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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

ESHAQ M. NAWABI, individually and d/b/a/
NAWABI ENTERPRISE, and HYPERION
CONSULTING, INC.,

Defendants.

No. 2:22-cv-00717-KJM JDP

ORDER

In their joint status report plaintiff Commodity Futures Trading Commission (CFTC) and defendant Nawabi submitted a proposed “(1) process for Mr. Nawabi to prospectively assert focused Fifth Amendment objections, and (2) a mechanism for the Court to resolve those objections.” Joint Status Report, ECF No. 34. This process is outlined below:

- Mr. Nawabi will timely assert, in accordance with Federal Rule of Civil Procedure 34, written objections to the CFTC’s written discovery requests and produce a log identifying any documents he intends to withhold on the basis of his Fifth Amendment objections.
- During his deposition, Mr. Nawabi will assert on the record objections to specific questions.
- Within 30 days of either (i) Mr. Nawabi’s deposition or (ii) the completion of document productions by Defendants, whichever is later, the CFTC will file a motion to compel as to any responses or documents, if any, for which it intends to dispute Mr. Nawabi’s Fifth

1 Amendment assertion. The motion to compel will specifically address each document
2 and/or deposition question to which Mr. Nawabi has asserted a Fifth Amendment
3 objection and articulate why such information is not protected from production under
4 Mr. Nawabi's Fifth Amendment rights.

- 5 • Within 30 days of the filing of the CFTC's motion to compel, Defendants will file a
6 response in opposition.
- 7 • The CFTC will file a reply within 15 days.
- 8 • The matter will be referred to a magistrate judge for resolution of the Fifth Amendment
9 issues. To the extent necessary, Defendants will produce any documents requested by the
10 magistrate judge for in camera review.

11 Joint Status Report at 1–2.

12 The court **approves** this proposal. Any Fifth Amendment issues are referred to the
13 magistrate judge for resolution according to the process described above.

14 IT IS SO ORDERED.

15 DATED: January 30, 2023.

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CHIEF UNITED STATES DISTRICT JUDGE