UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 105186 / April 9, 2026

WHISTLEBLOWER AWARD PROCEEDING
File No. 2026-16

In the Matter of the Claim for an Award

in connection with

Redacted

Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

On November 19, 2024, the Claims Review Staff ("CRS") issued a Preliminary Determination recommending the denial of the whistleblower award claim submitted by Redacted *** ("Claimant") in connection with the above-referenced covered action (the "Covered Action"). Claimant filed a timely response contesting the preliminary denial. For the reasons discussed below, Claimant's award claim is denied.

I. Background

A. The Covered Action

Redacted "the Company") is a group of Redacted companies that includes Redacted ("the Subsidiary"), an Redacted and the respondent in the Covered Action. Claimant was an employee at an entity affiliated with the Company when he/she learned that the Company was making false and misleading statements to their investors concerning its compliance with Redacted Redacted ("the Policies"). From Redacted, the Company failed to implement certain provisions of the Policies, and had led clients and investors to believe that it would adopt those provisions of the Policies, which would ensure that its public statements about the Policies were accurate. Redacted Redacted Claimant contacted Redacted

Redacted (the "Media Outlet") and informed them of the Redacted Redacted underlying violations of the law regarding the Company and its false and misleading statements of compliance with the Policies, Redacted Redacted . The Media Outlet then published an article ("the Media Report") on Redacted , identifying Claimant and explaining his/her allegations concerning the Company's false and misleading claims that it met the standards of the Policies. That same day, Enforcement staff opened their investigation into the Company after reading the Media Report.

Two days after opening the investigation, Commission staff initiated contact with Claimant to inquire about his/her allegations and seek additional information. The day after he/she was contacted, Claimant submitted a Form TCR to the Commission. The TCR cited to the Media Report and reiterated the same allegations that the Company was engaged in making misstatements in its public statements, marketing materials, and prospectuses. On Redacted *** , the Commission instituted settled administrative and cease-and-desist proceedings against the Subsidiary Redacted . The Commission found that the Subsidiary made material misstatements and failed to adopt and implement policies and procedures reasonably designed to prevent the resulting violations *** 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, with a posted Claims Due Date of Redacted . Claimant timely filed a whistleblower award claim on Redacted .

B. The Preliminary Determination

On Redacted , the CRS issued a Preliminary Determination recommending that Claimant's claim be denied because he/she did not provide his/her information voluntarily as staff first contacted him/her the day before he/she reached out to the Commission and submitted a TCR. The information that Claimant provided was on the same subject matter—the Company's apparent misrepresentations about its commitments to the Policies—as Enforcement staff's initial inquiry to him/her. Redacted Redacted he/she was aware of the Company's misstatements at least as early as then, but he/she did not report his/her allegations to the Commission then; instead, Claimant provided his/her information to the Media Outlet. After the Media Outlet published its article Redacted Redacted , Enforcement staff contacted Claimant, who agreed to speak with staff and then submitted a TCR to the Commission the next day.

C. Claimant's Response to the Preliminary Determination

Claimant timely submitted a response contesting the Preliminary Determination.[1] Claimant argues on reconsideration, among other things[2], that he/she did submit his/her information voluntarily. Claimant argues: (1) that the Commission's definition of "voluntary" is unreasonable, and that the Commission should use the "ordinary" definition as used in Merriam-Webster's Dictionary; (2) that Claimant's voluntary status was, "repeatedly stressed to [him/her] by SEC staff," and that the SEC's actions created, "an expectation that, in working with the SEC, a successful outcome would result in an award"; and (3) that Claimant's disclosure to the Media Outlet and other actions satisfied the voluntariness requirement. Finally, Claimant argues that if the Commission finds that Claimant's submission of information to the Commission was not voluntary, it should waive the voluntariness requirement under its exemptive authority, and Claimant should be granted an award.

II. <u>Analysis</u>

To be eligible for an award, a whistleblower must, among other requirements submit his/her information to the Commission voluntarily. As the Whistleblowers Rules explain,

> Your submission of information is made voluntarily within the meaning of [the Whistleblower Rules] if you provide your submission before a request, inquiry, or demand that relates to the subject matter of your submission is directed to you or anyone representing you (such as an attorney):
>
> (i) By the Commission;
>
> (ii) In connection with an investigation, inspection, or examination by the Public Company Accounting Oversight Board, or any self-regulatory organization; or
>
> (iii) In connection with an investigation by Congress, any other authority of the Federal government, or a state Attorney General or securities regulatory authority.[3]

---

[1] *See* Exchange Act Rule ("hereafter Rule") 21F-10(e), 17 C.F.R. § 240.21F-10(e).

