FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON JANUARY 25, 2020 AS TO JOINT CLAIMANTS 2 AND 3 PURSUANT TO RULE 21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934

Notice of Covered Action [redacted]

PRELIMINARY DETERMINATION OF THE CLAIMS REVIEW STAFF

In response to the above-referenced Notice of Covered Action, the U.S. Securities and Exchange Commission ("Commission") received whistleblower award claims from [redacted] joint claimants [redacted] (Claimant 2) and [redacted] (Claimant 3), [redacted]

Pursuant to Section 21F of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 21F-10 promulgated thereunder, the Claims Review Staff has evaluated the claims in accordance with the criteria set forth in Rules 21F-1 through 21F-17.

[redacted]

[redacted]

Claimants 2, 3, [redacted] [1]

The Claims Review Staff has also preliminarily determined to recommend that the Commission deny the award claims of Claimant 2, Claimant 3, [redacted]. The basis for this determination is as follows:

Claimants 2, 3, [redacted] did not provide information that led to the successful enforcement of the above-referenced 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 their information did not:

a. cause the Commission to commence an examination, open or reopen an investigation, or inquire into different conduct as part of a current Commission examination or investigation, and the Commission brought a successful judicial or administrative action based in whole or in part on conduct that was the subject of the information under Rule 21F-4(c)(1) of the Exchange Act; or

b. significantly contribute to the success of the Covered Action under Rule 21F-4(c)(2) of the Exchange Act.

In making this preliminary determination, we note that the record reflects that joint Claimants 2 and 3 began providing information [redacted] on [redacted], and within 120 days, submitted a whistleblower tip on Form TCR, to the Commission, dated [redacted]. As such, we preliminarily credit Claimants 2 and 3 with having reported to the Commission as of [redacted] any information that they provided to both the [redacted] and to

[1] Claimants 2, 3, [redacted] also applied for an award in connection with an action brought by [redacted] ("[redacted] Action"). We are preliminarily determining to recommend that their claims for award in connection with the [redacted] Action be denied for two reasons. *First*, Claimants 2, 3, [redacted] are not eligible for an award in the Commission's Covered Action. A related action award may be made only if, among other things, the claimant satisfies the eligibility criteria for an award for the applicable covered action in the first instance. *See, e.g., Order Determining Whistleblower Award Claims,* Exchange Act Release No. 86902 (Sept. 9, 2019); *Order Determining Whistleblower Award Claims,* Exchange Act Release No. 84506, 2018 SEC LEXIS 3031, at *8 n.5 (Oct. 30, 2018) (same); *Order Determining Whistleblower Award Claim,* Exchange Act Release No. 84503, 2018 SEC LEXIS 3030, at *7 n.4 (Oct. 30, 2018) (same); *Order Determining Whistleblower Award Claims,* Exchange Act Release No. 84596, 2017 SEC LEXIS 1318, at *11 n.10 (May 4, 2017) (same); 15 U.S.C. § 78u-6(b); Exchange Act Rule 21F-3(b), (b)(1); Rule 21F-4(g) and (f), and Rule 21F-11(a). *Second*, the [redacted] Action was a state *civil* action and therefore does not qualify as a related action under the Commission's whistleblower rules. *See* Exchange Act Rule 21F-3(b)(1)(iv) [redacted]).

the Commission. [2] But even thus crediting Claimants 2 and 3 with reporting to the Commission as of [redacted] (as opposed to [redacted]), the record is clear that no information they provided led to the successful enforcement of the Covered Action. *First,* Enforcement staff had already opened the investigation that resulted in the Covered Action in [redacted] based on information provided by [redacted]. *Second*, prior to [redacted], Enforcement staff was aware of every issue subsequently charged by the Commission against [redacted] in the Covered Action, because of information and documentation provided by [redacted] or through their own investigative efforts. As such, Claimants 2 and 3's information was generally duplicative of information already known by the Enforcement staff. *Third*, although Claimants 2 and 3 provided certain new information concerning other alleged misconduct by [redacted], staff was not able to corroborate those allegations, and they did not become part of the charges against [redacted] in the Covered Action. In short, none of the information from Claimants 2 or 3 either caused Enforcement staff to open the investigation or significantly contributed to the success of the enforcement action.

[redacted][3]

By: Claims Review Staff

Date: November 19, 2019

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[2] *See* Exchange Act Rule 21F-4(b)(7). Claimant 2 and Claimant 3 erroneously argue in their whistleblower award application that they should be deemed to have reported to the Commission in [redacted], 120 days before reporting to the [redacted]. However, Rule 21F-4(b)(7) provides a limited safe-harbor process for claimants who provide their information to the Commission pursuant to Rule 21F-9 within 120 days of internally reporting their information or reporting their information to another regulator. The safe harbor does not extend to reports made by claimants to *other* agencies within 120 days of an internal report.

[3] [redacted]