

UNITED STATES OF AMERICA  
Before the  
COMMODITY FUTURES TRADING COMMISSION

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In the Matter of Claims for Award by: )  
 )  
 Redacted ("Claimant 1"), )  
 Redacted )  
 Redacted )  
 )  
 Redacted ("Claimant 2"), )  
 Redacted )  
 )  
 Redacted ("Claimant 3"), )  
 withdrawn ; ) CFTC Whistleblower Award  
 ) Determination No. 24-WB-07  
 Redacted ("Claimant 4"), )  
 Withdrawn ; )  
 )  
 Redacted ("Claimant 5"), )  
 Withdrawn ; and )  
 )  
 Redacted ("Claimant 6"), )  
 Withdrawn )  
 )  
 In Connection with )  
 Notice of Covered Action No. Redacted )  
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**ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS**

The Commodity Futures Trading Commission ("CFTC" or "Commission") received whistleblower award applications from Claimant 1, Claimant 2, Claimant 3, Claimant 4, Claimant 5, and Claimant 6 in response to the above-referenced Notice of Covered Action regarding Redacted (the "CFTC Order" or "Covered Action," against the "Company"). Claimant 4, Claimant 5, and Claimant 6 subsequently withdrew their award applications, and Claimant 1 later submitted a second award application claiming to be eligible for a purported related action with respect to an order ("Other Agency Order") against the Company that was issued by Redacted

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<sup>1</sup> Redacted

## I. PRELIMINARY DETERMINATION

The Claims Review Staff (“CRS”) evaluated the award applications of Claimant 1, Claimant 2, and Claimant 3 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, and issued a Preliminary Determination. The Preliminary Determination recommended an award of\*\*\* of the monetary sanctions collected in the Covered Action for Claimant 1. The Commission hereby adopts this recommendation for the reasons that the CRS provided.

The Preliminary Determination further recommended denying the award applications of Claimant 2 and Claimant 3. No Claimant contested the CRS’s Preliminary Determination. Accordingly, pursuant to Rule 165.7(h), 17 C.F.R. § 165.7(h), the Preliminary Determination as to Claimant 2 and Claimant 3 has become the Commission’s Final Order.

## II. LEGAL ANALYSIS

1. The CRS recommended that the Commission grant an award to Claimant 1 because Claimant 1’s award application meets the requirements of Section 23 of the Act and the Rules. Claimant 1 voluntarily provided original information to the Commission, on Forms TCR, that led to the successful enforcement of the Covered Action. Claimant 1 also does not fall into any of the categories of individuals ineligible for an award listed in Rule 165.6(a), 17 C.F.R. § 165.6(a).

2. A whistleblower’s original information is considered to have led to a successful enforcement action if it is “sufficiently specific, credible, and timely” to cause the Commission to commence an examination, open an investigation, reopen an already closed investigation, or inquire about different conduct as part of a current 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 original information must have “significantly contributed to the success of the action.” *Id.* § 165.2(i)(2).

3. The CFTC’s Division of Enforcement (“Division”) opened the investigation that resulted in the CFTC Order based on a <sup>Redacted</sup>

Claimant 1’s information was critical, causing the Division to open the investigation underlying the Covered Action, leading to the charges that ultimately appeared in the CFTC Order. *See* 17 C.F.R. §§ 165.2(i)(1), 165.9(b)(1). In particular, Claimant 1’s information was sufficiently specific, credible, and timely to cause the Division to commence an investigation into <sup>Redacted</sup> the Company, and the Commission brought a successful action based, in part, on conduct that was the subject of Claimant 1’s original information.

4. The determination of appropriate percentages for whistleblower awards 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, are not assigned relative

importance, and the factors for increasing or decreasing an award amount are not listed in any order of importance. The Rules also do not specify how much any of these factors should increase or decrease an award amount. The absence of any one of the positive factors in Rule 165.9(b) does not mean that the aggregate award percentage will be lower than 30%, and the absence of any of the negative factors in Rule 165.9(c) does not mean that the aggregate award percentage will be higher than 10%. Not all factors may be relevant to a particular decision.

5. In arriving at its recommendation, the CRS applied the factors set forth in Rule 165.9 in relation to the facts and circumstances of the case and Claimant 1's award application. The CRS finds that <sup>Redacted</sup> is appropriate since Claimant 1's information was critical to the success of the Covered Action, as it formed the basis for the Division commencing its investigation into the Company. *See* 17 C.F.R. § 165.9(b)(1). Indeed, the Covered Action was based in part on conduct that was the subject of Claimant 1's original information—namely, <sup>Redacted</sup>. However, although Claimant 1's information ultimately led to the discovery of the misconduct described in the CFTC Order, Claimant 1's specific allegations did not precisely track the successful claims set forth therein. *See id.* And, while Claimant 1 cooperated to the extent possible, <sup>Redacted</sup>, the assistance Claimant 1 provided was inherently somewhat limited. *See* 17 C.F.R. § 165.9(b)(2).