[2] Claimant argues that the Preliminary Determination was defective because a member of the CRS was a former partner at a law firm that represented the Respondent in employment-related matters at the same time that Claimant brought a case against the Respondent. However, whistleblower award proceedings are not adversarial—an award here would not be paid by the Respondent, which by law would not be informed of the results of this adjudication anyway. We do not find that the CRS member's prior employment by a law firm that represented Respondent raises any reasonable questions about his/her impartiality in these whistleblower award proceedings.

[3] Rule 21F-4(a)(1).

The Whistleblower Rules expressly reject Claimant's proposed definition of "voluntariness":

> If the Commission or any of these other authorities direct a request, inquiry, or demand as described in paragraph (a)(1) of this section to you or your representative first, your submission will not be considered voluntary, and you will not be eligible for an award, *even if your response is not compelled by subpoena or other applicable law*. (emphasis added)[4]

Significantly, the Commission adopted this approach after considering extensive comments and alternative suggestions (including Claimant's proposed interpretation of the term).[5]

A. The Commission's Definition of "Voluntary" in the Whistleblower Rules Is Correct

Claimant argues that the definition of "voluntary" used for the purposes of the whistleblower award program should be the definition as used in Merriam-Webster's Dictionary: "acting or done of one's own free will without valuable consideration or legal obligation." The argument stands on two pillars: (1) that the Commission's definition is too narrow and should be disregarded because it exceeds the scope of its promulgated authority under the Administrative Procedure Act, citing to the recent Supreme Court case of *Loper Bright Enterprises v. Raimondo*;[6] and (2) that the definition provided by Merriam-Webster's Dictionary is a more appropriate fit because it is the "ordinary" meaning of the word at the time Congress enacted the statute, citing to *Federation of Americans for Consumer Choice, Inc. v. United States Department of Labor*.[7]

We disagree. First, there are many "ordinary" definitions of voluntary, including that from the Oxford English Dictionary, which defines "voluntary" as: "[p]erformed or done of one's own free will, impulse, or choice; not constrained, prompted, or suggested by another."[8] The Oxford English Dictionary further provides a definition of "voluntarily" as: "[w]ithout other

---

[4] Rule 21F-4(a)(2).

[5] *Order Determining Whistleblower Award*, Ex. Act Rel. No. 84046 (Sept. 6, 2018).

[6] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 392, 413 (2024) (holding "courts . . . may not defer to an agency interpretation of the law simply because a statute is ambiguous;" "courts, not agencies, will decide 'all relevant questions of laws' arising on review of agency action . . . and set aside any such action inconsistent with the law as they interpret it").

[7] *Federation of Americans for Consumer Choice, Inc. v. U.S. Dep't of Labor*, 742 F. Supp. 3d 677, 693 (N.D. Tex. 2024) ("words should be interpreted as taking their ordinary meaning at the time Congress enacted the statute") (internal citation and quotation marks omitted).

[8] Voluntary, Oxford English Dictionary (2d ed. 1989).

determining force than natural character or tendency; naturally, spontaneously."[9] The Commission's definition conforms to the Oxford English Dictionary definition, as a disclosure of information from a request by the Commission would not be "spontaneous" but instead "prompted" or "suggested" by another. Indeed, the Commission's definition adheres to the statutory goal of the Dodd-Frank Act, as the Commission's approach when proposing its initial implementing regulations had to be "consistent with the statutory purpose of creating a strong incentive for whistleblowers to come forward early with information about possible violations of the securities laws rather than wait until Government or other official investigators 'come knocking on the door.'"[10]

