

FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON OCTOBER 14, 2020, 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.

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

PRELIMINARY DETERMINATION OF THE CLAIMS REVIEW STAFF

The Commodity Futures Trading Commission (“Commission”) received a whistleblower award application on Form WB-APP, Application for Award for Original Information Provided Pursuant to Section 23 of the Commodity Exchange Act, from Claimant in response to the Commission’s Notice of Covered Action No. Redacted regarding Redacted (“Covered Action”).

The Claims Review Staff (“CRS”) has evaluated this application 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 (the “Act”), 7 U.S.C. § 26 (2018). The CRS sets forth its Preliminary Determination for Claimant as follows:

1. The CRS recommends that the Commission deny Claimant’s award application because it does not meet the requirements of Section 23 of the Act and the Rules. Claimant did not provide original information to the Commission that led to the successful enforcement of the Covered Action. *See* 17 C.F.R. § 165.2(i). Claimant’s information did not cause the Commission to commence an examination of Redacted, open or reopen the Redacted investigation, or inquire concerning different conduct as part of the Redacted investigation. Nor did Claimant’s information significantly contribute to the success of the

Covered Action. Indeed, Division staff assigned to the ^{Redacted} investigation did not communicate with Claimant in regard to this investigation, and in fact had not heard of Claimant prior to the submission of Claimant’s award application. Accordingly, Claimant’s information did not lead to the successful enforcement of the Covered Action.¹ *See* 17 C.F.R. § 165.2(i).

Dated: August 12, 2020

By: Whistleblower Claims Review Staff
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

¹ In Claimant’s Form WB-APP, Claimant asks that the Commission also consider this award application in connection with the Commission’s settlement of the matter ^{Redacted}, which was announced in the same press release as the Covered Action. Monetary sanctions of \$1,000,000 were imposed in the ^{Redacted} settlement. ^{Redacted} However, the ^{Redacted} settlement does not qualify as a “covered judicial or administrative action” under the Rules because a “covered judicial or administrative action” means any judicial or administrative action brought by the Commission under the Act whose successful resolution results in monetary sanctions *exceeding* \$1,000,000. *See* 17 C.F.R. § 165.2(e) (italics added); *cf.* 28 U.S.C. § 1332(a) (2018) (requiring that the amount in controversy for the exercise of diversity jurisdiction “exceed[] the sum or value of \$75,000”); *Smoot v. Mazda Motors of Am., Inc.*, 469 F.3d 675, 676 (7th Cir. 2006) (“diversity jurisdiction depends on the jurisdictional amount’s *exceeding* \$75,000”) (Posner, J.). Given that the \$1,000,000 threshold was not met, no whistleblower award may be paid for the ^{Redacted} matter, even if an award would otherwise be merited. *See* 17 C.F.R. § 165.5(a)(3).