

FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON DECEMBER 31, 2018 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.

UNITED STATES OF AMERICA
before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of Whistleblower Award Application)
For Notice of Covered Action No. Redacted)
Redacted (“Claimant”),)
WB-APP Redacted)
_____)

PRELIMINARY DETERMINATION

The Commodity Futures Trading Commission (“Commission”) received a whistleblower award application from Claimant, submitted on WB-APP Redacted regarding Redacted

(“ Redacted matter”) and a related action.¹ The Claims Review Staff (“CRS”) has evaluated the application in accordance with the Commission’s Whistleblower Rules (“Rules”), 17 C.F.R. pt. 165 (2018) (as amended by 82 Fed. Reg. 24,487, 24,496–521 (May 30, 2017)), promulgated pursuant to Section 23 of the Commodity Exchange Act (“CEA” or “Act”), 7 U.S.C. § 26 (2012).² The CRS sets forth its Preliminary Determination for Claimant as follows:

¹ According to the Form WB-APP, Claimant requested an award for a related action for information that Claimant purportedly provided to the “ Redacted ”
² 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 mandating a particular result. The criteria for determining the amount of an award in Rule 165.9, 17 C.F.R. § 165.9(b) 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.

1. The CRS has determined to recommend that the Commission deny Claimant's application because the application fails to meet the requirements of Section 23 of the Act and the Rules. Although Claimant voluntarily provided the Commission with original information in the manner required by the Commission, Claimant's information did not lead to the successful enforcement of a judicial or administrative action or a related action.

- Claimant first contacted the Commission after the Commission filed its Complaint against the defendants in the Redacted matter. Accordingly, the Commission did not commence its investigation as a direct or indirect result of Claimant's TCR submission;
- Further, Claimant's information did not significantly contribute to the Redacted Redacted matter because none of Claimant's information provided any meaningful assistance to the Commission in connection with the Redacted matter; and
- Claimant's information did not lead to the successful enforcement of a related action.³ Because Claimant's information did not lead to the Commission's successful enforcement action against the defendants in the Redacted matter, Claimant's information also did not lead to the successful enforcement of a related action.

³ Under the Rules, a related action is a judicial or administrative action brought by any of the following non-Commission entities: Department of Justice; an agency or department of the U.S. government; a registered entity, registered futures association, or self-regulatory organization; or a State criminal or civil agency. *See* 17 C.F.R. § 165.11 (2016). A related action must be "based on the original information that the whistleblower voluntarily submitted to the Commission *and led to a successful resolution of the Commission judicial or administrative action.*" *Id.* (emphasis added); *see* 17 C.F.R. § 165.11(a)(2); *see also* 17 C.F.R. § 165.2(m). In other words, for an action to qualify as a related action under the CEA and the Rules there must be a corresponding successful enforcement of a Commission action based on the same original information voluntarily submitted by the whistleblower to the Commission. Here, as referenced above, Claimant's information did not provide any meaningful assistance to Commission staff assigned to the Redacted matter.

Dated: October 30, 2018

Whistleblower Claims Review Staff
Commodity Futures Trading Commission
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