

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

KEVIN CLARKE, TREVOR
BOECKMANN, HARRY CRANE, CORWIN
SMIDT, PREDICT IT, INC., ARISTOTLE
INTERNATIONAL, INC., MICHAEL
BEELER, MARK BORGHI, RICHARD
HANANIA, JAMES MILLER, JOSIAH
NEELEY, GRANT SCHNEIDER, and WES
SHEPHERD,

Plaintiffs,

v.

COMMODITY FUTURES TRADING
COMMISSION,

Defendant.

Civil Docket No. 1:24-cv-00614-DAE

The Honorable David Alan Ezra

**[PROPOSED] ORDER GRANTING DEFENDANT’S MOTION FOR JUDGMENT ON
THE PLEADINGS IN FAVOR OF PLAINTIFFS**

On July 16, 2024, Defendant Commodity Futures Trading Commission (“CFTC”) filed a motion for judgment on the pleadings (“Motion”). Dkt. 82. The Motion seeks judgment in favor of Plaintiffs based on the allegations in Plaintiffs’ Second Amended Complaint and the rulings of the United States Court of Appeals for the Fifth Circuit in *Clarke v. Commodity Futures Trading Comm’n*, 74 F.4th 627 (5th Cir. 2023). *Id.* Having reviewed the Motion and the parties’ submissions, the Court **GRANTS** the Motion.

The Court **FURTHER ORDERS** as follows:

The two CFTC Division of Market Oversight letters challenged by Plaintiffs in the Second Amended Complaint, CFTC Letter 22-08 and CFTC Letter 23-03, taking various actions to close the PredictIt Market are held to be arbitrary, capricious, and contrary to law and are therefore **VACATED AND SET ASIDE**;

The justifications stated in the CFTC’s Division of Market Oversight letters—including (1) that Aristotle International, Inc, rather than Victoria University of Wellington, is operating the PredictIt Market, (2) that Victoria University has received, and permitted Aristotle to receive, separate compensation for the operation of the Market, and (3) that Victoria University has offered contracts falling outside of the scope of the categories of submarkets approved in the No-Action Relief—are **DECLARED** arbitrary and capricious and otherwise legally insufficient as grounds for the Commission taking any action to close the PredictIt Market, to cancel the PredictIt Market’s No-Action Relief, or to impose any other form of sanction on Plaintiffs;

The CFTC is permanently **ENJOINED** from seeking to close the PredictIt Market or imposing any other sanction on PredictIt Market sponsors, operators, or participants based on events or facts or features of the PredictIt Market known to the Commission prior to or on the date of this Order;

Plaintiffs’ request for additional relief including litigation costs and attorneys’ fees is **DENIED**;

Plaintiffs’ Motion for Leave to File a Third Amended Complaint is **DENIED** as moot.

Subject to the foregoing, and based on the allegations contained in Plaintiffs’ Second Amended Complaint, judgment is entered in favor of Plaintiffs Kevin Clarke, Trevor Boeckmann, Harry Crane, Corwin Smidt, Michael Beeler, Mark Borghi, Richard Hanania, James D. Miller, Josiah Neeley, Grant Schneider, Wes Shepherd, Predict It, Inc., and Aristotle International, Inc.

SO ORDERED, this ____ day of _____ 2025.

David Alan Ezra
United States District Judge