6. The CRS recommended that the Commission deny the award applications of Claimant 2 and Claimant 3 because both failed to meet the requirements of Section 23 of the Act and the Rules. Although both Claimant 2 and Claimant 3 are whistleblowers who voluntarily provided original information to the Commission, the information provided by Claimant 2 and Claimant 3 did not lead to the successful enforcement of the Covered Action under Rule 165.2(i), 17 C.F.R. § 165.2(i).

7. Claimant 2's information did not cause the Commission to open the investigation that resulted in the Covered Action. The Commission opened the investigation that led to the Covered Action based upon the information that Claimant 1 provided in a Form TCR filed <sup>Redacted</sup> before Claimant 2 filed a Form TCR. Claimant 2's original information also did not significantly contribute to the successful resolution of the Covered Action. *See* 17 C.F.R. § 165.2(i)(2). Much of Claimant 2's information was duplicative of information that was previously provided by Claimant 1. Although Claimant 2 provided original information to the Commission, this original information neither supported nor led to the charges in the CFTC Order, nor contributed to the successful resolution of the Covered Action in any way.

8. Claimant 3's information also did not lead to the successful enforcement of the Covered Action. Claimant 3's information did not cause the Division to commence, open, or reopen the investigation that resulted in the Covered Action, and Division staff handling this investigation did not contact Claimant 3 in connection with this matter. No information provided by Claimant 3 contributed in any way to the investigation that resulted in the Covered Action. *See* 17 C.F.R. § 165.2(i)(2).

9. Finally, the CRS recommended that the Commission deny Claimant 1's application for a related action award with respect to the Other Agency Order. A "related action" is a judicial or administrative action brought by the Department of Justice; 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, that is based on the same original information that the whistleblower voluntarily submitted to the Commission and that led to the successful enforcement of the Commission judicial or administrative action. *See* 17 C.F.R. § 165.11(a). As with a covered action, a related action award shall be no less than 10% nor more than 30% of the monetary sanctions collected in that action. 7 U.S.C. § 26(b)(1).

10. The Other Agency Order does not qualify as a related action because it was not “based on the original information that [Claimant 1] voluntarily submitted to the Commission and led to [the] successful resolution of the [Covered Action].” *See* 17 C.F.R. § 165.11(a)(2). The Other Agency Order found that <sup>Redacted</sup>

11. Although Claimant 1 claims to have provided the Commission with information about the Company’s <sup>Redacted</sup>, the information from Claimant 1 that led to the successful resolution of the Covered Action involved allegations not related to <sup>Redacted</sup>. Thus, even if any such information provided by Claimant 1 were previously unknown to the Commission, such information was unrelated to the Covered Action – and thus did not lead to the successful enforcement of the Covered Action because it did not form the basis for the Division’s opening of the investigation or significantly contribute to the success of the action. *See* 17 C.F.R. § 165.2(i).

12. Finally, the Commission did not share Claimant 1’s information with the Other Agency or any other agency. Although <sup>Redacted</sup>

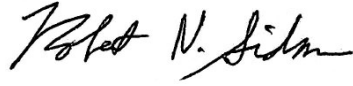
Claimant 1 does not claim to have provided information *to the Other Agency directly*, and there is nothing in the record to indicate that any other agency/regulator shared Claimant 1’s information with the Other Agency. Accordingly, the record does not show that the Other Agency Order could be “based on” any information from Claimant 1.

13. For the reasons set forth herein, Claimant 1’s application for a related action award is denied.

### III. CONCLUSION

The Commission adopts the CRS’s Proposed Final Determination encompassing the award claims of Claimant 1, Claimant 2, Claimant 3, Claimant 4, Claimant 5, and Claimant 6. As of the date of this Order Determining Whistleblower Award Claims, the Commission has collected the <sup>Redacted</sup> in monetary sanctions imposed in the Covered Action, so this award would result in a payment of <sup>Redacted</sup> to Claimant 1. Accordingly, it is hereby ORDERED that Claimant 1 shall receive <sup>\*\*\*</sup> of the monetary sanctions collected, or to be collected, in the Covered Action. All other claims are hereby denied.

By the Commission.

A handwritten signature in black ink, appearing to read "Robert N. Sidman". The signature is written in a cursive style with a prominent loop at the end.

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Robert Sidman  
Deputy Secretary of the Commission  
Commodity Futures Trading Commission

Dated: August 8, 2024