

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 92456 / July 21, 2021

WHISTLEBLOWER AWARD PROCEEDING
File No. 2021-75

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 that Redacted (“Claimant”) receive a whistleblower award in the amount of approximately \$2.9 million, which is equal to Redacted percent (***%) of the monetary sanctions collected, or to be collected, in Redacted (collectively, the “Covered Action”).¹ Claimant provided written notice, through counsel, that Claimant does not contest the Preliminary Determination.²

¹ For the purposes of making an award, we determined to treat the judicial and administrative actions in this matter as a single Covered Action because they arose out the same nucleus of operative facts. *See* Securities Exchange Act of 1934 Rule 21F-4(d)(1), 17 C.F.R. § 240.21F-4(d)(1).

² An additional claimant on the matter did not seek reconsideration of their denial and, as such, the Preliminary Determination with respect to their claim became the Final Order of the Commission, pursuant to Exchange Act Rule 21F-10.

The recommendation of the CRS is adopted. The record demonstrates that Claimant voluntarily provided original information to the Commission that led to the successful enforcement of the Covered Action.³

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-16.⁴ 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.”⁵

The presumption, however, does not apply here because at least one negative factor—unreasonable reporting delay—under Rule 21F-6(b) is present.⁶ Based on the unique facts and circumstances of this matter, the Commission finds that Claimant unreasonably delayed in reporting to the Commission. In particular, Claimant’s information was submitted approximately two years from the date on which Claimant first suspected that there could possibly be a securities law violation occurring. Further, the Commission has determined not to waive this criterion under Rule 21F-6(c)(iii).⁷

Applying the award criteria in Rule 21F-6 to the specific facts and circumstances here, we find the 30% award determination to be appropriate.⁸ In coming to this determination, we considered that (i) Enforcement staff was unaware of the misconduct until Claimant submitted the tip, (ii) Claimant’s documents and assistance allowed the staff to conserve considerable resources, (iii) the charges brought by the Commission were based in significant part on conduct

³ 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).

⁴ Rule 21F-16 concerns whistleblowers who engage in culpable conduct. See 17 C.F.R. § 240.21F-16.

⁵ Rule 21F-6(c)(1)(iv); 17 C.F.R. § 240.21F-6(c)(1)(iv).

⁶ Rule 21F-6(b) provides that in determining whether to decrease the amount of an award, the Commission will consider the following negative factors—culpability, unreasonable reporting delay, and interference with an internal compliance and reporting system.

⁷ Rule 21F-6(c)(iii) provides that the Commission, in its sole discretion, “may in certain limited circumstances determine to waive this criterion if the claimant can demonstrate that doing so based on the facts and circumstances of the matter is consistent with the public interest, the promotion of investor protection, and the objectives of the whistleblower program.”

⁸ In assessing the appropriate award amount, Exchange Act Rules 21F-6(a) and (b) provide that the Commission consider: (1) the significance of information provided to the Commission; (2) the assistance provided in the Commission action; (3) law enforcement interest in deterring violations by granting awards; (4) participation in internal compliance systems; (5) culpability; (6) unreasonable reporting delay; and (7) interference with internal compliance and reporting systems. Rules 21F-6(a) and (b); 17 C.F.R. § 240.21F-6(a) and (b).

that was the subject of the information provided by Claimant, (iv) Claimant suffered significant personal and professional hardships, and (v) Claimant unreasonably delayed reporting to the Commission while investors continued to be harmed.

*** Accordingly, it is hereby ORDERED that Claimant shall receive an award of ^{Redacted} percent (***%) of the monetary sanctions collected, or to be collected, in the Covered Action.

By the Commission.

Vanessa A. Countryman
Secretary