Further, the Commission has rulemaking authority under Section 21F(j) of the Exchange Act of 1934 to "issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section."[11] The Supreme Court reaffirmed in *Loper Bright* that interpretations, such as the Commission's definition of "voluntarily," that "have remained consistent over time" are "especially useful" in courts' interpretations of statutory language.[12] The requirement that a whistleblower must make a disclosure before receiving a "request, inquiry, or demand" by enumerated entities is just such an interpretation, as it was in the Commission's initial implementing regulations promulgated in 2011 and has remained unchanged since that time through hundreds of adjudications of whistleblower claims.[13] This long-standing, unchanged, consistently applied, and carefully considered definition thus constitutes precisely the type of "body of experience and informed judgment to which courts and litigants may properly resort for guidance."[14] At its core, the Whistleblower Program was created to incentivize members of the public to come forward with information concerning potential violations of the Securities Act that could supplement the Commission's own investigative efforts, not merely provide information as a response to them.[15] Additionally, the Commission's definition of "voluntary" is similar to terms in similar statutory

---

[9] Voluntarily, Oxford English Dictionary (2d ed. 1989).

[10] Proposing Release, 75 Fed. Reg. at 70,490.

[11] 15 U.S.C. §§ 78u-6(j), 78w(a)(1).

[12] 603 U.S. at 394.

[13] Rule 21F-4(a)(1).

[14] *Lissack v. Comm'r of Internal Revenue*, 125 F.4th 245, 259 (D.C. Cir. 2025) (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944)).

[15] *See* Adopting Release, 76 Fed. Reg. at 34,307 ("[W]e believe that a whistleblower award should not be available to an individual who makes a submission after first being questioned about a matter (or otherwise requested to provide information) by the Commission staff acting pursuant to any of our investigative or regulatory authorities.").

contexts, such as the False Claims Act. The courts interpreting that Act have interpreted the term voluntarily in the same way, reinforcing the correctness of the Commission's definition.[16]

B. Whether Enforcement Staff Described Claimant's Participation in the Investigation As Voluntary Is Irrelevant

Claimant's argument that SEC staff made statements that his/her submission of information was considered voluntary for the purposes of a whistleblower award and gave the expectation that his/her assistance with a successful outcome would result in an award is without merit. Claimant points to communications that state that his/her relationship with the SEC was voluntary, including: (1) an email sent from SEC staff to Claimant's attorney in which SEC staff wished to speak with Claimant "on a voluntary basis concerning this matter;" (2) a Zoom meeting in which SEC staff noted that his/her cooperation was voluntary; (3) an email sent from Claimant to SEC staff, made at staff's request, consenting to share his/her identity as the whistleblower in the investigation to the Redacted ("Other Agency"); and (4) an in-person meeting with SEC and Other Agency staff in which it was stressed that Claimant's cooperation was voluntary.

The Whistleblower Rules establish a specific process for the adjudication of whistleblower claims. Importantly, although staff make recommendations on whistleblower matters to the Commission, only the Commission can issue an award. It follows that staff cannot bind the Commission to a whistleblower award by casual comments to a witness about whether a witness meets a particular requirement for a whistleblower award. Further, these conversations were not even made in the context of an adjudication of a whistleblower award as there was no covered action at the time. To the extent that Claimant came to expect an award for his/her contributions, such an expectation does not supplant the eligibility criteria for awards in the Whistleblower Rules and in the Dodd-Frank Act that created the Whistleblower Program. OWB's website warns that submission of information under the Whistleblower Program does not guarantee an award.

C. Claimant Did Not Satisfy the Voluntariness Requirement by Providing the Information to the News Outlet

Claimant argues that he/she voluntarily provided information to the Commission because he/she "alerted the SEC of [the Company's] securities law violations on his/her own volition, by publicly disclosing [the] misrepresentations." The first sentence of the Whistleblower Rules

---

[16] *See U.S. ex rel. Barth v. Ridgedale Elec., Inc.*, 44 F.3d 699, 704 (8th Cir. 1995) (employee did not "voluntarily provide" information to a government investigator when the "discussion" between the two "was initiated by [the investigator] rather than [the employee]"); *see also U.S. ex rel. Paranich v. Sorgnard*, 396 F.3d 326, 341 (3d Cir. 2005) ("Information not specifically compelled but nonetheless brought forward as a result of the government's pointed contact should not be deemed 'voluntarily' provided.")

rejects this logic: the Commission will "pay awards, subject to certain limitations and conditions, to whistleblowers who *provide the Commission* with original information about violations of the Federal securities laws."[17] Where a claimant provides information to a media outlet, and Commission staff learn of the allegations from the media outlet, a claimant has not provided the Commission with information.

