

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of Claim for Award by:
Redacted ("Claimant"),
Redacted
CFTC Whistleblower Award
Determination No. 24-WB-12
In Connection with
Notice of Covered Action No. Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Commodity Futures Trading Commission ("Commission") received a whistleblower award application on Forms WB-APP from the Claimants listed above in response to the above-referenced Notice of Covered Action regarding Redacted ("Order" or "Covered Action"). The Order imposed monetary sanctions totaling Redacted, of which Redacted has been collected.

The Claims Review Staff ("CRS") 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, and issued a Preliminary Determination. The Preliminary Determination recommended an award of \*\*\* on the Covered Action. The Commission hereby adopts the CRS's recommendation for the reasons the CRS provided.

I. AWARD ELIGIBILITY

Claimant is eligible for a whistleblower award because he/she is a whistleblower who voluntarily provided the Commission original information that led to the successful enforcement of the Covered Action. See 17 C.F.R. § 165.5. Further, Claimant does not fall into any of the categories of individuals ineligible for awards listed in Rule 165.6(a), id. § 165.6(a).

Here, the CRS found that some of Claimant's information is original even though he/she obtained his/her information as "an employee whose principal duties involved compliance or internal audit responsibilities" at Redacted ("Respondent"). 17 C.F.R. § 165.2(g)(5). Normally, the Commission considers information that a whistleblower obtains as such an employee not to derive from his/her independent knowledge, and thus not to be original information. See id. § 165.2(g); 7 U.S.C. § 26(a)(4)(A). However, this exclusion from independent knowledge does not apply when "[a]t least 120 days have elapsed since the whistleblower provided the information to the relevant entity's audit committee, chief legal officer, chief compliance officer (or their equivalents), or the whistleblower's supervisor," or if this amount of time has elapsed "since the whistleblower received the information, if the

whistleblower received it under circumstances indicating that” any of these officers was “already aware of the information.” 17 C.F.R. § 165.2(g)(7)(iii).

The record

Redacted

contains sufficient information, such that the CRS found that four issues in Claimant’s information satisfy the 120-day safe harbor in Rule 165.2(g)(7)(iii):

- Redacted (“Issue 1”), which Claimant reported in his/her Form TCR, dated Redacted, and which Claimant reported internally on or about Redacted to one or more senior officers of the type described in Rule 165.2(g)(7)(iii) (“Senior Officer(s)”);
- Redacted (“Issue 2”), which Claimant identified in his/her Form TCR, and which Claimant also raised to Senior Officer(s) on or about Redacted;
- Redacted (“Issue 3”), which Claimant identified in his/her Form TCR, and about which Claimant received information around Redacted under circumstances indicating awareness by Senior Officer(s) of the information, as reflected in Redacted; and
- Redacted (“Issue 4”), which Claimant discussed in a meeting with Division of Enforcement (“Division”) staff on or about Redacted, and about which Claimant learned on or about Redacted under circumstances indicating awareness by Senior Officer(s) of the information, as reflected in Redacted.

Claimant’s path to an award is complicated (but not foreclosed) by the CRS’s inability to establish, based on the record before it, that one of the topics in his/her Form TCR satisfies the 120-day waiting period:

(“Issue 5”). The Form TCR says that Claimant reported internally Redacted which would be less than 120 days before the Form TCR. Redacted

Meanwhile, Claimant’s award application Redacted does not address Claimant’s role as compliance or internal audit staff or the 120-day waiting period. For their part, Division staff did not identify any information Redacted indicating that Claimant was aware of this issue prior to Redacted.

Rule 165.2(i)(1), 17 C.F.R. § 165.2(i)(1), credits a whistleblower’s information with leading to the successful enforcement of a CFTC action where “[t]he whistleblower gave the Commission *original information* that was sufficiently specific, credible, and timely to cause the Commission staff to ... open an investigation, ... and 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 *original information*” (emphases added). Under the first component of this Rule and Section 23(b)(1) of the Act, 7 U.S.C. § 26(b)(1), only “original” information can be credited with leading to the success of an enforcement action. However, under the second component of

this Rule, the covered action may be based on conduct that was the subject of original information that a whistleblower provided after the opening of the investigation.

