

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 (“Claimant 2”),	)	
Redacted ;	)	
Redacted (“Claimant 3”),	)	
Redacted ;	)	CFTC Whistleblower Award
Redacted (“Claimant 4”),	)	Determination No. 24-WB-11
Redacted ;	)	
Redacted (“Claimant 5”),	)	
Redacted ; and	)	
Redacted (“Claimant 6”),	)	
Redacted	)	
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 (collectively, “Claimants”) in response to the above-referenced Notice of Covered Action regarding Redacted (“Order” or “Covered Action”). The Claims Review Staff (“CRS”) has evaluated Claimants’ award 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.

Pursuant to the Order, the Commission ordered Redacted (“Company”), Redacted (collectively, Redacted the “Entities”) Redacted

The inquiry that resulted in the Order was an offshoot of a larger investigation into allegations that <sup>Redacted</sup>

(“Underlying Investigation”). In connection with the Underlying Investigation, on or about <sup>Redacted</sup>, the Commission issued a subpoena (“Subpoena”) requiring the Company to produce <sup>Redacted</sup>

. With the consent of the CFTC’s Division of Enforcement (“Division”), which was granted in reliance upon the Company’s representations <sup>Redacted</sup>

The Division opened an investigation into the Entities <sup>\*\*\*</sup> Investigation”) based upon the information about <sup>Redacted</sup> <sup>Redacted</sup> that was discovered as a result of the Company’s <sup>Redacted</sup> response to the Subpoena.

The CRS evaluated all Claimants’ applications in accordance with the Rules and issued a Preliminary Determination, which recommended an award to Claimant 1 of <sup>\*\*\*</sup> of the monetary sanctions collected in the Covered Action. The Preliminary Determination further recommended denying the applications of Claimant 2, Claimant 3, Claimant 4, Claimant 5, and Claimant 6. The Commission hereby adopts this recommendation for the reasons the CRS provided.

### **Claimant 1**

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 Form 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).

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).

Claimant 1 provided to the Commission numerous <sup>Redacted</sup>

Redacted

Claimant 1’s original information led to the successful outcome of the \*\*\* Investigation because it was sufficiently specific, credible, and timely to cause the Commission staff to inquire concerning different conduct as part of a current investigation, and the Commission brought a successful Redacted based, in part, on conduct that was the subject of Claimant 1’s original information. See Rule 165.2(i)(1). Specifically, as part of the Underlying Investigation, Division staff issued the Subpoena requesting Redacted due to the information Claimant 1 provided about Redacted. Division staff would not have requested Redacted if not for Claimant 1’s information. Claimant 1’s information about Redacted was previously unknown to the Commission. Following the Entities’ ultimate response to the Subpoena, Division staff opened the \*\*\* Investigation and ultimately resolved the Redacted in the Order. Redacted

In addition, the Commission has opined that “in order to have ‘led to successful enforcement,’ the ‘original information’ provided by a whistleblower should be *connected to* evidence that plays a significant role in successfully establishing the Commission’s claim.” Implementing the Whistleblower Provisions of Section 23 of the Commodity Exchange Act (“Proposed WB Rules”), 75 Fed. Reg. 75,728, 75,731 (Dec. 6, 2010) (emphasis added). The Commission further explained that the “led to” standard under Rule 165.2(i)(1) is met if—even where a whistleblower did not provide direct evidence of the charged violations—the whistleblower “played a critical role in advancing the investigation by *leading the staff directly to evidence* that provided important support for one or more of the Commission’s claims ...” *Id.* (emphasis added). Conversely, “a whistleblower who only provided vague information, or an unsupported tip, or evidence that was tangential and did not significantly help the Commission successfully establish its claims, would ordinarily not meet the standard of this ... rule.” *Id.*

Claimant 1’s information led the Division directly to evidence of that conduct by causing the Commission to issue the Subpoena and request Redacted in connection with the Underlying Investigation, which resulted in the discovery of Redacted. Claimant 1’s information was not vague, unsupported, or tangential; rather, it related to Redacted referenced in the Order, and “played a critical role in advancing the investigation by leading ... staff directly to evidence that provided important support for one or more of the Commission’s claims.” See *id.* In this way, Claimant 1’s original information is *connected to* evidence that played a significant role in establishing the Commission’s claims in the Covered Action, and therefore led to the successful enforcement of the Covered Action.

