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 Covered Action [Redacted] (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

Around [Redacted], staff from the Commission’s Division of Enforcement opened an investigation to review "Underlying Investigation"). The staff opened the Underlying Investigation based on analyses conducted by staff in the Division of Enforcement’s [Redacted]

On [Redacted] the Commission instituted administrative and cease-and-desist proceedings against [Redacted] ("Company A"). Pursuant to Company A’s offer of settlement, the Commission found that Company A had
The Commission ordered Company A to pay

On the Office of the Whistleblower posted a Notice of Covered Action on the Commission’s public website, inviting claimants to submit whistleblower award applications within 90 days.¹ Claimant filed a timely whistleblower award claim.

B. The Preliminary Determination

The CRS issued a Preliminary Determination² recommending that Claimant’s claim be denied, because Claimant did not provide information that led to the successful enforcement of the Covered Action. The CRS found that staff in the Division of Enforcement opened the Underlying Investigation based on analyses conducted by staff and not because of any information provided by the Claimant. Further, investigative staff responsible for the Covered Action and the Underlying Investigation received no information from, and had no communications with, the Claimant before or during that investigation.

C. Claimant’s Response to the Preliminary Determination

Claimant submitted a timely written response contesting the Preliminary Determination.³ Claimant does not contest the CRS’s determination that the staff responsible for the Covered Action received no information from Claimant during the Underlying Investigation. Rather, Claimant argues that a whistleblower tip that Claimant submitted about a different entity (“Company B”) “for the same conduct” entitles Claimant to an award for this Covered Action.

On Claimant submitted a whistleblower tip to the Commission about Company B. In Claimant’s tip, the Claimant alleged, among other things, that

Claimant acknowledges that the Commission did not bring a covered action based on these allegations. Instead, staff in the Division of Enforcement closed the investigation related to Company B in

Claimant argues that, through Claimant’s tip regarding Company B, Claimant supplied the Commission with the “thesis, theme, idea or notion and that information caused staff to conduct the analysis, which prompted the opening of the Underlying Investigation. Thus, Claimant surmises, Claimant’s tip “played a role

¹ See Exchange Act Rule 21F-10(a), 17 C.F.R. § 240.21F-10(a).
² See Exchange Act Rule 21F-10(d), 17 C.F.R. § 240.21F-10(d).
³ See Exchange Act Rule 21F-10(e), 17 C.F.R. § 240.21F-10(e).
in helping bring a successful covered action” related to Company A several years later. Claimant points to a news article that referenced “three overlapping investigations involving Redacted” Claimant surmises that the investigations of Company A and Company B were two of those overlapping investigations.

III. Analysis

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. 4 Claimant argues that Claimant is eligible for an award under this standard because Claimant’s tip related to Company B indirectly caused the staff to open, and contributed to the success of, the investigation that led to the Covered Action. The evidence does not support Claimant’s argument.

Claimant’s information regarding Company B does not satisfy Exchange Act Rule 21F-4(c)(1), because the information did not cause staff in the Division of Enforcement to open the Underlying Investigation. The staff responsible for the Underlying Investigation has confirmed that neither the investigation, nor analysis, which prompted the investigation, were opened based on any information provided by Claimant. Rather, the analysis was opened based on

Claimant’s information also did not contribute to the success of the Covered Action under Exchange Act Rule 21F-4(c)(2). Claimant’s Company B tip was assigned to Enforcement staff in a Regional Office in connection with their investigation into Company B. Enforcement staff in the Regional Office attested in a declaration, which we credit, that they did not find evidence to substantiate the Claimant’s allegations, closed the Company B investigation without recommending that the Commission bring an enforcement action, and did not forward Claimant’s information to the Enforcement staff responsible for the Underlying Investigation and had no communications with them about Claimant’s information.

There is no nexus between Claimant’s information and the Covered Action. Claimant’s tip contained no allegations about Company A. The Enforcement staff responsible for the Covered Action and the Underlying Investigation did not receive Claimant’s information directly or indirectly. Claimant’s allegations about Company B do not entitle to award eligibility for an enforcement action involving Company A’s

As for the news article’s mention of three “overlapping investigations,” even if the subject matter of the Company B investigation and the Underlying Investigation “overlapped,” Claimant would not be entitled to an award unless the information provided was used by the staff involved in the Underlying Investigation and Covered Action. Here, it was not.

IV. Conclusion

Accordingly, it is hereby ORDERED that Claimant’s whistleblower award application be, and hereby is, denied.

By the Commission.

Vanessa A. Countryman
Secretary