

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 94366 / March 7, 2022

WHISTLEBLOWER AWARD PROCEEDING

File No. 2022-35

In the Matter of the Claims for Award

in connection with

Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Claims Review Staff (“CRS”) issued Preliminary Determinations recommending that Redacted (“Claimant 1”) receive a whistleblower award equal to twenty percent (20%) of the monetary sanctions collected, or to be collected, in the above-referenced Covered Action; and that Redacted (“Claimant 2,” and collectively with Claimant 1, the “Claimants”) receive a whistleblower award equal to ten percent (10%) of the monetary sanctions collected, or to be collected, in the above-referenced Covered Action.¹ Claimants each provided written notice of their decisions not to contest the Preliminary Determinations.

The recommendation of the CRS is adopted. The record demonstrates that Claimants each voluntarily provided original information to the Commission, and that this information led to the successful enforcement of the Covered Action.²

¹ There have been no collections in the Covered Action to date.

² See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1); Exchange Act Rule 21F-3(a), 17 C.F.R. § 240.21F-3(a).

Rule 21F-6(c) establishes a presumption of a statutory aggregate maximum award of 30% where (1) the maximum award would be \$5 million or less; (2) for at least one claimant, none of the negative award factors under Rule 21F-6(b)—*i.e.*, culpability, unreasonable reporting delay, or interference with an internal compliance and reporting system—are present; and (3) the award claim does not trigger Rule 21F-16.³ The Commission may depart from the presumption if (1) the assistance provided by a whistleblower was, “under the relevant facts and circumstances, limited,” or (2) a maximum award “would be inconsistent with the public interest, the promotion of investor protection, or the objectives of the whistleblower program.”⁴ When determining the allocation of the award between multiple meritorious claimants, the Commission considers whether each individual claimant’s award application includes any negative award factors and whether Rule 21F-16 is triggered.⁵ In addition, “the rule requires that in allocating [the statutory maximum] among the meritorious claimants, the Commission will consider all relevant facts.”⁶

The presumption applies here because the Commission finds that it does not reasonably anticipate that future collections would cause the maximum award to exceed \$5 million, no negative factors under Rule 21F-6(b) are present with respect to at least one award applicant, and that claimant’s award claim does not trigger Rule 21F-16. In addition, the Commission finds that the presumption is not overcome, as that claimant provided more than limited assistance. The Commission also finds that application of the presumption would not be inconsistent with the public interest, the promotion of investor protection, or the objectives of the whistleblower program.⁷

We find that an award of 20% for Claimant 1 and 10% for Claimant 2 is appropriate. In reaching that determination, we considered that: (1) Claimant 1’s information caused the staff to open the investigation; (2) Claimant 1 provided ongoing assistance by participating in interviews and providing documents, which saved the staff time and resources; and (3) while Claimant 2 provided information that assisted the staff’s investigation and saved the staff time and resources, Claimant 2 submitted the information several weeks after the staff’s investigation had commenced as a result of Claimant 1’s information and after Claimant 2 became aware of the investigation.

³ Rule 21F-16 concerns whistleblowers who engage in culpable conduct. *See* 17 C.F.R. § 240.21F-16.

⁴ Rule 21F-6(c)(1)(iv), 17 C.F.R. § 240.21F-6(c)(1)(iv).

⁵ Rule 21F-6(c)(3), 17 C.F.R. § 240.21F-6(c)(3).

⁶ Whistleblower Program Rules, 85 Fed. Reg. 70898, 70912 (Nov. 5, 2020); Rule 21F-6(c)(3), 17 C.F.R. § 240.21F-6(c)(3).

⁷ *Id.*

Accordingly, it is hereby ORDERED that (1) Claimant 1 shall receive an award equal to twenty percent (20%) of the monetary sanctions collected, or to be collected, in the Covered Action, and (2) Claimant 2 shall receive an award equal to ten percent (10%) of the monetary sanctions collected, or to be collected, in the Covered Action.

By the Commission.

Vanessa A. Countryman
Secretary