

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 74815 / April 27, 2015

WHISTLEBLOWER AWARD PROCEEDING
File No. 2015-3

In the Matter of the Claims for
Awards in connection with:

SEC v. Citigroup Inc., Civil Action No. 1:10-CV-01277
Notice of Covered Action 2011-33

*In the Matter of Merrill Lynch, Pierce, Fenner & Smith
Incorporated*, Administrative Proceeding File No. 3-14204
Notice of Covered Action 2011-101

*In the Matter of Navistar International Corporation, Daniel C.
Ustian, Robert C. Lannert, Thomas M. Akers, Jr., James W.
McIntosh, James J. Stanaway, Ernest A. Stinsa, Michael J.
Schultz*, Administrative Proceeding File No. 3-13994
Notice of Covered Action 2011-110

*In the Matter of Wells Fargo Securities LLC (f/k/a Wachovia
Capital Markets LLC)*, Administrative
Proceeding File No. 3-14320
Notice of Covered Action 2011-162

In the Matter of Morgan Stanley Investment Management Inc.,
Administrative Proceeding File No. 3-14628
Notice of Covered Action 2011-211

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

Claimant (“Claimant”) filed timely whistleblower award applications pursuant to Section 21F of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78u-6, in connection with the five Notices of Covered Actions (“NoCA”) listed above. The Claims Review Staff (“CRS”) subsequently issued a Preliminary Determination recommending that Claimant’s applications be denied. After carefully reviewing Claimant’s timely response

contesting the Preliminary Determination along with the rest of the record, we have determined to deny Claimant's applications.

To qualify for an award under Section 21F, a whistleblower must voluntarily provide the Commission with original information that leads to the successful enforcement of a covered judicial or administrative action. 15 U.S.C. § 78u-6(b)(1).¹ With respect to four of the five Covered Actions, the record conclusively demonstrates that Claimant submitted ** tip *after* those matters were settled. For that reason, we find that the tip could not have led to the successful enforcement of those four Covered Actions.

With respect to the fifth Covered Action, *In the Matter of Morgan Stanley Investment Management Inc.* (NoCA 2011-211) ("*Morgan Stanley*"), we also find that Claimant's tip did not lead to the successful enforcement of the matter. The record demonstrates that, after Claimant submitted ** tip, the office within the Enforcement Division that is responsible for undertaking a preliminary review of whistleblower tips designated the tip for "no further action" and did not forward it to any of the staff members assigned to *Morgan Stanley*. Further, there is no indication in the record that the Enforcement staff members responsible for *Morgan Stanley* either received or relied upon any information provided by Claimant, and Claimant has not shown otherwise in ** request for reconsideration of the Preliminary Determination.²

Accordingly, it is ORDERED that Claimant's whistleblower award applications be, and hereby are, denied.

By the Commission.

Brent J. Fields
Secretary

¹ As relevant here, a whistleblower tip "leads to" a successful enforcement action if either: (i) the tip caused the staff to open an investigation, reopen an investigation, or inquire into different conduct as part of a current examination or investigation, and the Commission brought a successful action based in whole or in part on conduct that was the subject of the original information; or (ii) the conduct was already under examination or investigation, and the tip significantly contributed to the success of the action. Rules 21F-4(c)(1) and 21F-4(c)(2), 17 C.F.R. § 240.21F-4(c)(1) and 17 C.F.R. §240.21F-4(c)(2).

² Although not the basis for our decision, we note that the information provided by Claimant likely would not qualify as original information as defined in Rule 21F-4(b)(1) of the Exchange Act because it appears that the information was largely copied from a third party's publicly-available court filings.