

UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 102806 / April 10, 2025

WHISTLEBLOWER AWARD PROCEEDING

File No. 2025-24

In the Matter of the Claim for an Award

in connection with

Redacted

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 claim submitted by Redacted (“Claimant”) in connection with the above-referenced covered action (the “Covered Action”). Claimant filed a timely response contesting the preliminary denial. For the reasons discussed below, Claimant’s award claim is denied.

I. Background

A. The Covered Action

On Redacted, the Commission instituted a settled public administrative and cease-and-desist proceeding against Redacted (“the Company”). The Commission charged the Company based on two categories of Redacted misconduct: Redacted

Redacted

Redacted The Company was ordered to pay more than \$1 million in monetary sanctions.

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. Claimant filed a timely whistleblower award claim.

B. The Preliminary Determination

The CRS issued a Preliminary Determination recommending that Claimant’s claim be denied because Claimant did not provide information that led to the successful enforcement of the Covered Action within the meaning of Section 21F(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 21F-3(a)(3) and 21F-4(c) thereunder. Claimant reported information internally at the Company, which resulted in an internal investigation that was subsequently reported to the ^{Redacted} (“Other Authority”) and then by the Other Authority to the Commission. However, he/she did not provide information to the Commission that caused Commission staff to open the underlying investigation or inquire concerning different conduct as part of a current investigation, as required by Exchange Act Rule 21F-4(c)(1), or provide information to the Commission during the course of the investigation that significantly contributed to the success of the Covered Action, as required by Exchange Act Rule 21F-4(c)(2). Nor did Claimant satisfy the “led to” requirement under Exchange Act Rule 21F-4(c)(3), as he/she did not provide the same information to the Commission within 120 days of internally reporting it to the Company. Rather, his/her first submission to the Commission, which was on a Form TCR, was made four months after the Covered Action was filed and settled and had no impact on the success of the Covered Action. The CRS also determined not to recommend that the Commission use its general exemptive authority under Exchange Act Section 36(a) or its authority to waive certain procedural requirements under Exchange Act Rule 21F-8(a) to make Claimant eligible for an award.¹

C. Claimant’s Response to the Preliminary Determination

Claimant submitted a timely written response (the “Response”) contesting the Preliminary Determination.² In his/her Response, Claimant acknowledges that he/she did not provide *any* information to the Commission until after the Covered Action was filed, but argues that the Commission should exercise its general exemptive authority to waive the Commission’s whistleblower program requirements, including the requirement that Claimant report the information to the Commission within 120 days of Claimant’s internal report, based on the unique facts and circumstances of the case.³ As facts supportive of the requested waiver, Claimant points to the following: (1) Claimant contends that he/she was the original source of the information referred by the Other Authority to the Commission that caused the opening of

¹ The CRS also recommended rejecting Claimant’s argument that the 120-day filing requirement under Exchange Act Rule 21F-4(b)(7) be waived. Rule 21F-4(b)(7) is a look-back provision; it does not establish an independent basis for award eligibility and does not negate the requirement that the individual provide information to the Commission that leads to the success of the enforcement action.

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

³ At times the Response seems to couch the waiver request as a waiver of the Form TCR filing requirements.

the Commission’s investigation; (2) Claimant was young, inexperienced, not yet ^{Redacted} and unrepresented, and mistakenly believed that his/her internal report to the Company made him/her a “protected whistleblower” and that any information that flowed to the various authorities from that reporting, including the Commission, would be attributable to Claimant; (3) the Company lied to the Division of Enforcement staff that it was not aware of any ^{Redacted} ^{Redacted} of the misconduct; and (4) Claimant immediately filed a Form TCR and Form WB-APP upon learning of the requirements.

II. Analysis

A. Led To Requirement

To qualify for an award under Section 21F of the Exchange Act, a whistleblower must have “voluntarily provided original information *to the Commission that led to the successful enforcement of the covered . . . action.*” Exchange Act Section 21F(b)(1) (emphasis added).⁴ Rules 21F-4(c)(1) and (c)(2) specify that this “led to” requirement is satisfied if either “*you gave the Commission original information that cause[d] the staff to . . . open an investigation . . . or to inquire concerning different conduct as part of a current . . . investigation*” or “*[y]ou gave the Commission original information about conduct that was already under . . . investigation by the Commission . . . and your submission significantly contributed to the success of the action*” (emphases added).⁵ Additionally, a claimant satisfies the “led to” requirement under Exchange Act Rule 21F-4(c)(3) if you “report original information through an entity’s internal whistleblower, legal, or compliance procedures for reporting allegations of possible violations of law before or at the same time you reported them to the Commission; the entity later provided your information to the Commission, or provided results of an audit or investigation initiated in whole or in part in response to information you reported to the entity; and the information the entity provided to the Commission satisfies either paragraph (c)(1) or (c)(2) of this section. Under this paragraph (c)(3), you must also submit the same information to the Commission in accordance with the procedures set forth in §240.21F-9 within 120 days of providing it to the entity.”