The Commission has rejected Claimant's argument before.[18] In that earlier matter, another claimant provided information to the news media and then received a request for information based on the media report.

> Claimant 1 argues that the Dodd-Frank Act allows disclosures to the news media to be considered "voluntary" because the Dodd-Frank Act defines "original information" as, among other things, information that is "not exclusively derived . . . from the news media, unless the whistleblower is a source of the information." However, whether Claimant 1's information is "original information" is irrelevant: The CRS did not make a recommendation on that issue, and it was not a basis for the Preliminary Determinations. A voluntary submission is a separate and independent requirement for a whistleblower award, and the original information requirement is not a substitute for the voluntary submission requirement. The record demonstrates that [redacted] and Commission staff contacted Claimant 1 regarding the subject matter of his/her submission before Claimant 1 provided information to either of them or any other Rule 21F-4(a) enumerated entity.[19]

Claimant's other arguments similarly conflate requirements for receipt of a whistleblower award that are distinct and independent from the voluntariness requirement. For example, he/she contends that "Rule 21F-4(c)(3) contemplates that [Claimant] need not be the one to contact the SEC, allowing that [Claimant] could later complete a TCR." But Rule 21F-4(c)(3) concerns[20]

---

[17] Rule 21F-1 (emphasis added).

[18] *Order Determining Whistleblower Award Claim*, Exchange Act Release No. 97228 (Mar. 31, 2023).

[19] *Id.*

[20] Rule 21F-4(c) provides in relevant part:

> The Commission will consider that you provided original information that led to the successful enforcement of a judicial or administrative action in any of the following circumstances:
>
> (3) You reported original information through an entity's internal whistleblower, legal, or compliance procedures for reporting allegations of possible violations of law before or at the same time you reported them to the Commission; the entity later provided your information to the

whether a claimant satisfied that the requirement that his/her information "led to the successful enforcement of a judicial or administrative action"—a requirement that must be shown *in addition to* voluntariness to receive an award.

Likewise with Claimant's argument that he/she deserves an award because the information he/she provided to the Commission exceeded what was reported in the Media Report. This is an argument that Claimant provided original information—information of which staff was unaware—and that is not in dispute. But, again, the "original information" requirement is separate from and in addition to the voluntariness requirement. It does not change the fact that, contrary to Claimant's assertion that he/she "showed up on [the Commission's] doorstep," it was the Commission that came knocking on his/her door when Commission staff first contacted him/her. Providing information that was unknown to the Commission does not make it voluntary under the Rules.[21]

D. A Section 36(a) Waiver Is Unwarranted Here

Section 36(a) of the Exchange Act provides the Commission with broad authority to exempt any person from any provision of the Exchange Act or any rule or regulation thereunder to the extent that such an exemption is (i) necessary or appropriate in the public interest, and (ii) consistent with the protection of investors. In analyzing whether the standard for a Section 36(a) exemption has been met, the Commission has considered (1) whether the unique circumstances of a particular matter raise considerations and arguments substantially different from those which were carefully considered at the rulemaking proceeding, and (2) whether application of the rule in a particular matter would result in hardship, unfairness, or inequity.[22] The Commission may, in its sole discretion, decline to entertain any application for an order of exemption.[23]

Claimant argues that regardless of whether he/she submitted his/her TCR before receiving a request for information about the Company from Enforcement staff, the Commission should use its power under Section 36(a) to exempt him/her from the voluntariness requirement. First, Claimant argues denying him/her a whistleblower award would result in hardship, unfairness, and inequity because of his/her considerable contributions to the Covered Action.

> Commission, or provided results of an audit or investigation initiated in whole or in part in response to information you reported to the entity; and the information the entity provided to the Commission satisfies either paragraph (c)(1) or (c)(2) of this section. Under this paragraph (c)(3), you must also submit the same information to the Commission in accordance with the procedures set forth in §240.21F-9 within 120 days of providing it to the entity.

