

Exhibit 1

Declaration of Kevin Clarke
(November 18, 2022)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

KEVIN CLARKE, in his individual capacity,
TREVOR BOECKMANN, in his individual
capacity, HARRY CRANE, in his individual
capacity, CORWIN SMIDT, in his individual
capacity, PREDICT IT, INC., a Delaware
corporation, and ARISTOTLE
INTERNATIONAL, INC., a Delaware
corporation, MICHAEL BEELER, in his
individual capacity, MARK BORGHI, in his
individual capacity, RICHARD HANANIA,
in his individual capacity, JAMES D.
MILLER, in his individual capacity, JOSIAH
NEELEY, in his individual capacity, GRANT
SCHNEIDER, in his individual capacity, and
WES SHEPHERD, in his individual capacity,

Plaintiffs,

v.

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

Case No. 2022-cv-00909

DECLARATION OF KEVIN CLARKE

I, Kevin Clarke, do hereby declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the following is true and correct, and that I am competent to testify to the matters stated herein:

1. My name is Kevin A. Clarke. I am a resident of Austin, Texas, where I am the owner of Clarke Mineral Estate and Geosciences, LLC, and an Assistant Coach for the University of Texas at Austin's Policy Debate Team.
2. I have personal knowledge of the facts stated herein.
3. I have traded on the PredictIt Market for two years. At the time I began trading on the PredictIt Market, I investigated the Market's operations and discovered that the Market

is operated pursuant to CFTC Letter No. 14-130 (the “No-Action Relief”), which I understand permitted the PredictIt Market to operate without formally registering as an exchange with the CFTC. Knowing that the CFTC had signed off on the PredictIt Market’s operations assured me that, when I bought contracts on the PredictIt exchange, they would be permitted to trade until they were settled by the outcome of the election or political event they predicted.

4. I am aware that the CFTC revoked the No-Action Relief in CFTC Letter 22-08, entitled “Withdrawal of CFTC Letter No. 14-130” (the “Revocation”). The Revocation has had a direct and immediate impact on the value of PredictIt Market event contracts.

5. Specifically, I have witnessed the following distortions since the Revocation decision:

- A general loss of trading volume on the Market due to traders exiting the Market. I often cannot find anyone to sell a position to at any reasonable price or in any reasonable amount of time.
- A destabilization of prices causing the potential for high volatility. Given this state of affairs, a relatively small development causes a negative feedback loop without many traders to come in and smooth the pricing. Such a feedback loop could quickly crash the prices with no chance of recovery.

6. These distortions have altered the reliability of the Market’s predictions and significantly affected my ability to sell my investments into the Market, at the opportunities and intervals I would have expected. The Market’s current numbers on specific contracts vary from what an experienced trader would expect in light of recent events like the midterm elections, if traders were viewing the contract as one that could be held until the projected election outcome or event occurred.

- As one example, I purchased several contracts in the Republican Party Presidential Nomination Market, prior to the Commission’s decision to require all PredictIt

contracts to liquidate on February 15, 2023, predicting that third or fourth tier candidates would win the nomination. I purchased these contracts at relatively low prices this summer. In a Market not disrupted by the Commission's decision, I would expect these contracts to significantly rise in value once Former President Trump was wounded by poor election results and given the possibility of the top two candidates wounding each other and opening up a spot for a third or fourth level candidate. One would expect to see third and fourth level candidates surging on the Market. But that is not happening, as I presume that traders do not believe that the Market will exist long enough for these candidates to even announce their candidacies for President. As such, I am left with investments that are under water and on which I am going to lose substantial sums, if I had to sell at today's prices. If I exited at today's prices, I would lose 20 percent on my investment that Mike Pence is going to be the nominee, 33 percent on Tim Scott, 40 percent of Mike Pompeo, 80 percent on Ted Cruz, at 65 percent on Josh Hawley.

7. These market distortions have left me stranded with several valuable positions, unable to find buyers who are trading on projections of the outcome of the election or political event. The Commission's arbitrary cut off date is causing me today to loss money and not have a meaningful option to sell my positions to other parties who are looking to the outcome of a later election, as I was when I bought the contracts.

8. I expect these market distortions to become substantially worse in December, as traders become no longer focused on the midterm elections and turn their attention to the February 15 liquidation date interfering with seeing a contract on the 2024 election through to its conclusion.

9. Finally, the CFTC's February 15, 2023 cut-off date also guarantees loss of investment, and the most sophisticated traders will be more adversely effected. If the market operators liquidate at the price entered, then unrealized gains will be erased. If the Market

operators return the money based on market price at a time certain, then this opens up the markets to manipulation, where traders could buy up the price seconds before the deadline.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on November 18, 2022

/s/ Kevin Clarke

Kevin Clarke