UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934 Release No. 96231 / November 4, 2022

WHISTLEBLOWER AWARD PROCEEDING File No. 2023-13

In the Matter of the Claims for an Award

in connection with

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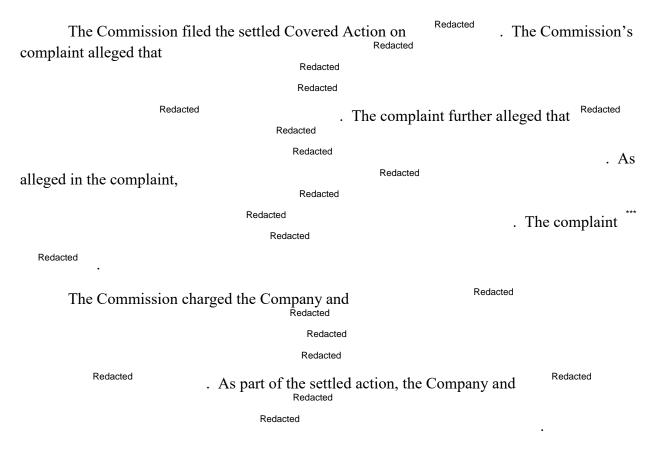
Redacted Notice of Covered Action

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Claims Review Staff ("CRS") issued Preliminary Determinations recommending that Redacted Redacted (Claimant 1), (Claimant 2), and (Claimant 3) receive a joint whistleblower award of nearly \$1,600,000, which represents Redacted percent (%) of the monetary sanctions collected or to be collected in the above-referenced Covered Action (Claimant 4) receive a whistleblower award of (the "Covered Action") and that nearly \$1,600,000, which represents Redacted percent (%) of the monetary sanctions collected or to be collected in the Covered Action. Claimants 1, 2, and 3 provided written notice of their decision not to contest the Preliminary Determinations. Claimant 4 filed a timely response contesting the Preliminary Determinations. For the reasons discussed below, the CRS's recommendation is adopted with respect to Claimant 1, Claimant 2, Claimant 3, and Claimant 4.

I. Background

A. The Covered Action



The court approved the settlement and entered a final judgment. The Company and paid their total monetary sanctions as required under the court's final judgment, including any prejudgment and post-judgment interest.

B. The Preliminary Determinations

The Claims Review Staff preliminarily determined to recommend to the Commission that it find that Claimant 1, Claimant 2, and Claimant 3 jointly voluntarily provided original

¹ The CRS preliminarily determined to treat Claimant 1, Claimant 2, and Claimant 3 jointly as a "whistleblower" for purposes of the award determination given that they jointly submitted their tip. *See* Exchange Act Section 21F(a)(6) (defining "whistleblower" to mean "2 or more individuals acting jointly who provide[] information relating to a violation of the securities laws to the Commission"). Proceeding in this way has not impacted the net total award percentage to Claimant 1, Claimant 2, and Claimant 3. Unless Claimants 1, 2, and 3, within ten (10) calendar days of the issuance of this Order, make a joint request, in writing, for a different allocation of the award between the three of them, the Office of the Whistleblower is directed to pay each of them individually 33.33% of their joint award.

information² to the Commission that led to the successful enforcement of the referenced Covered Action pursuant to Section 21F(b)(1) of the Exchange Act and Rule 21F-3(a) promulgated thereunder, and that Claimant 1, Claimant 2, and Claimant 3 receive a joint award of "% of the monetary sanctions collected in the Covered Action.

The Claims Review Staff also preliminarily determined to recommend to the Commission that it find that Claimant 4 voluntarily provided original information³ to the Commission that led to the successful enforcement of the referenced Covered Action pursuant to Section 21F(b)(1) of the Exchange Act and Rule 21F-3(a) promulgated thereunder, and that Claimant 4 receive an award of "" % of the monetary sanctions collected in the Covered Action.

C. Claimant 4's Response to the Preliminary Determinations

Claimant 4 requested reconsideration of the Preliminary Determinations asserting that (1) the information submitted by Claimants 1, 2, and 3 was not original information because it was based on information Claimant 4 submitted to

("Research Publication"), and (2) that the CRS overlooked several contributions made by Claimant 4 to the staff's investigation, as well as hardships Claimant 4 suffered, when determining the award percentage.

