

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 92969 / September 14, 2021

WHISTLEBLOWER AWARD PROCEEDING
File No. 2021-90

In the Matter of the Claims for an Award

in connection with

Notice of Covered Action Redacted

Notice of Covered Action Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Claims Review Staff (“CRS”) issued Preliminary Determinations recommending that the Commission deny the award claims of Redacted (“Claimant”) in connection with the following three Notices of Covered Action: Redacted

Redacted (the “Covered Actions”). The CRS also recommended that the Commission determine that Claimant’s award applications were frivolous or lacking a colorable connection between the tip(s) and the Commission Covered Actions, and pursuant to Rule 21F-8(e), that the Commission permanently bar Claimant from participation in the Commission’s Whistleblower Program.

The recommendations of the CRS are adopted.

Background

Claimant began submitting award applications to the Office of the Whistleblower (“OWB”) in November 2017, and since then submitted hundreds of applications. Claimant bases the award claims in the Covered Actions on tips Claimant submitted involving Claimant’s personal mortgage foreclosure. Claimant’s tips were closed and do not on their face bear any relation to the charges in the Covered Actions.

On January 25, 2021, pursuant to Exchange Act Rule 21F-8(e), OWB provided notice to Claimant that it had determined that the award applications for the Covered Actions were frivolous. OWB also informed Claimant that the Commission has the authority to bar permanently a claimant. Accordingly, OWB recommended that Claimant withdraw all frivolous or noncolorable claims that he/she had submitted.

In response, Claimant withdrew all of his/her pending claims. However, a few days later, Claimant submitted a letter to OWB stating that he/she had reconsidered and did not wish to withdraw any of his/her award applications.

Preliminary Determinations

On May 17, 2021, the Claims Review Staff issued Preliminary Determinations recommending that Claimant’s applications for award in the above Covered Actions be denied and further recommended the Commission find that his/her award claims are frivolous because the information submitted by Claimant did not relate to the subject matter of the referenced Covered Actions and could not have contributed to any successful enforcement action. Finally, the CRS recommended that the Commission permanently bar Claimant from participation in the Commission’s Whistleblower Program. Claimant did not request reconsideration and the time-period to submit a Request for Reconsideration passed on July 16, 2021.

Analysis

On September 23, 2020, the Commission adopted amendments to the Whistleblower Program Rules, which became effective on December 7, 2020. New Exchange Act Rule 21F-8(e) authorizes the Commission to permanently bar a claimant from the Whistleblower Program based on submissions or applications that are frivolous or fraudulent, or that otherwise hinder the effective and efficient operation of the Whistleblower Program. The Commission’s Adopting Release defines “frivolous claims” as “those that lack any reasonable or plausible connection to the covered or related action.”¹

¹ Further, Rule 21F-8(e)(4) states: “(i) Paragraph (e) of this section shall apply to all award applications pending as of December 7, 2020, which is the effective date of paragraph (e) of this section. But with respect to any such pending award applications, the Office of the Whistleblower shall advise you, before any Preliminary Determination or Preliminary Summary Disposition is issued that may recommend a bar, of any assessment by that Office that the conditions for issuing a bar are satisfied....” OWB provided such notice to the Claimant.

First, the record demonstrates that Claimant is not eligible for an award in the Covered Actions because he/she did not provide information that led to the successful enforcement of the above-referenced Covered Actions within the meaning of Section 21F(b)(1) of the Exchange Act and Rules 21F-3(a)(3) and 21F-4(c) thereunder because any information provided did not, under Rule 21F-4(c)(1) of the Exchange Act: (1) cause the Commission to (a) commence an examination, open or reopen an investigation, or inquire into different conduct as part of a current Commission examination or investigation, and (b) thereafter bring an action based, in whole or in part, on conduct that was the subject of claimant's information; or (2) significantly contribute to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c)(2) of the Exchange Act.²

Second, the Commission finds that the Claimant's award applications are frivolous or lacking a colorable connection between the tip(s) and the Commission actions for which Claimant has sought an award within the meaning of Rule 21F-8(e) of the Exchange Act. This is because there is no relation between the information provided by Claimant to the Commission and the Covered Actions.

Third, pursuant to Rule 21F-8(e)(1), the Commission permanently bars Claimant from participation in its Whistleblower Program because Claimant has filed three or more applications for award that the Commission finds are frivolous or lacking a colorable connection between the Claimant's tip(s) and Covered Actions for which the Claimant is seeking awards. In addition, Claimant has submitted hundreds of award applications over the years. Claimant also has engaged in a pattern of submitting award claims, then withdrawing the claims, and then resubmitting the claims. Claimant's filing of frivolous claims has consumed considerable staff time and resources and has hindered the efficient operation of the Whistleblower Program. As such, we find it appropriate to permanently bar Claimant from the Commission's Whistleblower Program. This permanent bar applies to any pending applications from Claimant at any stage of the claims review process as well as to all future award claims.

Accordingly, it is hereby ORDERED that Claimant's award claims in the Covered Actions are denied and it is determined that the applications are frivolous or lacking a colorable connection between the tips and Covered Actions and that Claimant shall be permanently barred from participation in the Commission's Whistleblower Program.

By the Commission.

Vanessa A. Countryman
Secretary

² Claimant's information did not relate to the subject matter of the Covered Actions and was not provided to investigative staff responsible for the Covered Actions.