

PUBLIC VERSION

In the Matter of Claims for Award by:)	
Redacted)	
WB-APP Redacted)	
Redacted)	
WB-APP Redacted)	
WB-APP Redacted)	
Redacted)	
WB-APP Redacted)	CFTC Whistleblower Award
)	Determination No. 19-WB-05
Redacted)	
WB-APP Redacted)	
Redacted)	
WB-APP Redacted)	
In Connection with)	
Notice of Covered Action No. Redacted)	

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Commodity Futures Trading Commission ("Commission") received whistleblower award applications from Claimant 1, Claimant 2, Claimant 3, Claimant 4, and Claimant 5 (collectively, "Claimants") in response to Notice of Covered Action No. Redacted. The underlying enforcement action is Redacted.

The Claims Review Staff has evaluated the award applications in accordance with the Commission's Whistleblower Regulations ("Regulations" or "Rules"), 17 C.F.R. pt. 165 (2019), promulgated pursuant to Section 23 of the Commodity Exchange Act ("CEA" or "Act"), 7 U.S.C. § 26 (2018). On February 28, 2019, the Claims Review Staff issued a Preliminary Determination recommending that Claimant 1 receive a whistleblower award in the amount of *** of the monetary sanctions collected in Redacted because Claimant 1 voluntarily provided original information to the Commission that led to the successful enforcement of a covered action. The Preliminary Determination also recommended denying the remaining award claims because Claimant 2, Claimant 3, Claimant 4, and Claimant 5 did not contribute to Redacted.

I. 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 Claims Review Staff determined that Claimant 1 voluntarily provided the Commission with original information

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

The Claim Review Staff recommended the award amount to be *** of the amount of monetary sanctions collected in the covered action, which would result in a payment ***

*** We agree with this determination. In arriving at this award amount, the Claims Review Staff 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 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 did not provide particularly significant information to the Commission. The charges the Commission brought were ultimately different from Claimant 1's allegations. In addition, Claimant 1 provided limited assistance because Claimant 1 could not provide specifics to CFTC staff investigating the matter and did not understand how the violations under investigation worked. The breakthrough in the investigation came from Redacted

The Commission will not pay out an award on related actions. Redacted

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The Claims Review Staff also determined to recommend that the Commission deny the award claims from Claimant 2, Claimant 3, Claimant 4, and Claimant 5. Division staff did not contact Claimant 2, Claimant 3, Claimant 4, and Claimant 5 in connection with Redacted

. Division staff also did not use any information provided by these Claimants to bring, investigate, or Redacted . Because Claimant 2, Claimant 3, Claimant 4, and Claimant 5 did not contribute to Redacted , all of their award claims relating to the Redacted and any purported related actions were denied by the Claims Review Staff.

II. RESPONSE TO PRELIMINARY DETERMINATION

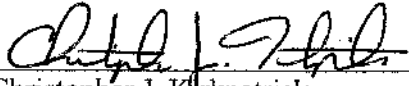
None of the Claimants submitted additional materials to contest the Preliminary Determination. Because the Claimants did not exhaust administrative remedies, they are prohibited from pursuing an appeal under Rule 165.13, 17 C.F.R. § 165.13. Pursuant to Rule 165.7(h), 17 C.F.R. § 165.7(h), the Preliminary Determination became the Proposed Final Determination of the Claims Review Staff with respect to Claimant 1. The Preliminary Determination became the Final Order of the Commission with respect to Claimant 2, Claimant 3, Claimant 4, and Claimant 5.

III. CONCLUSION

It is hereby ORDERED that Claimant 1 shall receive *** of the monetary sanctions collected in Redacted .

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By the Commission.



Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street, N.W.
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Dated: September 27, 2019