First, Claimant 4 contends that Claimants 1, 2, and 3 did not provide the Commission with original information concerning

² Claimants 1, 2, and 3 provided original information based on both independent knowledge and independent analysis. To be credited with providing independent analysis, the whistleblower's examination and evaluation should contribute significant information that "bridges the gap" between the publicly available information and the possible securities violations. "[I]n each case, the touchstone is whether the whistleblower's submission is revelatory in utilizing publicly available information in a way that goes beyond the information itself and affords the Commission with important insights or information about possible violations." Adopting Release for Amendments to Whistleblower Rules, Release No. 34-89963 (Sept. 23, 2020) ("Adopting Release") at 112-13. Here, Claimants 1, 2 and 3 (the "joint claimants") used their specialized knowledge to evaluate and analyze complex accounting data in public filings. According to Commission staff, their expertise assisted the staff in understanding complex accounting principles and transactions that furthered the investigation. Additionally, the joint claimants are not excluded from award eligibility by virtue of Exchange Act 21F-8(c)(4), which precludes award eligibility if a claimant "obtained the original information ... through an audit of a company's financial statements, and making a whistleblower submission would be contrary to requirements of Section 10A of the Exchange Act (15 U.S.C. 78j-a)." While Claimant 3 was

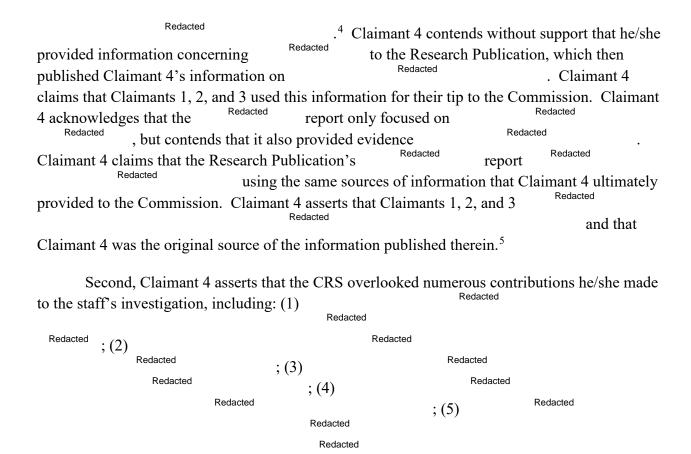
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³ The CRS preliminarily determined that Claimant 4 satisfied the original information requirement by providing independent analysis. Here, Claimant 4 used specialized knowledge to evaluate and analyze complex accounting data in public filings. According to Commission staff, this expertise assisted the staff in understanding complex accounting principles and transactions that furthered the investigation.



Finally, Claimant 4 asserts that the CRS did not consider unique hardships he/she endured due to his/her whistleblowing, including being subjected to numerous threats of litigation from the Company and other harassment.⁶

, and (6)

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⁴ In his/her award application, Claimant 4 also stated he/she was the original source of information underlying a report published by the Research Publication on Redacted , which raised concerns about the Company's . In addition, Claimant

⁴ states that he/she raised these same issues in a

Redacted . However, we do not need to resolve this issue because neither Claimant 4, nor the joint claimants, are receiving credit for their analysis of because that information did not become part of the charges in the Covered Action.

⁵ Claimant 4 also claims that Claimant 2 acknowledged in Redacted that Claimants 1, 2, and 3 However, Claimant 4 provides

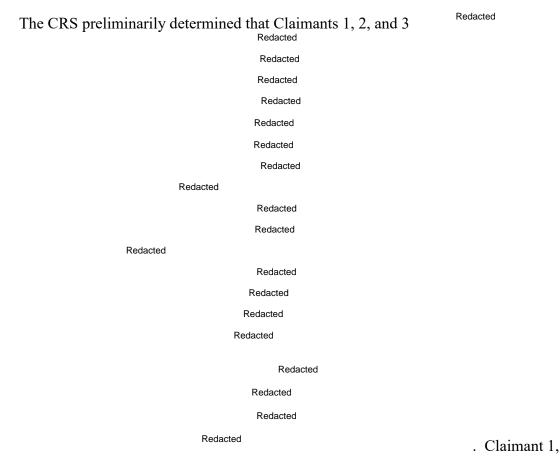
no corroborating evidence of this alleged statement.