Claimant’s Form TCR caused the opening of the investigation underlying the Covered Action. However, the Form TCR contains information about Issue 5 that may not be original, which invites the question whether Claimant’s original information about Issues 1–3, by itself, would have been “sufficiently specific, credible, and timely to cause the Commission staff to ... open an investigation” under Rule 165.2(i)(1). Here, the CRS found that Issues 1–3 alone satisfy this requirement because Division staff declared that they considered each of Issues 1–3 and 5 worth investigating and looked into all four issues.

Claimant also satisfies the second component of Rule 165.2(i)(1). The Covered Action is based in part on conduct that was the subject of Claimant’s information about Issues 1 and 4. Division staff confirmed that Issue 1 underlies the Order’s statement regarding <sup>Redacted</sup>

Issue 4, Division staff confirmed that <sup>Redacted</sup> . For  
 , and that the Order’s discussion of <sup>Redacted</sup>  
 is based in part on Claimant’s  
 information about Issue 4.

## II. AWARD PERCENTAGE

The amount of any whistleblower award is “in the discretion of the Commission.” 7 U.S.C. § 26(c)(1)(A). Among the factors for determining the award percentage is the “significance of the information provided by the whistleblower to the success of the covered ... action.” 7 U.S.C. § 26(c)(1)(B)(i)(I); 17 C.F.R. § 165.9(a)(1); *accord* 17 C.F.R. § 165.9(b)(1). The Commission has previously noted that, “According to its language, this factor does not refer to ‘original’ information, only information ‘provided by the whistleblower.’” CFTC Whistleblower Award Determination No. 24-WB-01, 2023 WL 6955516, at 3 (Oct. 12, 2023). Here, the Commission may count Claimant’s information about Issue 5 in applying this factor, regardless of whether this information is original.

Claimant’s information was very significant to the Covered Action. Claimant’s Form TCR caused Division staff to open the investigation that led to the Covered Action. As noted above, Division staff looked into all four issues that the Form TCR identified. Also, Claimant’s information substantially “supported one or more successful claims brought in the Commission action” under Rule 165.9(b)(1), 17 C.F.R. § 165.9(b)(1)—not just about Issues 1 and 4, but also about Issue 5. Division staff confirmed that Claimant’s information about Issue 5 relates to the finding in the Order that <sup>Redacted</sup>

Claimant also rates favorably on the degree-of-assistance factor, having provided all the assistance that Division staff requested. This assistance was quite substantial, and the record reflects that “the whistleblower provided ongoing, extensive, and timely cooperation and assistance by ... interpreting key evidence[ and] identifying new and productive lines of inquiry” under Rule 165.9(b)(2)(i), 17 C.F.R. § 165.9(b)(2)(i). Claimant’s assistance included multiple substantive contacts Division staff: <sup>Redacted</sup>

new topics, beyond those in his/her Form TCR, during at least <sup>Redacted</sup>. Claimant introduced on or about <sup>Redacted</sup>, and provided ideas for pursuing discrete issues in the investigation.

### III. CONCLUSION

The Commission agrees with the CRS’s recommended award percentage. Accordingly, it is hereby ORDERED that Claimant shall receive \*\*\* of the monetary sanctions collected, or to be collected, in the Covered Action. As of the date of this Order Determining Whistleblower Award Claims, <sup>Redacted</sup> of the monetary sanctions imposed in the Covered Action has been collected, so this award will yield a payment of <sup>Redacted</sup> for Claimant.

By the Commission.



---

Robert Sidman  
Deputy Secretary of the Commission  
Commodity Futures Trading Commission

Dated: September 23, 2024