[21] *See* Rule 21-F4(a)(1): "Your submission of information is made voluntarily within the meaning of §§240.21F-1 through 240.21F-17 of this chapter if you provide your submission before a request, inquiry, or demand *that relates to the subject matter* of your submission is directed to you or anyone representing you…" (emphasis added).

[22] *Order Determining Whistleblower Award Claim*, Ex. Act Rel. No. 34-92086 (June 2, 2021).

[23] 15 U.S.C. § 78mm(a)(2).

However, the Commission has never waived the voluntariness requirement solely on the grounds of a Claimant's contributions to an investigation. To do so would erode the distinction between those who affirmatively bring information to the Commission and those who are merely helpful witnesses. As discussed more below, the Commission has always considered more equitable concerns in granting Section 36(a) requirements for voluntariness.

Second, Claimant argues that he/she barely had any time to report his/her concerns to the Commission because the Commission opened the Investigation only two days after the Media Report appeared. Claimant's argument assumes that his/her report to the Media Outlet had to precede his/her report to the Commission. But Claimant offers no reason why he/she could not have reported to the Commission before he/she spoke with the Media Outlet. Nothing in the Dodd-Frank Act or Whistleblower Rules prohibits a potential whistleblower from providing his/her information to the media. But if he/she does so before reporting the same information to the Commission, he/she risks being contacted first by Commission staff and losing his/her voluntary status.

Claimant relies on three matters to support his/her argument for exemptive relief, but each is distinguishable. In the first matter,[24] a claimant did not provide information voluntarily because of prior inquiries from a self-regulatory organization ("SRO"). The Commission granted a Section 36(a) waiver of the voluntariness requirement because of "highly unusual circumstances." The Commission noted that the SRO inquiry originated from information a third party provided to the SRO that in part described the claimant's role in identifying the issue that gave rise to the violations and—effort to obtain corrective action. The claimant in that case was working aggressively internally to bring the securities law violations to the attention of appropriate personnel and to obtain corrective action for the benefit of investors prior to the enactment of the Dodd-Frank whistleblower award program and the concomitant anti-retaliation protections. And the claimant made "persistent efforts in reporting to the Commission once [ ] learned that the SRO inquiry had been closed and that would not protect investors from future harm." None of these unusual facts are present here.

In the second example,[25] a claimant was interviewed by another agency, and at that time, the claimant did not know the information that later supplied the critical basis for the claimant's whistleblower tip to the Commission. When the claimant learned of the information, the claimant promptly reported that information to the Commission and to the other agency, which we observed "is consistent with the policy goal of the whistleblower rules that a whistleblower come forward early with information about possible violations of the federal securities law rather than wait to be approached by investigators." Claimant contends here, without citing to any

[24] *Order Determining Whistleblower Award Claim*, Ex. Act Rel. No. 72727 (July 31, 2014).

[25] *Order Determining Whistleblower Award Claim*, Ex. Act Rel. No. 84046 (Sept. 6, 2018).

examples, that he/she provided information that he/she became aware of after the SEC first reached out to him/her. Nothing in the record suggests that Claimant provided information that only came to light after the SEC had contacted him/her, and even if he/she had, the information did not form the "critical basis" for his/her whistleblower tip.

In the third matter,[26] joint claimants worked for an employer who received a request for information from another authority, the request asked for a response from relevant employees, and the joint claimants were still relevant employees as of the date of the inquiry. However, neither claimant was informed of the request from the other authority, and the claimants did not learn of the existence of the other authority's investigation until several months after they reported their information to the Commission. Here, there is no dispute that Claimant knew about the Commission's investigation and its request for information from him/her when he/she submitted his/her whistleblower tip.

Claimant has not shown any unique circumstances that would warrant waiver of the Commission's "straightforward, temporally based test for voluntariness[—]the whistleblower must come forward before the government or regulatory authorities designated in the rule seek information from the whistleblower."[27]

III. Conclusion

Accordingly, it is hereby ORDERED that the whistleblower award application of Claimant in connection with the Covered Action be, and it hereby is, denied.

By the Commission.

Vanessa A. Countryman
Secretary

[26] *Order Determining Whistleblower Award Claim*, Ex. Act Rel. No. 86010 (June 3, 2019).

[27] *Order Determining Whistleblower Award Claim*, Ex. Act Rel. No. 84046, at 9 (Sept. 6, 2018).