

UNITED STATES OF AMERICA

before the

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 83689 / July 23, 2018

WHISTLEBLOWER AWARD PROCEEDING

File No. 2018-10

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In the Matter of the Claim for Award

in connection with

Redacted

Redacted

Redacted

Notice of Covered Action Redacted

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**ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM**

Redacted (“Claimant”) seeks a whistleblower award pursuant to Section 21F of the Securities Exchange Act of 1934 (“Exchange Act”), and the rules thereunder, based on the above-referenced settled Commission enforcement matters (collectively the Covered Action<sup>1</sup>).

The Claimant’s application suffers from a fatal defect, however. At no point prior to the issuance of any of the final orders in the Covered Action did the Claimant qualify as a “whistleblower” in connection with any submission for which Claimant is now seeking an award. The Commission’s whistleblower rules provide that, to qualify as a whistleblower for purposes of the Commission’s award program, an individual *must* submit his or her information

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<sup>1</sup> See Exchange Act Rule 21F-4(d)(1) (providing that, “[f]or purposes of making an award ..., the Commission will treat as a Commission action two or more administrative or judicial proceedings brought by the Commission if these proceedings arise out of the same nucleus of operative facts”).

through the Commission's website, or mail or fax a completed Form TCR to the Commission. *See* Exchange Act Rule 21F-2(a) & 21F-9(a).

Although the Claimant in making "" award request is relying on numerous submissions that the Claimant made to the Commission in the form of letters, none of these letters was accompanied by a completed Form TCR.<sup>2</sup> This is apparent from the administrative record and the Claimant does not contend otherwise. Indeed, the only completed Form TCR that the Claimant appears to have submitted was provided to the Commission well *after* the entry of the last final order in the Covered Action. This belated Form TCR, however, cannot serve to retroactively establish the Claimant's status as a whistleblower eligible for an award.<sup>3</sup>

Relatedly, Claimant failed to declare under penalty of perjury at the time that the Claimant submitted the various letters that the information that Claimant was submitting was true and correct. *See* Exchange Act Rule 21F-9(b). This failure is also fatal to the Claimant's application.

Accordingly, it is ORDERED that Claimant's whistleblower award claim be, and hereby is, denied.<sup>4</sup>

By the Commission.

Brent J. Fields  
Secretary

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<sup>2</sup> The record indicates that the letters were sent to the Commission rather than being submitted through the Commission's web page and, thus, Exchange Act Rule 21F-9(a) would require that they be submitted with a Form TCR at the time that the letters were provided to the Commission.

<sup>3</sup> To ensure that this was the only Form TCR that the Claimant was relying on in seeking an award for the Covered Action, the Office of the Whistleblower on March 26, 2018, wrote to the Claimant to request that the Claimant "confirm that, in making your award application, you are relying exclusively on the Form TCR that you submitted to our office, dated <sup>Redacted</sup> ?" In the Claimant's response, the <sup>Redacted</sup> Form TCR was the only Form TCR that the Claimant identified. We deem this a concession on the part of the Claimant that <sup>Redacted</sup> did not submit a completed Form TCR in connection with any of the letters that <sup>Redacted</sup> submitted prior to the entry of the final judgments in the Covered Action.

<sup>4</sup> We deny the Claimant's request for a hearing. Our rules do not provide for such a hearing, and there is nothing in the Claimant's award application or reconsideration request that persuades us that it would be beneficial to our disposition of this matter to depart from the rules and offer the Claimant this additional procedural opportunity. Additionally, although not a basis for our decision, we note that the record shows that Claimant's information was not relied upon by Enforcement staff assigned to the Covered Action and, therefore, Claimant's information did not lead to the success of the Covered Action.