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On Redacted, the Office of the Whistleblower posted the Notice for the Covered Action on the Commission's public website inviting claimants to submit whistleblower award applications within 90 days. Claimants 1 and 2 each filed a timely whistleblower award claim.

B. The Preliminary Determinations

The CRS issued Preliminary Determinations¹ recommending that Claimant 1 receive a whistleblower award in the amount of Redacted (*** %) of the monetary sanctions collected or to be collected in the Covered Action and that Claimant 2's claim be denied. As explained in Claimant 2's Preliminary Determination, Claimant 2 submitted a Form TCR after the Covered Action investigation had concluded and after the Covered Action was filed. Investigative staff responsible for the Covered Action do not recall having any communications or contact with Claimant 2, and Claimant 2's information did not significantly contribute to the success of the Covered Action. Prior to submitting the TCR, Claimant 2 sent a letter and accompanying documents to the Commission under a different name, but the letter was sent several months after the investigation had opened. Investigative staff do not recall receiving the letter or having communicated with Claimant 2 under either name. As such, Claimant 2's information did not lead to the successful enforcement of the Covered Action.

C. Claimants' Responses to the Preliminary Determinations

Claimant 1 provided written notice of Claimant 1's decision not to contest the Preliminary Determination.

In connection with a request for the record, Claimant 2 submitted a timely written response contesting the Preliminary Determination.² Claimant 2 argues in his/her response that if his/her earlier-sent letter initiated the Covered Action investigation, he/she should be entitled to an award. After being provided with the record, Claimant 2 did not provide any additional information in support of his/her request for reconsideration.

II. Analysis

A. Claimant 1

¹ See Exchange Act Rule 21F-10(d), 17 C.F.R. § 240.21F-10(d).

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

The record demonstrates that Claimant 1 voluntarily provided original information to the Commission that led to the successful enforcement of the Covered Action. Accordingly, Claimant 1 qualifies for a whistleblower award.

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Claimant 1

provided helpful information, including documents and analysis with Claimant 1’s tip, that caused Enforcement staff to open an investigation that led to the Covered Action and the return of money to harmed investors. In addition, Claimant 1 had subsequent communications with staff through Claimant 1’s counsel. Claimant 1’s information assisted Commission staff in subpoenaing Redacted that were meaningful to the success of the case. Redacted

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B. Claimant 2

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.³ As relevant here, information will be deemed to have led to a successful enforcement action if it was “sufficiently specific, credible, and timely to cause the staff to commence an examination, open an investigation . . . or to inquire concerning different conduct as part of a current . . . investigation, and the Commission brought a successful judicial or administrative action based in whole or in part on conduct that was the subject of [this] information.”⁴ Alternatively, information will be deemed to have led to a successful enforcement action where the information was “about conduct that was already under examination or investigation by the Commission” and the “submission significantly contributed

³ See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

⁴ Exchange Act Rule 21F-4(c)(1).

to the success of the action.”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.⁶

Claimant 2’s information does not satisfy Exchange Act Rule 21F-4(c)(1) because it did not cause the Covered Action investigation to be opened or cause staff to inquire into different conduct in the Covered Action investigation. The record reflects that the Covered Action investigation was opened based on information received from Claimant 1 approximately six months before Claimant 2 asserts that he/she submitted a letter to the Commission under a pseudonym. As such, Claimant 2 did not provide information that caused the investigation to be opened. Moreover, according to a declaration provided by the relevant investigative staff, which we credit, investigative staff do not recall receiving the letter submitted by Claimant 2 under a pseudonym or communicating with Claimant 2 before or during the course of the investigation. Claimant 2 subsequently submitted a TCR, but this submission was approximately a month after the Commission filed the enforcement action. Therefore, Claimant 2 did not cause the staff to inquire into different conduct in the investigation.

Claimant 2’s information also does not satisfy Exchange Act Rule 21F-4(c)(2) because it did not significantly contribute to the success of Covered Action. As stated above, investigative staff do not recall receiving the letter submitted by Claimant 2 under a pseudonym or communicating with Claimant 2 before or during the course of the investigation. Moreover, Claimant 2’s TCR was submitted approximately a month after the Commission filed the enforcement action, and according to the staff declaration, the TCR did not contribute to the ongoing litigation.

Finally, it should be noted that Claimant’s letter may not be the basis for an award because the letter was not accompanied by a Form TCR or submitted through the Commission’s on-line portal; nor was the letter submitted under penalty of perjury. The letter was therefore not in conformity with the requirements of Exchange Act Rules 21F-9(a) & (b).

⁵ Exchange Act Rule 21F-4(c)(2).

⁶ See *Order Determining Whistleblower Award*, Whistleblower File No. 2019-4, at 9, 2019 SEC LEXIS 615 at *16 (Mar. 26, 2019); see also *Securities Whistleblower Incentives & Protections*, 76 Fed. Reg. 34300, 34325 (June 13, 2011) (in determining whether information significantly contributed to an enforcement action, the Commission will consider whether the information allowed the agency to bring the action in significantly less time or with significantly fewer resources, additional successful claims, or successful claims against additional individuals or entities).

IV. Conclusion

Accordingly, it is ORDERED that Claimant 1 shall receive an award of *** percent (** %) of the monetary sanctions collected or to be collected in the Covered Action and that Claimant 2's whistleblower award application be denied.

By the Commission.

Vanessa A. Countryman
Secretary