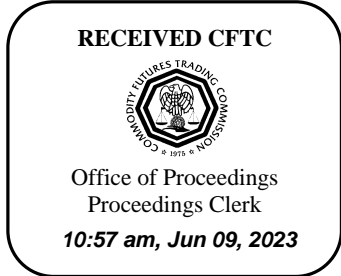


UNITED STATES OF AMERICA
 Before the
 U.S. COMMODITY FUTURES TRADING COMMISSION



ERIC THOMPSON, JONATHAN MORSE,)	
JACK VOGEL, SHERI HERLIHY, RON)	
FREY, HARALD SANDSTROM, and ECHO)	
BAY, LLC,)	CFTC Docket Nos. 20-R007; 20-R008;
)	20-R009; 20-R010; 20-R011; 20-R012;
Complainants,)	and 20-R025.
)	
v.)	
)	ORDER
GAIN CAPITAL GROUP, LLC,)	
)	
Respondent.)	

On December 13, 2019 and January 15, 2020, Eric Thompson, Jonathan Morse, Jack Vogel, Sheri Herlihy, Ron Frey, Harald Sandstrom, Suetsugu Kawamura, and Echo Bay, LLC separately filed reparations complaints against Respondent GAIN Capital Group, LLC (GAIN). On April 29, 2021, GAIN moved to dismiss all eight complaints. On February 21, 2023, the Administrative Judge issued an Initial Decision and Order Granting Respondent’s Motions to Dismiss. All complainants besides Suetsugu Kawamura (collectively, the Appellants) filed a Notice of Appeal of the Administrative Judge’s decision thereafter.

On April 21, 2023, each of the Appellants filed appeal briefs in support of reversing the Administrative Judge’s decision. On May 22, 2023, GAIN filed answering briefs for all seven appeal briefs. On the same day, GAIN filed an objection to the Appellants’ appeal briefs. GAIN argued that the Appellants failed to comply with CFTC Rule 10.102(e)(1) by failing to provide a separate filing along with the briefs designating the parts of the record that the Appellants wished to be included in the appeal’s appendix. GAIN noted that the appeal briefs included documents attached as exhibits that are not part of the record of the proceedings before the Administrative

Judge. GAIN therefore moved to strike the improperly attached documents from the record and the portions of the appeal briefs that refer to documents not included in the record. GAIN also requested the Commission to order the Appellants to adhere to the requirements of CFTC Rule 10.102. The Appellants have not responded to GAIN's objection.

CFTC Rule 10.102(e), which requires the parties to submit a designation of the contents of the appendix with their briefs, is set forth in Part 10 of the CFTC Rules. However, Part 10 does not apply to reparations proceedings. 17 C.F.R. § 10.1(h). Rather, Part 12 of the CFTC Rules applies to reparations proceedings filed pursuant to section 14 of the Commodity Exchange Act, as amended, 7 U.S.C. § 18, which includes this proceeding. 17 C.F.R. § 12.1. Subpart F of Part 12 of the CFTC Rules applies to appeals of reparations proceedings to the Commission. 17 C.F.R. § 12.400. Subpart F does not require parties to submit a separate appendix designation with their briefs. I therefore decline to order the Appellants to comply with the requirements of CFTC Rule 10.102 and submit an appendix designation.

CFTC Rule 12.404, which is found in Subpart F, provides the list of documents that are included in the record of reparations proceedings on appeal. *See* 17 C.F.R. § 12.404. Accordingly, I **STRIKE** all documents attached as exhibits to the appeal briefs that are not part of the record on appeal under 17 C.F.R. § 12.404 and any references to those documents in the appeal briefs.

IT IS SO ORDERED.¹

/s/ Robert A. Schwartz
Robert A. Schwartz
General Counsel
U.S. Commodity Futures Trading Commission

Dated: June 9, 2023

¹ By the Commission pursuant to delegated authority under 17 C.F.R. § 12.408(a).