robert N. Sidman". The signature is written in a cursive style with a horizontal line underneath the name.

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

Dated: June 17, 2024