

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 91651 / April 23, 2021

WHISTLEBLOWER AWARD PROCEEDING

File No. 2021-43

In the Matter of the Claim 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
Redacted (“Claimant”) receive a whistleblower award equal to thirty percent (30%) of the monetary sanctions collected or to be collected in the above-referenced Covered Action, and in the related Redacted
Redacted (the “Related Actions”).¹

¹ The Redacted constitute “related actions” to the Covered Action within the meaning of § 21F(a)(5) of the Exchange Act, 15 U.S.C. § 78u-6(a)(5), and Rule 21F-3(b) promulgated thereunder, 17 C.F.R. § 240.21F-3(b), as Redacted and are based on the same original judicial actions that were brought by the Redacted information that the whistleblower voluntarily provided to the Commission, and that led the Commission to obtain monetary sanctions totaling more than \$1,000,000. In the Related Actions, Defendant Redacted was ordered to pay Redacted Redacted and Defendant Redacted was ordered to pay Redacted Redacted, which amounts were deemed to satisfy the monetary sanctions ordered in the Covered Action. Only amounts actually obtained from the defendants in satisfaction of the defendants’ obligations in the Related Actions, and not the entire amount ordered, are included in the Commission’s calculation of any award payments. *See Order Determining Whistleblower Award Claim*, Release No. 34-72301, at n.1 (June 3, 2014) (providing for the payment of an award when monetary sanctions ordered in a Covered Action are deemed satisfied by payment of an amount in an action by another governmental authority). Further, amounts collected from the defendants in the Related Actions will not be double counted for purposes of calculating any award payment. *See Order Determining Whistleblower Award Claim*, Release No. 34-77530, at n. 2 (April 5, 2016) (providing that monetary sanctions collected in the Covered Action or in the related criminal action that are either deemed to satisfy or are in fact used to satisfy any payment obligations of the defendants in the other action shall not be double

The recommendation of the CRS is adopted. The record demonstrates that Claimant voluntarily provided original information to the Commission and to ^{Redacted} and that this information led to the successful enforcement of the Covered Action and the Related Actions.²

Rule 21F-6(c) establishes a presumption of a statutory maximum award of 30% where (1) the maximum award would be \$5 million or less; (2) 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 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.”⁴

The presumption applies here because a maximum award would not exceed \$5 million, no negative factors under Rule 21F-6(b) are present with respect to the award application, and the award claim does not trigger Rule 21F-16. In addition, the Commission finds that application of the presumption is not inappropriate, as Claimant provided more than limited assistance and it would not be inconsistent with the public interest, the promotion of investor protection, or the objectives of the whistleblower program to do so.⁵

Claimant, ^{Redacted} promptly provided information that caused Enforcement staff to open an investigation into ^{Redacted}

^{Redacted} Claimant also provided assistance through ongoing discussions with Enforcement staff by meeting in person and providing key evidence that assisted the Commission in bringing charges against the defendants.

counted for purposes of paying an award); *See also Order Determining Whistleblower Award Claim*, Release No. 34-88015 (Jan. 22, 2020) (same).

² *See* Securities Exchange Act of 1934 (“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). *See also In the Matter of Claim for Award*, Release No. 34-84046 (Sept. 6, 2018) (for a whistleblower to obtain an award in connection with a potential related action, the whistleblower must “demonstrate [that he or she] directly (or through the Commission) voluntarily provided the governmental agency, regulatory authority or self-regulatory organization the same original information that led to the Commission’s successful covered action, and that this information led to the successful enforcement of the related action.”) (citing Exchange Act Rule 21F-11(c); 17 C.F.R. § 240.21F-11(c)).

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 *Id.*

Finally, we find that the contributions made by Claimant to the Covered Action are similar to Claimant's contributions to the success of the Related Actions, and, therefore, it is appropriate that the Claimant receive the same award percentage for the Related Actions.

Accordingly, it is hereby ORDERED that Claimant shall receive an award equal to thirty percent (30%) of the monetary sanctions collected or to be collected in the Covered Action and the Related Actions.

By the Commission.

Vanessa A. Countryman
Secretary