

UNITED STATES OF AMERICA

before the

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 79747 / January 6, 2017

WHISTLEBLOWER AWARD PROCEEDING

File No. 2017-5

In the Matter of the Claim for Award

in connection with

Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

On October 28, 2016, the Claims Review Staff (“CRS”) issued a Preliminary Determination related to Notice of Covered Action Redacted (the “Covered Action”). The Preliminary Determination recommended that Redacted (“Claimant”) receive a whistleblower award because Claimant voluntarily provided original information to the Commission that led to the successful enforcement of the Covered Action pursuant to Section 21F(b)(1) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78u-6(b)(1), and Rule 21F-3(a) thereunder, 17 C.F.R. § 240.21F-3(a).¹ Although Claimant did not comply with Exchange Act Rule 21F-9(d)—an omission which might normally require an award denial—the CRS recommended that the Commission waive that rule here given certain highly unusual circumstances.²

¹ Of particular note, Claimant reported to the Commission while still employed with the company that was the subject of the Covered Action, and thereafter provided critical information that helped end an on-going fraud that preyed predominantly on a more vulnerable investor community.

² Rule 21F-9(d) requires that an individual must have provided original information “in writing” to the Commission in order for that information to be a basis for a whistleblower award if the information was first submitted to the Commission during the interim period between the enactment of the whistleblower program—*i.e.*, July 21, 2010, when the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) was signed into law—and the effective date of the Commission’s whistleblower rules.

Further, the CRS recommended that such award be set in the amount of ^{Redacted} ^{Redacted} percent ^{Redacted} of the monetary sanctions collected or to be collected in the Covered Action, which will equal an award of more than \$5.5 million. In reaching this recommendation, the CRS considered the factors set forth in Rule 21F-6, 17 C.F.R. § 240.21F-6, in relation to the facts and circumstances of Claimant's application. On November 1, 2016, Claimant provided written notice to the Commission of Claimant's decision not to contest the Preliminary Determination.

Upon due consideration under Rules 21F-10(f) and (h), 17 C.F.R. § 240.21F-10(f) and (h), the Preliminary Determination of the Claims Review Staff is adopted.³ Accordingly, for the reasons set forth in the Preliminary Determination, it is hereby ORDERED that Claimant shall receive an award of ^{Redacted} percent ^{Redacted} of the monetary sanctions collected in this Covered Action, including any monetary sanctions collected after the date of this Order.

By the Commission.

Brent J. Fields
Secretary

³ We concur with the CRS's recommendation that we exercise our discretionary authority to waive the Claimant's non-compliance with Rule 21F-9(d). *See* Section 36(a) of the Exchange Act. We find that it is appropriate in the public interest and consistent with the protection of investors to do so in this matter given a number of highly unusual circumstances, including the following: (1) the Commission's staff was already actively working with the Claimant before the enactment of the Dodd-Frank Act, and, in such circumstances, we believe that it would have been counter-productive and unreasonable to require that the Claimant revert to providing information to the Commission staff in writing; (2) the Claimant provided the new post Dodd-Frank Act information in the format that the Enforcement staff expressly requested, namely ^{Redacted} and (3) the indicia of reliability and the certainty as to the time that the information was provided, which are principle policy rationales underlying the Rule 21F-9(d) writing requirement, are clearly satisfied in the context of this claim because it is undisputed that ^{Redacted}.