The Commission has explained that “implicit in the requirement ... that a whistleblower’s information ‘led to successful enforcement’ is the additional expectation that the information, because of its high quality and specificity, has a meaningful nexus to the

Commission’s ability to successfully complete its investigation, and to ... obtain a settlement.” Whistleblower Incentives and Protection (“Final WB Rules”), 76 Fed. Reg. 53,172, 53,177 (Aug. 25, 2011). This expectation that a whistleblower’s information have a meaningful nexus to the Commission’s ability to successfully enforce a covered action is driven by policy considerations—a more relaxed standard could create scenarios where it is impracticable to draw lines between information that furthers the purpose of the Commission’s Whistleblower Program and effective enforcement of laws under the CEA, and, on the other hand, vague, ambiguous, or overly broad allegations that are unhelpful or actually divert Commission resources in a detrimental way. Here, Redacted that were charged in the Order were discovered as a direct result of the Commission’s request for Redacted, which was made because of the specific information Claimant 1 provided. The Order referenced several times the Redacted Claimant 1 specified. Thus, there was a “meaningful nexus” between Claimant 1’s information and the Commission’s ability to obtain a settlement, and finding that Claimant 1’s information led to the successful enforcement of the Covered Action is consistent with the purpose of the Whistleblower Program. *See id.*

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.

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 \*\*\* award is appropriate Redacted

*See* 17 C.F.R. § 165.9(b)(1). Additionally, Claimant 1’s snapshot information was insufficient on its own, Redacted

Finally, although Claimant 1 cooperated with the Underlying Investigation, Division staff did not speak with Claimant 1 regarding the \*\*\* Investigation, and Claimant 1 did not provide any information to the Commission about Redacted by the Entities charged in the Order. *See* 17 C.F.R. § 165.9(b)(2). Therefore, \*\*\* award is appropriate. Because the Commission has collected Redacted pursuant to the Order, the recommended percentage would result in a payment to Claimant 1 Redacted.

## Claimant 2

The CRS recommends that the Commission deny Claimant 2’s award application because it does not meet the requirements of Section 23 of the Act and the Rules. Although

Claimant 2 is a whistleblower who voluntarily provided original information to the Commission, Claimant 2's information did not lead to the successful enforcement of the Covered Action under Rule 165.2(i), 17 C.F.R. § 165.2(i).

In order for a whistleblower to qualify for an award for providing information that caused the Commission to commence an investigation, the action itself must be based, in whole or in part, on conduct that was the subject of that whistleblower's information. *See* 17 C.F.R. § 165.2(i)(1). Additionally, as noted above, is the "expectation that the information, because of its high quality and specificity, has a meaningful nexus to the Commission's ability to successfully complete its investigation, and to ... obtain a settlement." Final WB Rules, 76 Fed. Reg. at 53,177. However, the Covered Action was not based on conduct that was the subject of Claimant 2's information. Moreover, there is no meaningful nexus between Claimant 2's information and the charges resolved in the Covered Action.

Redacted Claimant 2 submitted a Form TCR to the Commission alleging Redacted

Redacted. This Form TCR did not mention any of the Entities. The Division commenced investigations Redacted

later, the Division opened the Underlying Investigation as a result of Redacted

The Redacted that were the subject of the Order were not based, in any way, on Claimant 2's information Redacted

Redacted

And the Covered Action resulted not from the Underlying Investigation, but from the \*\*\* Investigation, which entailed entirely different conduct from both the Underlying Investigation

and Redacted . The connection between Claimant 2’s information and the charges set forth in the Order was so far removed that there can be no “meaningful nexus” between that information and the successful outcome of the Covered Action.

Furthermore, the Covered Action is not “a related action arising out of Redacted investigation” as Claimant 2 suggests. First, a “related action” is, by definition, one brought by an authority other than the CFTC. *See* 17 C.F.R. § 165.2(m). Second, a “related action” is a judicial or administrative action that is “based on the same original information that the whistleblower voluntarily submitted to the Commission and that led to a successful resolution of the ... administrative or judicial action.” *See* 17 C.F.R. § 165.11(a), (b). The Order is not “based on” information provided by Claimant 2, so even if a covered action could be a related action, the Covered Action is not a related action to any action arising out of Redacted

**Claimant 3, Claimant 4, Claimant 5, and Claimant 6**

The information provided by Claimant 3, Claimant 4, Claimant 5, and Claimant 6 also did not lead to the successful enforcement of the Covered Action. No information provided by Claimant 3, Claimant 4, Claimant 5, or Claimant 6 caused the Division to commence, open, or reopen either the Underlying Investigation or the \*\*\* Investigation. Neither Claimant 3, Claimant 4, Claimant 5, nor Claimant 6, nor the information they provided, contributed to the \*\*\* Investigation or the Covered Action in any way. *See* 17 C.F.R. § 165.2(i)(2). The CRS therefore recommends that the Commission deny the award applications of Claimant 3, Claimant 4, Claimant 5, and Claimant 6.

By the Commission.



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Robert Sidman  
Deputy Secretary of the Commission  
Commodity Futures Trading Commission

Dated: September 23, 2024