

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 95840 / September 20, 2022

WHISTLEBLOWER AWARD
PROCEEDING File No. 2022-87

In the Matter of the Claim for an Award

in connection with

Redacted

Redacted

Redacted

Notice of Covered Action ^{Redacted}

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

The Office of the Whistleblower (“OWB”) issued a Preliminary Summary Disposition (“PSD”) in connection with the above-referenced Covered Action (the “Covered Action”) recommending that the whistleblower award application submitted by ^{Redacted} (“Claimant”) be denied.¹ Claimant filed a timely response contesting the PSD. For the reasons discussed below, OWB’s recommendation is adopted.

I. BACKGROUND

A. The Covered Action

In or around ^{Redacted}, Enforcement staff opened the Covered Action investigation based on a tip from a source other than Claimant to investigate whether ^{Redacted}
^{Redacted}

¹ See Securities Exchange Act of 1934 (“Exchange Act”) Rule 21F-18.

On ^{Redacted}, the Commission instituted settled public administrative and cease-and-desist proceedings against ^{Redacted} (“Firm”). The Commission’s Order charged the Firm and two of its members (collectively, the “Respondents”) with ^{Redacted}
^{Redacted}
^{Redacted}

On ^{Redacted}, OWB posted the Notice for the Covered Action on the Commission’s public website inviting claimants to submit whistleblower award applications within 90 days.¹

B. The Preliminary Summary Disposition

OWB issued a PSD recommending that Claimant’s claim for award in the Covered Action be denied because Claimant’s information did not lead to the successful enforcement of the Covered Action within the meaning of Section 21F(b)(1) of the Exchange Act and Rules 21F-3(a)(3) and 21F-4(c) thereunder because the information provided did not: (1) cause the Commission to (i) commence an examination, (ii) open or reopen an investigation, or (iii) inquire into different conduct as part of a current Commission examination or investigation under Rule 21F-4(c)(1) of the Exchange Act; or (2) significantly contribute to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c)(2) of the Exchange Act.

Enforcement staff assigned to the investigation that resulted in the Covered Action (the “Investigation”) provided a declaration, which we credit, confirming that Claimant’s tips did not relate to the subject matter of the Covered Action. After review of the Commission’s Tips, Complaints, and Referrals (“TCR”) system, Enforcement staff confirmed that all of Claimant’s tips were closed with a disposition of “No Further Action” and that none of the tips were forwarded to Enforcement staff responsible for the Investigation. Enforcement staff also confirmed that they did not receive any information from, or have communications with, Claimant.

In addition, the PSD noted that Claimant’s award application was frivolous because it lacked a colorable connection between the tips and the Covered Action within the meaning of Rule 21F-8(e) of the Exchange Act. Claimant also failed to submit his/her claim for award within ninety days of the date of the Notice for the Covered Action, as required under Rule 21F-10(b).²

¹ See Exchange Act Rule 21F-10(a), 17 C.F.R. § 240.21F-10(a).

² Claimant’s application was submitted on ^{Redacted}, one day past the application period for the Covered Action, which closed on ^{Redacted}.

C. Claimant's Response to the Preliminary Summary Disposition

Claimant submitted a timely written response (the "Response") contesting the PSD.³ In the Response, Claimant argues that he/she submitted a notebook to the Commission on ^{Redacted} _{Redacted}, which should be considered as additional information to his/her other tips. Claimant also argues that there is a colorable connection between his/her claim and the Covered Action because "everything connects," listing various purported connections to foreign drug cartels, money laundering, and organized crime, among other things. Claimant further concedes that he/she "never provided information to investigative staff" and "never communicated with anyone investigating [the Firm] or [the Company]." Finally, Claimant contends that the award application was submitted late because his/her computer was hacked.

II. ANALYSIS

To qualify for a whistleblower award under Section 21F of the Exchange Act, an individual must have "voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action."⁴ As relevant here, 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 . . . 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."⁵ Alternatively, information will be deemed to have led to a successful enforcement action where the information was "about conduct that was already under examination or investigation by the Commission" and the "submission significantly contributed to the success of the action."⁶ In determining whether the information "significantly contributed" to the success of the action, the Commission will consider whether the information was "meaningful" in that it "made a substantial and important contribution" to the success of the covered action.⁷

³ See Exchange Act Rule 21F-18(b)(3), 17 C.F.R. § 240.21F-18(b)(3).

⁴ Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

⁵ Exchange Act Rule 21F-4(c)(1), 17 C.F.R. § 240.21F-4(c)(1).

⁶ Exchange Act Rule 21F-4(c)(2), 17 C.F.R. § 240.21F-4(c)(2).

⁷ See *Order Determining Whistleblower Award*, Whistleblower File No. 2019-4, at 9, 2019 SEC LEXIS 615 at *16 (Mar. 26, 2019); see also *Securities Whistleblower Incentives & Protections*, 76 Fed. Reg. 34300, 34325 (June 13, 2011) (in determining whether information significantly contributed to an enforcement action, the Commission will consider whether the information allowed the agency to bring the action in significantly less time or with significantly fewer resources, additional successful claims, or successful claims against additional individuals or entities).

Claimant's information does not satisfy Exchange Act Rule 21F-4(c)(1) because his/her information did not cause the staff to open the Investigation or inquire into different conduct as part of the investigation. Nor did Claimant provide information that significantly contributed to the success of the Covered Action under Exchange Act Rule 21F-4(c)(2). As noted, Claimant's information was not forwarded to Enforcement staff responsible for the Investigation. Nor did the staff receive any information from, or have any communications with, Claimant. Further, none of Claimant's tips related to the subject matter of the Covered Action. The notebook that Claimant references in the Response does not show that he/she submitted information that significantly contributed to the success of the Covered Action. Claimant provided the notebook to the Commission approximately one month *after* the filing of the Covered Action. Accordingly, that notebook could not have contributed to the success of the Covered Action.⁸ Further, the additional information Claimant provided in the Response lacks any nexus to the subject matter of the Investigation or the Covered Action.

Further, the subject matter, allegations asserted, and the entities named in Claimant's tips do not relate to the Investigation or the Covered Action. Therefore, the Commission finds that the Claimant's award application was frivolous, and there is no colorable connection between the tips submitted by Claimant and the Commission action for which Claimant has sought an award within the meaning of Rule 21F-8(e) of the Exchange Act.

For these reasons, Claimant is not entitled to an award.

III. CONCLUSION

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

By the Commission.

J. Matthew DeLesDernier
Deputy Secretary

⁸ Because the record shows that Claimant did not provide information that led to the success of the Covered Action, we do not need to determine whether Claimant's application should also be denied on the separate ground that his/her award application was untimely.