

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 95490 / August 12, 2022

WHISTLEBLOWER AWARD PROCEEDING
File No. 2022-76

In the Matter of the Claim for an Award

in connection with

Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

The Claims Review Staff (“CRS”) issued a Preliminary Determination recommending the denial of the whistleblower award application submitted by Redacted (“Claimant”) in connection with the above-referenced Covered Action (the “Covered Action”). Claimant timely filed a response contesting the preliminary denial. For the reasons discussed below, Claimant’s award application is granted, and Claimant shall receive an award of approximately \$70,000, equal to *** percent (**) of the monetary sanctions collected in the Covered Action.

I. BACKGROUND

A. The Covered Action

On Redacted, the Commission filed an enforcement action in federal district court charging Redacted

Redacted

Redacted

Redacted

Redacted

Redacted

Redacted

The Commission alleged that from

Redacted

Redacted

Redacted

The Commission's complaint alleged that

Redacted

Redacted

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On Redacted the district court entered final judgments in favor of the Commission ordering Redacted and others to pay a total of approximately Redacted

Redacted To date, the Commission has collected approximately Redacted against these judgments.

On Redacted the Office of the Whistleblower posted Notice of Covered Action Redacted on the Commission's public website, inviting claimants to submit whistleblower award applications within 90 days. Claimant filed a timely whistleblower award claim.

B. The Preliminary Determination

The CRS issued a Preliminary Determination recommending that the Commission deny Claimant's award application because the information Claimant provided did not lead to the successful enforcement of the Covered Action. The CRS based the Preliminary Determination principally on the facts that the Enforcement staff's investigation was well underway by the time Claimant contacted the Commission and that Claimant's information was largely limited to

Redacted

At the time Claimant contacted the Commission, the Enforcement staff

was already aware of Redacted had subpoenaed documents, and had identified potential defendants and investors. The Enforcement staff was also already aware of Redacted

C. Claimant's Response to the Preliminary Determination

Claimant submitted a timely written response contesting the Preliminary Determination.¹ Claimant argues in response to the Preliminary Determination that the information he/she provided, either in calls and meetings with the staff or in documents he/she shared, established the basis for various allegations in the SEC's complaint. First, Claimant points to four paragraphs of the complaint that specifically Redacted Second, Claimant argues that the information he/she provided "informed" additional, more general allegations in the complaint that broadly describe Redacted

II. ANALYSIS

To qualify for a whistleblower award under Section 21F of the Exchange Act, an individual must voluntarily provide the Commission with original information that leads to the successful enforcement of a covered action.² As relevant here, information leads to the success of a covered action if it: (1) causes the Commission staff to (i) open or reopen an investigation, or (ii) inquire into different conduct as part of a current Commission investigation, and the Commission thereafter brings an action based in whole or in part on conduct that was the subject of the information³; or (2) significantly contributes to the success of a Commission judicial or administrative enforcement action.⁴

¹ See Exchange Act Rule 21F-10(e), 17 C.F.R. § 240.21F-10(e).

² See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

³ See Exchange Act Rule 21F-4(c)(1), 17 C.F.R. § 240.21F-4(c)(1).

⁴ See Exchange Act Rule 21F-4(c)(2), 17 C.F.R. § 240.21F-4(c)(2). In determining whether information significantly contributed to an enforcement action, we consider "whether the information allowed us to bring: (1) Our successful action in significantly less time or with significantly fewer resources; (2) additional successful claims; or (3) successful claims against additional individuals or entities." *Securities Whistleblower Incentives and Protections*, 76 Fed. Reg. 34300, 34325 (June 13, 2011). In other words,

On reconsideration, we find that Claimant meets the definition of a whistleblower under Rule 21F-2(a) and satisfies the statutory criteria for a whistleblower award under Rule 21F-3(a). Claimant provided information about Redacted “in writing” in Redacted 5 Claimant’s submission was voluntary because Claimant provided information about the Redacted Redacted to the Commission on Claimant’s own initiative before the Commission or another regulatory agency requested it from Claimant.⁶ Claimant provided original information based on independent knowledge and not already known to the Commission from any other source.⁷ As described in the supplemental staff declaration, which we credit, Enforcement records reflect that Claimant informed the Enforcement staff of Redacted Redacted and that Enforcement staff was not previously aware of those Redacted Redacted. Finally, Claimant’s information made a substantial and important contribution to the success of the Covered Action, as demonstrated by the fact that Redacted Redacted Redacted Redacted Redacted 8

Rule 21F-5(b) provides that if all of the conditions are met for a whistleblower award, the Commission will decide the percentage amount of the award, which must be between 10% and 30% of the monetary sanctions collected. Rule 21F-6(c) creates a presumption for a maximum award where a maximum award would be less than \$5 million, the claimant has no negative factors—*i.e.*, culpability, unreasonable reporting delay, or interference with an internal compliance and reporting system, and Rule 21F-16 regarding culpable whistleblowers does not

“[t]he individual’s information must have been ‘meaningful’ in that it ‘made a substantial and important contribution’ to the success of the covered action.” *Order Determining Whistleblower Award Claims*, Exch. Act Rel. No. 85412, 2018 SEC LEXIS 615, at *16 (Mar. 26, 2019); *Order Determining Whistleblower Award Claims*, Exch. Act Rel. No. 82897, 2018 SEC LEXIS 750, at *16 (Mar. 19, 2018).

⁵ See Rules 21F-2 and 21F-9(d).

⁶ See Rules 21F-3(a)(1) and 21F-4(a).

⁷ See Rules 21F-3(a)(2) and 21F-4(b).

⁸ See *Order Determining Whistleblower Award Claims*, Exch. Act Rel. No. 85412, 2018 SEC LEXIS 615, at *16 (Mar. 26, 2019).

apply. The Commission may depart from the presumption if (1) the assistance provided by the 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.”⁹ Here, the 30% presumption applies because a 30% award would yield less than \$5 million,¹⁰ Claimant has no negative factors, does not trigger Rule 21F-16, and provided more than limited assistance. Specifically, Claimant met with the Enforcement staff on multiple occasions, and Enforcement records reflect that Claimant provided new information about Redacted Claimant’s information was sufficiently valuable that it was Redacted
Redacted

III. CONCLUSION

Accordingly, it is hereby ORDERED that Claimant’s whistleblower award application is granted, and Claimant shall receive an award of ^{***} percent (^{***}) of monetary sanctions collected or to be collected in the Covered Action.

By the Commission.

J. Matthew DeLesDernier
Deputy Secretary

⁹ Rule 21F-6(c)(1)(iv).

¹⁰ In accordance with Rule 21F-6(c)(1)(i), we determine that we do not reasonably anticipate that future collections would cause the statutory maximum award to be paid to exceed \$5 million. The final judgments in this matter were entered in ^{***}, and to date the Commission has only collected approximately Redacted.