

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE
COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98429 / September 19, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21675

<p>In the Matter of</p> <p style="text-align:center">CBRE, Inc.</p> <p>Respondent.</p>

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against CBRE, Inc. (“CBRE” or “Respondent”).

II.

In anticipation of the institution of these proceedings, CBRE has submitted an Offer of Settlement (the “Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, CBRE consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds that:

Respondent

1. **CBRE**, a Delaware corporation headquartered in Dallas, Texas, is a commercial real estate services and investment firm. CBRE has hundreds of U.S. and foreign subsidiaries and employs over 35,000 individuals in the U.S. CBRE is a wholly-owned indirect subsidiary, and the operating entity of CBRE Group, Inc., which has common stock registered with the Commission pursuant to Section 12(b) of the Exchange Act, and is listed on NYSE under the ticker “CBRE.”

Facts

Statutory and Regulatory Framework Protecting Whistleblowers

2. The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), enacted on July 21, 2010, amended the Exchange Act by adding Section 21F, “Securities Whistleblower Incentives and Protection.” The purpose of these provisions was to encourage whistleblowers to report possible securities law violations by providing, among other things, financial incentives and confidentiality protections. *See Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934 Adopting Release*, Release No. 34-64545, at 197 (Aug. 12, 2011) (“Adopting Release”).

3. To fulfill this Congressional purpose, the Commission adopted Rule 21F-17, which provides in relevant part:

(a) No person may take any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement . . . with respect to such communications.

Rule 21F-17 became effective on August 12, 2011.

4. In April 2015, the Commission brought the first enforcement action for a violation of Rule 21F-17 based on a company’s use of a restrictive confidentiality agreement.¹ Since then, the Commission has instituted many additional settled cease-and-desist proceedings involving alleged violations of Rule 21F-17. These enforcement actions were reported in the media and prompted client alerts from multiple law firms.

CBRE’s Separation Agreement

5. As a regular part of its business, CBRE enters into separation agreements with its employees when they end their employment with the company and will be receiving separation pay. A separation agreement is a contract between a former employer and employee documenting the rights and responsibilities of both parties related to the employee’s departure.

¹ See *In the Matter of KBR, Inc.*, Exchange Act Rel. No. 74619 (April 1, 2015).

6. CBRE’s separation agreement, titled General Release Agreement (“GRA”), included, under the heading “Employee Representations,” the following language (hereinafter “Employee Representation”):

Employee represents and acknowledges [t]hat Employee has not filed any complaint or charges against CBRE, or any of its respective subsidiaries, affiliates, divisions, predecessors, successors, officers, directors, shareholders, employees, representatives or agents (hereinafter collectively “Agents”), with any state or federal court or local, state or federal agency, based on the events occurring prior to the date on which this Agreement is executed by Employee.

7. The GRA’s introductory paragraph stipulated that “Employee may not execute this Agreement prior to the Date of Termination.” Read together, this paragraph and the Employee Representation required, in effect, that the employee represent that at the time of executing the GRA, the employee has not filed a complaint or charges based on *either* (i) events occurring at any time before termination, i.e., events spanning the employee’s entire employment with CBRE, *or* (ii) events occurring between termination and the employee’s executing the GRA. By requiring this representation, CBRE took action to impede potential whistleblowers from reporting complaints to the Commission. This conduct undermines the purpose of Section 21F and Rule 21F-17(a) to “encourage[e] individuals to report to the Commission.” Adopting Release at p. 201.

8. CBRE’s GRA included the Employee Representation since at least 2011. After 2015, CBRE added the following provision to its GRA:

Nothing in this Agreement shall be construed to prohibit Employee from filing a charge with or participating in any investigation or proceeding conducted by the Equal Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange Commission, the Department of Justice, or a comparable federal, state or local agency.

Read together with the Employee Representation, this carve-out was prospective in application, and therefore did not remedy the impeding effect of the Employee Representation.

9. CBRE’s legal department reviews annually all of the company’s separation and confidentiality templates, including the GRA. In the ordinary course of business, CBRE furnished the GRA to its departing employees receiving severance or non-severance separation pay. At least 884 CBRE employees signed the GRA in 2021 and 2022. The Commission is not aware of specific instances in which a former CBRE employee was prevented from communicating with Commission staff about potential violations of securities laws, or in which CBRE took action against a former employee based on the Employee Representation.

CBRE's Cooperation and Remediation

10. After learning of the Commission's investigation, CBRE initiated a remediation program concerning compliance with Rule 21F-17.

A. Within approximately one month of learning of the SEC investigation, CBRE: (i) revised all versions of its domestic GRAs for Rule 21F-17 compliance; and (ii) commenced an audit of similar agreements worldwide, reviewing approximately 300 templates used by CBRE affiliates in 54 countries.

B. Within approximately three months of learning of the SEC investigation, CBRE: (i) standardized and updated its global policy documents for compliance with Rule 21F-17; (ii) received CBRE Board approval for additional Rule 21F-17 language in CBRE's Standards of Business Conduct ("SOBC"); (iii) revised the SOBC mandatory certification process for an explicit acknowledgement of the Rule 21F-17 protection language; and (iv) created a new Rule 21F-17 "toolkit" with edited 21F-17(a)-conforming templates.

C. Within approximately five months of learning of the SEC investigation, CBRE: (i) trained more than 50 members of the compliance teams globally on the Rule 21F-17 language added to all relevant templates; and (ii) initiated global template revisions to all relevant employment agreements, modifying over 300 agreements and policy templates in 61 countries, in over a dozen different languages.

D. Within approximately seven months of learning of the SEC investigation, CBRE launched a mandatory SOBC re-certification process, in which over 100,000 employees worldwide certified that they reviewed the updated SOBC with the revised Rule 21F-17 language, and attested to their understanding that they were not limited in their "ability to file a charge or complaint or fully cooperate (including providing documents or other information) with any government agency, including the US Securities and Exchange Commission (SEC), without notice to or approval from CBRE."

E. CBRE also communicated with the more than 800 employees who had signed the GRA between 2021 and 2022, advising them of the protections afforded them by Rule 21F-17, including their right to communicate directly with SEC staff regarding any potential violation of the federal securities laws.

11. The Commission also notes CBRE's cooperation in the underlying investigation.

Violations

12. As a result of the conduct described above, CBRE violated Exchange Act Rule 21F-17(a), which prohibits any person from taking any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in CBRE's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, CBRE cease and desist from committing or causing any violations and any future violations of Exchange Act Rule 21F-17(a).

B. CBRE shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$375,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-
341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying CBRE as a respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Eric Werner, Division of Enforcement, Securities and Exchange Commission, 801 Cherry St., Suite 1900, Fort Worth, Texas, 76102.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

D. Respondent acknowledges that the Commission is not imposing a civil penalty in excess of \$375,000 based upon its cooperation in the Commission's investigation. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission, or in a related proceeding, the Division may, at its sole discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay an additional civil penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Vanessa A. Countryman
Secretary