

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 100259 / June 3, 2024

WHISTLEBLOWER AWARD PROCEEDING
File No. 2024-20

In the Matter of the Claims for an Award

in connection with

Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Claims Review Staff (“CRS”) issued Preliminary Determinations in connection with
Redacted

(“Covered Action”) recommending that Redacted (“Claimant 1”) receive a
whistleblower award of approximately \$1 million, equal to ^{***} percent (^{***} %) of the monetary
sanctions collected in the Covered Action, and that the award claim submitted by Redacted
Redacted (“Claimant 2”) be denied. Claimant 1’s counsel provided written notice of
Claimant 1’s decision not to contest the Preliminary Determination. Claimant 2 filed a timely
response contesting the Preliminary Determination. For the reasons discussed below, the CRS’s
recommendations are adopted with respect to Claimants 1 and 2.

I. Background

A. The Covered Action

On Redacted, the Commission instituted a settled administrative cease-and-
desist proceeding against Redacted.¹ The
Commission’s Order charged Redacted
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According to
the Order, Redacted
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The Order noted that, among other items, Redacted
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In particular, the Order stated that Redacted
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On Redacted, the Office of the Whistleblower (“OWB”) posted the Notice for the Covered Action on the Commission’s public website inviting claimants to submit whistleblower award applications within 90 days.² Claimants 1 and 2 each filed a timely whistleblower award claim.

B. The Preliminary Determinations

The CRS³ preliminarily determined to recommend to the Commission that it find that Claimant 1 voluntarily provided original information to the Commission that led to the successful enforcement of the referenced Covered Action pursuant to Section 21F(b)(1) of the Exchange Act and Rule 21F-3(a) promulgated thereunder, and that Claimant 1 receive an award of *** % of the monetary sanctions collected in the Covered Action.

The CRS also preliminarily determined to deny Claimant 2’s award claim.⁴ The Preliminary Determination recommended a denial because Claimant 2 did not provide information that led to the successful enforcement of the referenced Covered Action 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: (1) under Rule 21F-4(c)(1) of the Exchange Act, 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

² See Exchange Act Rule 21F-10(a), 17 C.F.R. § 240.21F-10(a).

³ Rule 21F-10(d) under the Exchange Act provides that the CRS will “evaluate all timely whistleblower award claims submitted on Form WB-APP in accordance with the criteria set forth in the rules.” 17 C.F.R. § 240.21F10(d); *see also* Rule 21F-11(d).

⁴ The record supporting the Preliminary Determinations included the declaration (“Declaration”) of one of the Division of Enforcement (“Enforcement”) attorneys who was assigned to the investigation that led to the Covered Action (“Investigation”). *See* Exchange Act Rule 21F-12(a); 17 C.F.R. § 240.21F-12(a).

investigation, and (b) thereafter bring an action based, in whole or in part, on conduct that was the subject of Claimant 2'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. Claimant 2 did not cause the opening of the Investigation because Claimant 2 submitted his/her tip in ^{Redacted} approximately two years and seven months after the opening of the Investigation that led to the Covered Action. Claimant 2 also did not cause the Commission to inquire into different conduct or significantly contribute to the success of the Covered Action. According to Enforcement staff assigned to the Investigation, the substance of Claimant 2's tip did not relate to the Commission's Investigation or the Covered Action, and none of Claimant 2's information was used by Enforcement staff.

C. Claimant 2's Response to the Preliminary Determination

Claimant 2's reconsideration request consists of a single email sent to OWB that states: "Please note that I am contesting the preliminary determination. Thank you." Claimant 2 has provided no further explanation as to the basis of his/her contest. Claimant 2 also did not provide any additional evidence or documents in support of his/her claim.

II. Analysis

A. Claimant 1

The record demonstrates that Claimant 1 voluntarily provided original information to the Commission that caused Enforcement staff to open an investigation that led to the successful enforcement of the Covered Action.

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Redacted In making this recommendation, we considered that: (1) Claimant 1 provided important, new information that prompted Commission staff to open the Investigation into the alleged misconduct; (2) Claimant 1 provided additional assistance during the Investigation through in-person and telephonic interviews to identify relevant witnesses and documents for Commission staff; and (3) the charges in the Covered Action were based, in part, on Claimant 1's information. Redacted

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B. Claimant 2

We deny Claimant 2's award claim. To qualify for an award under Section 21F of the Exchange Act, a whistleblower must voluntarily provide the Commission with original information that leads to the successful enforcement of a covered action.⁸ Claimant 2 did not provide the Commission with information that led to the success of the Covered Action.

The information that Claimant 2 provided to the Commission in Redacted did not either (1) cause the Commission to commence an examination, open or reopen an investigation, or inquire concerning different conduct as part of a current Commission examination or investigation, and thereafter bring a successful Commission judicial or administrative action based, in whole or in part, on conduct that was the subject of Claimant 2's information;⁹ or (2) significantly contribute to the success of a Commission judicial or administrative action.¹⁰ In the matter at hand, we credit the Declaration of Enforcement staff, provided under penalty of perjury, which observed that Claimant 2's information did not prompt the opening of the Investigation and noted that, although Enforcement staff received and reviewed Claimant 2's information, none of his/her information was used in or advanced the Investigation or the Covered Action.

As discussed in Enforcement staff's Declaration, Claimant 2 submitted his/her tip to the Commission in Redacted at a point in time when the Investigation was ongoing, but largely completed, and years after the Investigation was opened in or about Redacted. Accordingly, Claimant 2's information does not satisfy Exchange Act Rule 21F-4(c)(1) because it did not

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⁸ See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

⁹ See Exchange Act Rule 21F-4(c)(1), 17 C.F.R. § 240.21F-4(c)(1).

¹⁰ See Exchange Act Rule 21F-4(c)(2), 17 C.F.R. § 240.21F-4(c)(2).

cause the Covered Action investigation to be opened and it did not cause the Commission to inquire into different conduct as part of a current, already-opened investigation.

Claimant 2's information also does not satisfy Exchange Act Rule 21F-4(c)(2) because it did not significantly contribute to the success of the Covered Action. According to the Declaration, Enforcement staff assigned to the Investigation reviewed Claimant 2's tip upon receipt. As discussed in the Declaration, Enforcement staff reviewed Claimant 2's information but ascertained that the substance of the tip did not relate to the Investigation or the Covered Action. As stated in the Declaration, Claimant 2 provided no information that was used in or advanced the Investigation or the Covered Action. Notably, according to Enforcement staff, during the course of the Investigation, and prior to receipt of Claimant 2's tip, the staff thoroughly investigated whether potential misconduct similar to the conduct described in the Claimant 2's tip existed and found no evidence that such conduct occurred.

Based on the foregoing, we conclude that Claimant 2's information did not lead to the successful enforcement of the Covered Action, and that, as a result, Claimant 2 is ineligible for a whistleblower award.

III. Conclusion

Accordingly, it is ORDERED that Claimant 1 shall receive an award of *** percent (**%) of the monetary sanctions collected in the Covered Action.

It is further ORDERED that Claimant 2's whistleblower award application in the Covered Action be, and hereby is, denied.

By the Commission.

Vanessa A. Countryman
Secretary