

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 75752 / August 24, 2015

WHISTLEBLOWER AWARD PROCEEDING

File No. 2015-6

In the Matter of the Claim for Award

in connection with

Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

Claimant 2 (“Claimant 2”) filed a timely whistleblower award application pursuant to Section 21F of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78u-6, in connection with Redacted. On Redacted the Claims Review Staff issued a Preliminary Determination that preliminarily denied Claimant 2’s claim because none of the information that Claimant 2 provided to the Commission led to the successful enforcement of the Redacted.¹

Redacted Claimant 2 filed a written response contesting the Preliminary Determination. In Claimant 2’s request for reconsideration, Claimant 2 argued that the information provided should have led to the opening of an investigation into Redacted Redacted, but did not because of conflicts of interest within the Commission. However, Claimant 2 provided no evidence to substantiate the allegations of conflicts of interest or to show that the information was used in connection with the Redacted. Having considered the record, including Claimant 2’s timely response to the Preliminary Determination, we are denying Claimant 2’s award application because none of the information that Claimant 2

¹ The Preliminary Determination of the Claims Review Staff also denied an award to Claimant 1 (“Claimant 1”). That determination has not been contested. Accordingly, pursuant to Rule 21F-10(f) under the Exchange Act, Claimant 1 has failed to exhaust administrative remedies and the determination to deny an award to Claimant 1 has become final.

provided to the Commission led to the successful enforcement of the Redacted within the meaning of Section 21F(b)(1) of the Exchange Act and Rules 21F-3(a) and 21F-4(c) thereunder.²

The record reflects that Claimant 2 has made a number of submissions to the Commission since Redacted.³ We find that none of the information that Claimant 2 submitted caused the staff to open the investigation of Redacted, as required by Exchange Act Rule 21F-4(c)(1). That investigation was opened in Redacted as a result of information from another ongoing investigation.

With respect to the information that Claimant 2 submitted after Redacted, we find that this information could not have “significantly contributed to the success of the” Redacted—and, therefore, could not have led to the success of the case, Exchange Act Rule 21F-4(c)(2)—because by that date the Enforcement Division staff Redacted had reached a tentative agreement on all of the material terms of a proposed settlement that was subsequently approved by the Commission and was later filed on Redacted.

With respect to the submissions that Claimant 2 made between Redacted and Redacted Redacted, we find that none of this information led to the success of Redacted. We base this finding on the following considerations. *First*, the lead investigative attorney assigned to the Redacted confirmed that the investigative team did not receive, review, or use any information from Claimant 2 in connection with the Redacted, nor did the team otherwise have any contact with Claimant 2. *Second*, each of the Tips, Complaints, and Referrals (“TCRs”) that Claimant 2 submitted during this period (including Redacted, which is the only TCR that Claimant 2 identifies in the award application) received a disposition of “no further action” at the initial review stage by the office within the Enforcement Division that is responsible for screening Commission TCRs; this demonstrates that none of the TCRs were routed to the investigative staff handling the Redacted.⁴

² Under Exchange Act Rule 21F-3(a), in order to be eligible for a whistleblower award, an individual must voluntarily provide the Commission with original information that leads to the successful enforcement action by the Commission of a federal court or administrative action in which the Commission obtains monetary sanctions totaling more than \$1,000,000. Our rules provide specific definitions for when original information “leads to” successful enforcement. Information will be deemed to have led to a successful enforcement action if it was “sufficiently specific, credible, and timely to cause the staff to commence an examination, open an investigation ... or to inquire concerning different conduct as part of a current ... investigation, and the Commission brought a successful judicial or administrative action based in whole or in part on conduct that was the subject of [this] information.” Rule 21F-4(c)(1). In instances where an investigation is ongoing, the information must have “significantly contributed to the success of the action.” Rule 21F-4(c)(2).

³ In Claimant 2’s response to the Preliminary Determination recommending that the award application be denied, Claimant 2 expressly states that Claimant 2’s “original submission” to the Commission “was in Redacted.”

⁴ A disposition of “no further action” or “NFA” indicates that the Commission’s staff does not intend to take further action with respect to a TCR unless subsequent information causes the staff to reevaluate the matter.

Accordingly, it is ORDERED that Claimant 2's whistleblower award application be, and hereby is, denied.

By the Commission.

Brent J. Fields
Secretary