

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 93016 / September 16, 2021

WHISTLEBLOWER AWARD PROCEEDING
File No. 2021-93

In the Matter of the Claim for an Award

in connection with

Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

The Claims Review Staff (“CRS”) issued Preliminary Determinations recommending that Redacted (“Claimants”) jointly receive a whistleblower award representing thirty percent (30%) of the monetary sanctions collected, or to be collected, in the above-referenced Covered Action (“Covered Action”) and thirty percent (30%) of the monetary sanctions collected, or to be collected, in a related Redacted action, Redacted Redacted (the “Related Action”).¹

The recommendation of the CRS is adopted. The record demonstrates that Claimants voluntarily provided original information to the Commission and Redacted (the

¹ The Redacted Action constitutes a “related action” 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 a Redacted and is based on the same original information that the whistleblower voluntarily provided to the Commission, and that led the Commission to obtain monetary sanctions totaling more than \$1,000,000.

“Other Agency”) and that this original information led to the successful enforcement of both the Covered Action and Related Action.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 the statutory 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 the presumption is not overcome, as Claimants provided more than limited assistance. The Commission also finds that application of the presumption would not be inconsistent with the public interest, the promotion of investor protection, or the objectives of the whistleblower program to do so.⁵

In reaching this determination, we considered that (1) the Claimants’ information both caused the opening of the Commission’s and the Other Agency’s investigations and was the underlying source that formed the basis for the Covered Action and Related Action; (2) Claimants provided substantial, ongoing assistance that focused the investigation and conserved significant Commission and Other Agency time and resources; and (3) there was substantial law

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

⁴ Exchange Act Rule 21F-6(c)(1)(iv); 17 C.F.R. § 240.21F-6(c)(1)(iv).

⁵ *Id.*

enforcement interest in the information provided, as it related to a fraud involving the misappropriation of investor funds. There also have been no collections to date in these matters.

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

Accordingly, it is hereby ORDERED that Claimants shall jointly receive an award of thirty percent (30%) of the monetary sanctions collected or to be collected in the Covered Action and Related Action.⁶

By the Commission.

Jill M. Peterson
Assistant Secretary

⁶ Our determination to treat Claimants as a joint whistleblower has not impacted the net total award percentage. Unless Claimants, within ten (10) calendar days of the issuance of this Order, make a joint request, in writing, for a different allocation of the award between the two of them, the Office of the Whistleblower is directed to pay each of them individually 50% of their joint award.