⁴ Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

⁵ In determining whether the information “significantly contributed” to the success of the action, the Commission will consider whether the information was “meaningful” in that it “made a substantial and important contribution” to the success of the covered action. For example, the Commission will consider a claimant’s information to have significantly contributed to the success of an enforcement action if it allowed the Commission to bring the action in significantly less time or with significantly fewer resources, or to bring additional successful claims or successful claims against additional individuals or entities. *Order Determining Whistleblower Award Claims*, Release 90922 (Jan. 14, 2021) at 4; *see also Order Determining Whistleblower Award Claims*, Release 85412 (Mar. 26, 2019) at 9 (same).

The record shows that Claimant’s submission of information to the Commission did not lead to the successful enforcement of the Covered Action. Claimant did not provide information to the Commission that caused Enforcement staff to open the investigation or to inquire into different conduct as part of a current investigation under Rule 21F-4(c)(1). According to a declaration provided by Enforcement staff responsible for the Covered Action, which we credit, the Commission’s investigation was opened in ^{Redacted} based on a referral from the Other Authority, prior to the Claimant providing any information to the Commission. Claimant did not give any information to the Commission until four months after the Covered Action had been filed and settled. Moreover, at the time Enforcement staff opened the investigation, Claimant was not a “whistleblower” within the meaning of Rule 21F-2(a) under the Exchange Act, because he/she had not provided information in writing *to the Commission*. Likewise, Claimant did not provide information to the Commission that “significantly contributed” to the success of the Covered Action, as Claimant did not provide information or documents to the Commission before or during the course of the investigation and Commission staff had no communications with Claimant. Claimant’s Form TCR, submitted months after the Covered Action was filed, did not significantly contribute to the success of the Covered Action.

Claimant also does not satisfy the “led to” requirement under Exchange Act Rule 21F-4(c)(3). While Claimant provided information internally at the Company, which resulted in an internal investigation, Claimant did not provide the same information to the Commission within 120 days of providing it to the Company.⁶

B. Waiver

We reject Claimant’s request for a waiver of the Commission’s whistleblower program requirements, including that he/she have reported the conduct to the Commission within 120 days of making an internal report to the Company under Rule 21F-4(c)(3).

First, whether or not Claimant was the “original source” of the Other Authority’s referral to the Commission, which prompted the opening of the investigation, is a separate issue from whether Claimant satisfies the statutory “led to” requirement. That requirement is embodied in Congress’ directive that, to qualify for an award, a whistleblower must have “voluntarily provided original information *to the Commission that led to the successful enforcement of the covered . . . action.*” Section 21F(b)(1) (emphasis added). In other words, putting aside the

⁶ The Company also did not provide Claimant’s information or the results of the internal investigation to the Commission as required by Rule 21F-4(c)(3). While Claimant tries to distinguish his/her situation from the one addressed by the Commission in *Order Determining Whistleblower Award Claim*, Release 98219 (Aug. 25, 2023), the matters are substantially similar. In the matter described in Release 98219, the claimant submitted information to the Commission for the first time several months after the enforcement action was filed. The Commission determined that the claimant failed to satisfy the “led to” requirement, including under Rule 21F-4(c)(3), because he/she did not submit information to the Commission within 120 days of making an internal report. The Commission also rejected the claimant’s request that the Commission waive the “led to” requirement.

separate requirement of whether the information was original, it must have been the information that was provided “to the Commission” that led to the successful enforcement of the covered action.

Second, the statutory “led to” requirement is not a mere technicality, but a cornerstone of the Commission’s whistleblower program. As the U.S. Supreme Court has recognized, Congress’ ““core objective”” in enacting Exchange Act Section 21F was ““to motivate people who know of securities law violations to *tell the SEC.*”” *Digital Realty Trust, Inc. v. Somers*, 583 U.S. 149, 162 (2018) (quoting S. Rep. No. 111-176, at 38 (2010)). Extending the Commission’s whistleblower rules to reward Claimant, who provided no information to the Commission before the Covered Action was successfully resolved, would do little, if anything, to effectuate that purpose.

Third, the cases that Claimant cites in the Response as support for a waiver here are inapposite. Both of those matters involved waivers of the Form TCR filing requirement.⁷ We are not denying Claimant’s award claim because he/she failed to provide his/her information to the Commission on Form TCR, but because he/she did not provide any information leading to the successful enforcement of the Covered Action. To date, we have not used our Section 36(a) general exemptive authority to waive the “led to” requirement, and we decline to do so here.⁸

In short, Claimant does not meet the “led to” requirement, a prerequisite for award eligibility, and we decline to exercise our discretionary exemptive waiver authority.

⁷ *Order Determining Whistleblower Award Claim*, Release 96076 (Oct. 14, 2022); *Order Determining Whistleblower Award Claim*, Release 94797 (Apr. 27, 2022).

⁸ While Rule 21F-8(a) provides that ““the Commission may, in its sole discretion, waive any of the[] procedures [for submitting information and making a claim for award described in Rules 21F-9 through Rule 21F-11] upon a showing of extraordinary circumstances,’ submitting information to the Commission that leads to the successful enforcement of the Covered Action is not a procedural requirement, but an important cornerstone of the Commission’s whistleblower award program,” which Claimant does not meet. *Order Determining Whistleblower Award Claim*, Release 98219, at 5 (Aug. 25, 2023) (footnote omitted).

III. Conclusion

Accordingly, it is hereby ORDERED that the whistleblower award application of Claimant in connection with the Covered Action be, and it hereby is, denied.

By the Commission.

Vanessa A. Countryman
Secretary