

---

In the Matter of Claims for Award by: )  
 )  
 Redacted ("Claimant 1"), )  
 WB-APP Redacted )  
 )  
 Redacted ("Claimant 2"), )  
 WB-APP Redacted )  
 )  
 Redacted ("Claimant 3"), )  
 WB-APP Redacted )  
 WB-APP Redacted )  
 WB-APP Redacted )  
 )  
 In Connection with )  
 Notice of Covered Action No. Redacted )  
 )  
 )

---

CFTC Whistleblower Award  
 Determination No. 21-WB-02

**ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS**

The Commodity Futures Trading Commission ("Commission") received whistleblower award applications from Claimant 1, Claimant 2, and Claimant 3 (collectively, "Claimants") in response to Notice of Covered Action No. Redacted. The corresponding enforcement action is Redacted.

The Claims Review Staff ("CRS") has evaluated the award application in accordance with the Commission's Whistleblower Regulations ("Regulations" or "Rules"), 17 C.F.R. pt. 165 (2020), promulgated pursuant to Section 23 of the Commodity Exchange Act ("CEA" or "Act"), 7 U.S.C. § 26 (2018). On Redacted, the CRS issued a Preliminary Determination recommending that Claimant 1 receive a whistleblower award in the amount of "" of monetary sanctions collected in Redacted. The Preliminary Determination also recommended denying the award claims from Claimant 2 and Claimant 3. For the reasons set forth below, the CRS's determination is adopted.

**I. BACKGROUND**

Redacted arose out of an investigation opened in response to information that Claimant 1 Redacted submitted to the Commission regarding Redacted.

Redacted

Redacted

**PUBLIC VERSION**

Redacted

Redacted

1, Claimant 2, and Claimant 3 subsequently submitted whistleblower award applications in response to <sup>Redacted</sup> Claimant

**II. PRELIMINARY DETERMINATION**

On <sup>Redacted</sup>, the CRS issued a Preliminary Determination recommending that Claimant 1 receive a whistleblower award in the amount of <sup>\*\*\*</sup> <sub>Redacted</sub> of sanctions collected in the <sup>Redacted</sup> because Claimant 1 voluntarily provided original information that led to the successful enforcement of a covered action. The Preliminary Determination also recommended denying the remaining award claims. No Claimant contested the Preliminary Determination. Thus, under Rule 165.7(h), 17 C.F.R. § 165.7(h), the Preliminary Determination became the Proposed Final Determination with respect to Claimant 1 and the Final Order with respect to Claimant 2 and Claimant 3. Claimants are prohibited from pursuing an appeal under Rule 165.13, 17 C.F.R. § 165.13, because Claimants did not exhaust administrative remedies.

**III. LEGAL ANALYSIS**

Section 23(b)(1) of the CEA requires the Commission to pay an award to an individual who voluntarily provides the Commission with original information that leads to the successful enforcement of a covered or related action. 7 U.S.C. § 26(b)(1) (2018). The CRS determined that Claimant 1 voluntarily provided the Commission with original information that led to the successful enforcement of a covered action. Claimant 1 is a whistleblower because Claimant 1 submitted information on a Form TCR regarding potential violations of the CEA. Claimant 1 provided the information voluntarily, as Claimant 1 was not under any legal obligation to report to the Commission. In addition, Claimant 1's information was original. The information was previously unknown to the Commission and derived from <sup>Redacted</sup>

Lastly, Claimant 1's information led the Commission to open an investigation.

The CRS recommended the award amount to be <sup>\*\*\*</sup> of the amount of monetary sanctions collected in the covered action, which would result in a payment <sup>Redacted</sup>. This recommendation is adopted. In arriving at this award amount, the CRS applied the factors set forth in Rule 165.9, 17 C.F.R. § 165.9, in relation to the facts and circumstances of Claimant 1's award application. The determination of the appropriate percentage 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

**PUBLIC VERSION**

weight than others. 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, are not listed in any order of importance and are not assigned relative importance. Rule 165.9(b) provides a list of factors that may increase the award amount, and Rule 165.9(c) provides a list of factors that may decrease the award amount. However, the Rules do not specify how much any factor in Rule 165.9(b) or (c) should increase or decrease the award percentage. Not satisfying any one of the positive factors does not mean that the award percentage must be less than 30%, and the converse is true. Not having any one of the negative factors does not mean the award percentage must be greater than 10%. These principles serve to prevent a vital whistleblower from being penalized for not satisfying the positive factors. For example, a whistleblower who provides the Commission with significant information and substantial assistance such as testifying at trial and producing documents containing direct evidence of violations could receive 30% even if the whistleblower did not participate in any internal compliance systems. In contrast, in order to prevent a windfall, a whistleblower who provides some useful but partial information and limited assistance to the Commission may receive 10% even if none of the negative factors were present.

As applied, Claimant 1

Redacted

Accordingly, an award of \*\*\* of the amount of sanctions collected is appropriate.

#### **IV. CONCLUSION**

It is hereby ORDERED that Claimant 1 shall receive \*\*\* of monetary sanctions collected in <sup>Redacted</sup>

Redacted

Redacted

**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 horizontal line underneath it.

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

Dated: April 22, 2021