

FINAL ORDER - THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON JULY 11, 2018 PURSUANT TO RULE 21F-10(f) OF THE EXCHANGE ACT

Notice of Covered Action

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PRELIMINARY DETERMINATION OF THE CLAIMS REVIEW STAFF

In response to the above-referenced Notice of Covered Action, the U.S. Securities and Exchange Commission received a whistleblower award claim from ^{Redacted} (“Claimant”). Pursuant to Section 21F of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 21F-10 promulgated thereunder, the Claims Review Staff has evaluated this claim in accordance with the criteria set forth in Rules 21F-1 through 21F-17. The Claims Review Staff sets forth its Preliminary Determination as follows.

The Claims Review Staff has preliminarily determined to recommend that the Commission deny an award to Claimant. The basis for this determination is that Claimant is not a whistleblower within the meaning of Section 21F(a)(6) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 21F-2(a) thereunder because Claimant failed to submit information about a possible securities law violation pursuant to the procedures set forth in Rule 21F-9(a). Specifically, Claimant failed to submit Claimant’s information on-line through the Commission’s website or on a Form TCR.¹ Because Claimant did not submit information in the form and manner set forth in Rule 21F-9(a), Claimant is ineligible for an award in connection with this Covered Action.²

By: Claims Review Staff

Date: April 9, 2018

¹ We further note that Claimant failed to provide a declaration under penalty of perjury at the time ^{***} submitted ^{***} information, as required by Rule 21F-9(b).

² Claimant asks that any procedural deficiency be excused under Exchange Act Rule 21F-8(a), which provides that “the Commission may, in its sole discretion, waive” the procedures in Rules 21F-9(a) and (b) “based upon a showing of extraordinary circumstances.” The Commission has explained that the “extraordinary circumstances” exception of Rule 21F-8(a) is to be “narrowly construed” and “applied only in limited circumstances.” *Order Determining Whistleblower Award Claim*, Exchange Act Release No. 72178, at 3 (May 16, 2014) (quoting *In the Matter of the Application of PennMont Securities et al.*, SEC Release No. 34-61967, 2010 WL 1638720, at 4 (April 23, 2010), *aff’d* 414 Fed. Appx. 465 (3d Cir. 2011)); *Order Determining Whistleblower Award Claim*, Exchange Act Release No. 72659, at 4-5 (July 23, 2014) (quoting *PennMont*, 2010 WL 1638720 at *4); *Order Determining Whistleblower Award Claim*, Exchange Act Release No. 77368, at 3 (Mar. 14, 2016), *aff’d sub nom. Cerny v. SEC*, No. 16-934, 2017 WL 3911581 (2d Cir. Sept. 7, 2017). An extraordinary circumstance is one where the reason for the failure to timely file was beyond the claimant’s control. *Id.* Here, Claimant has not demonstrated that extraordinary circumstances prevented Claimant from complying with Rules 21F-9(a) and (b). We note that, even if Claimant were eligible for an award in this matter, no award payments could be made at this time because, to date, no amount of monetary sanctions have been collected. *See* Exchange Act §21F(b)(1).