⁶ Claimant 4 also requested that the record be amended to include all of his/her Forms TCR, including attachments and other related materials he/she provided to the Commission. However, no amendment to the record is necessary here because the initial staff declaration acknowledges Claimant 4's numerous TCR submissions, including those specifically cited in Claimant 4's response, and the supplemental staff declaration further explains the contributions, if any, that the information those submissions had to the investigation.

II. Analysis

A. Claimants 1, 2, and 3

The record demonstrates that Claimants 1, 2, and 3 voluntarily provided original information to the Commission that caused Enforcement staff to inquire into new conduct as part of an existing investigation and led to the success of the Covered Action.



Claimant 2, and Claimant 3 provided new information that caused the staff to inquire into new conduct as part of its existing investigation and provided substantial assistance during the course of the investigation, including providing additional information and participating in interviews with the staff.

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⁷ Redacted
8 Redacted
9 Redacted
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Action were equal in significance to the contributions made by Claimant 4, justifying an equal allocation of the recommended award percentage.

B. Claimant 4

The record demonstrates that Claimant 4 voluntarily provided original information to the Commission that significantly contributed to the success of the Covered Action. ¹¹ As discussed Redacted above,

Contrary to Claimant 4's assertions in his/her reconsideration request, Claimants 1, 2, and 3 submitted original information in their Form TCR, which included information about Redacted . Claimants 1, 2, and 3's tip was submitted to the Commission Redacted before the Research Publication report and therefore, could not have been Redacted based on information contained in that report. While the Research Publication Redacted report contained information concerning Redacted Redacted Redacted Redacted ¹² As a result, the report states Redacted 13 Claimants 1, 2 and 3's tip, however, included non-public information that included Redacted This internal information showed Redacted . Because the TCR submitted by Claimants 1, 2, and 3 included information not included in the Research Publication report published prior to their submission, as well as other information indicative of fraud by the Company and Redacted which they learned of as early as , the information they submitted is original and they are eligible for an award.

Furthermore, the additional contributions and hardships discussed in Claimant 4's request for reconsideration do not warrant a change in the award allocation. Most of the contributions cited by Claimant 4 concerned allegations that were not charged by the Commission. Enforcement staff confirmed that Claimant 4's information

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did not further the staff's investigation. With

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¹¹ While Claimant 4 did not satisfy the Exchange Act Rule 21F-9 TCR filing requirements when Claimant 4 submitted information in , Claimant 4 subsequently satisfied the TCR filing requirements when Redacted Redacted Claimant 4 submitted new information in and again in on Form TCR that significantly contributed to the success of the Covered Action. See Exchange Act Rule 21F-9(e) (requiring claimants to submit information on Form TCR within 30 days of submitting the original information upon which the award claim is based).
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Research Publication report

 $^{^{13}}$ Id. *** .

respect to this part of the Covered Action, the staff was already aware of the
was primarily focused on determining based on the Company's internal
documents and witnesses, as well as the documents of witnesses of relevant third parties.
Claimant 4's information and analyses were based upon publicly available information only.
Claimant 4 also contends that

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However, the record does not establish that Claimant 4 was in fact the cause of these events. Finally, while Claimant 4 contends that he/she provided the staff with detailed information concerning this information did not assist or further the Covered Action investigation because this information was already known to the staff from the Company's internal documents prior to Claimant 4 submitting his/her information. Additionally, while Claimant 4 claims that he/she faced threats of litigation and other harassment, Claimant 4 has not substantiated hardships that warrant an increase in award percentage in light of all the facts and circumstances in this matter.

III. Conclusion

Accordingly, it is hereby ORDERED that Claimant 1, Claimant 2, and Claimant 3 shall receive a joint award equal to Redacted percent (*** %) of the monetary sanctions collected in the Covered Action and that Claimant 4 receive an award equal to Redacted percent (*** %) of the monetary sanctions collected in the Covered Action.

By the Commission.

Vanessa A. Countryman Secretary