
In the Matter of Claim for Award by:)
)
 Redacted ("Claimant 1"),)
 WB-APP Redacted) CFTC Whistleblower Award
) Determination No. 20-WB-08
)
 In Connection with)
 Notice of Covered Action No. Redacted)
)

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

The Commodity Futures Trading Commission ("Commission") received a whistleblower award application from Claimant 1 in response to Notice of Covered Action No. Redacted. The corresponding enforcement action is Redacted.

The Claims Review Staff ("CRS") has evaluated the award application 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 Redacted, the CRS issued a Preliminary Determination recommending that Claimant 1 receive a whistleblower award in the amount of "" of monetary sanctions collected in Redacted. For the reasons set forth below, the CRS's determination is adopted.

I. BACKGROUND

Redacted arose out of an investigation opened in response to information that Claimant 1 Redacted submitted to the Commission regarding Redacted.

On Redacted, the Commission Redacted

Redacted
 Claimant 1 subsequently submitted a whistleblower award application

II. PRELIMINARY DETERMINATION

On Redacted, the CRS issued a Preliminary Determination recommending that Claimant 1 receive a whistleblower award in the amount of *** of sanctions collected in the Redacted because Claimant 1 voluntarily provided original information that led to the successful enforcement of a covered action. Claimant 1 did not respond to the Preliminary Determination. Thus, under Rule 165.7(h), 17 C.F.R. § 165.7(h), the Preliminary Determination became the Proposed Final Determination. Claimant 1 is prohibited from pursuing an appeal under Rule 165.13, 17 C.F.R. § 165.13, because Claimant 1 did not exhaust administrative remedies.

III. 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 CRS determined that Claimant 1 voluntarily provided the Commission with original information 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 CRS recommended the award amount to be *** of the amount of monetary sanctions collected in the covered action, which would result in a payment Redacted. This recommendation is adopted. In arriving at this award amount, the CRS 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

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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

Redacted

Accordingly, an award of *** of the amount of sanctions collected is appropriate.

IV. CONCLUSION

It is hereby ORDERED that Claimant 1 shall receive *** of monetary sanctions collected in ^{Redacted}

Redacted

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By the Commission.

A handwritten signature in black ink that reads "Robert Sidman". The signature is written in a cursive style with a horizontal line underneath the name.

Robert Sidman
Deputy Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Dated: July 24, 2020