

FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON JUNE 5, 2024 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.

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In the Matter of Claims for Award by: )  
Redacted (“Claimant 1”), )  
Redacted ; )  
Redacted (“Claimant 2”), )  
Redacted ; and )  
Redacted (“Claimant 3”), )  
Redacted )  
In Connection with )  
Notice of Covered Action No. Redacted )  
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**PRELIMINARY DETERMINATION OF THE CLAIMS REVIEW STAFF**

The Commodity Futures Trading Commission (“Commission”) received whistleblower award applications from Claimant 1, Claimant 2, and Claimant 3 in response to the above-referenced Notice of Covered Action regarding Redacted

the “Covered Action”).<sup>1</sup> The Claims Review Staff (“CRS”) has evaluated each of the applications 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.

The CRS sets forth its Preliminary Determination as follows:

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<sup>1</sup> To date, Redacted of the monetary sanctions imposed in the Covered Action has been collected.

1. The CRS recommends that the Commission deny the award applications of Claimant 1, Claimant 2, and Claimant 3 because each fails to meet the requirements of Section 23 of the Act and the Rules. Redacted

In addition, no claimant provided original information that led to the successful enforcement of the Covered Action under Rule 165.2(i), 17 C.F.R. § 165.2(i).

2. Pursuant to Section 23(c)(2), “[n]o award ... shall be made ... to any whistleblower who is, or was at the time he or she acquired the original information submitted to the Commission, a member ... of a registered entity.” *Accord* 17 C.F.R. § 165.6(a). Claimant 1’s Form TCR and award application acknowledge Claimant 1’s membership in a registered entity. *See* 7 U.S.C. § 1a(34), (40).

3. Redacted

4. Redacted

Redacted

5. Redacted

(collectively, “Defendants”).

6. Redacted the Commission’s Division of Enforcement (“Division”) began investigating the Defendants after receiving information about their unlawful conduct from the Other Agency.<sup>2</sup> The Other Agency’s inquiry was initiated upon identifying the Defendants Redacted . No claimant’s information caused the Other Agency to open, or contributed in any way, to its investigation into Redacted the Defendants. Redacted

7. To be eligible for an award on a covered action, a whistleblower’s original information must have “led to the successful enforcement of the covered ... action.” 7 U.S.C. § 26(b)(1). A whistleblower’s information is considered to have led to successful enforcement if it is “sufficiently specific, credible, and timely” to cause the Commission to commence an

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<sup>2</sup> Both individuals were defendants in parallel enforcement actions by the Other Agency.

examination, open an investigation, reopen an already closed investigation, or inquire about different conduct as part of a current examination or investigation, and if the Commission brought a successful judicial or administrative action based in whole or in part on conduct that was the subject of the whistleblower's information. 17 C.F.R. § 165.2(i)(1). Alternatively, if a matter is already under investigation by the Commission, then the whistleblower's information must "significantly contribute[] to the success of the [Commission] action." *Id.* § 165.2(i)(2).

8. Under Rule 165.2(i)(1), Claimant 1's information did not cause the Commission to commence an examination, open an investigation, reopen an investigation that the Commission had closed, or to inquire concerning different conduct as part of a current examination or investigation. Indeed, the investigation that resulted in the Covered Action was opened based on the referral from the Other Agency. Furthermore, Claimant 1's information did not indirectly cause the Commission to open the investigation that resulted in the Covered Action. The Other Agency's inquiry began upon identifying the Defendants<sup>Redacted</sup>

9. Claimant 1's information also did not significantly contribute to the successful outcome of the Covered Action. *See* 17 C.F.R. § 165.2(i)(2).<sup>Redacted</sup>

Redacted

10. Division staff did not contact Claimant 2 or Claimant 3 in connection with this investigation. Claimant 2's and Claimant 3's information was not used in connection with the Covered Action. Accordingly, neither Claimant 2 nor Claimant 3, nor the information they provided, whether to the Commission or to the Other Agency, contributed to investigation into the Defendants or to the Covered Action in any way. *See* 17 C.F.R. § 165.2(i)(2).

11. The CRS also recommends denying all three claimants' related action award claims. 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." 17 C.F.R. § 165.11(a)(2). Because no claimant provided information that led to the successful resolution of the Covered Action, no claimant is eligible for a related action award. Also, Section 23(c)(2) of the Act prohibits members of registered entities, such as Claimant 1, from receiving awards on related actions, as well as covered actions.

By: Whistleblower Claims Review Staff  
Commodity Futures Trading Commission

Dated: February 27, 2024