

FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON MAY 24, 2020 AS TO CLAIMANT 3 PURSUANT TO RULE 21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934

Notice of Covered Action [REDACTED]

PRELIMINARY DETERMINATION OF THE CLAIMS REVIEW STAFF

In response to the above-referenced Notice of Covered Action, the U.S. Securities and Exchange Commission (“Commission”) received whistleblower award claims from [REDACTED] (Claimant 3), [REDACTED]

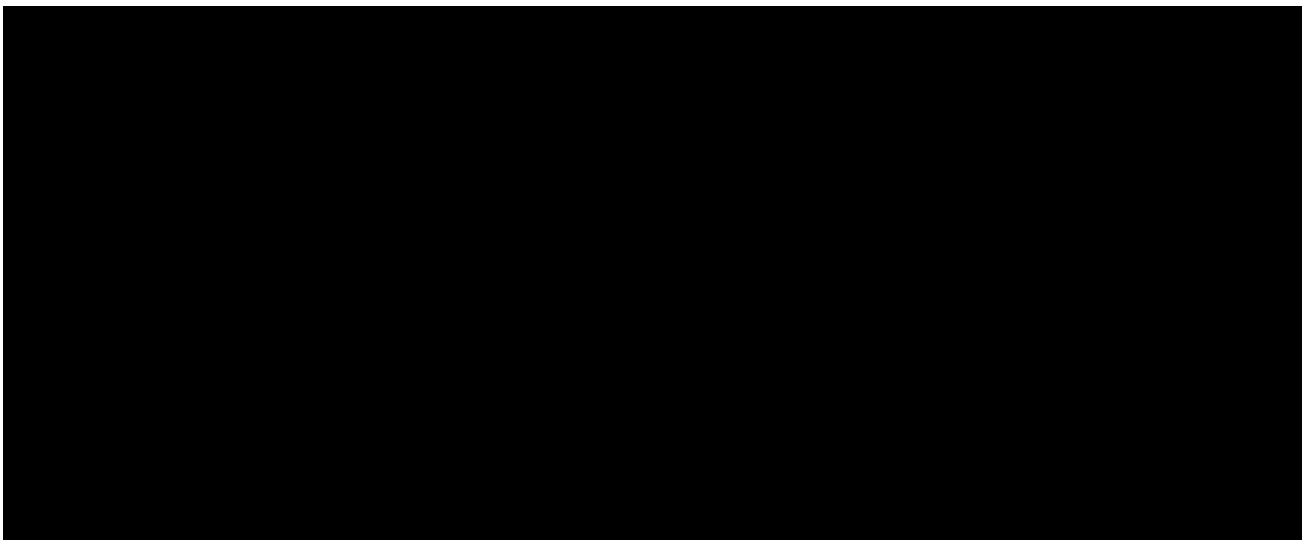
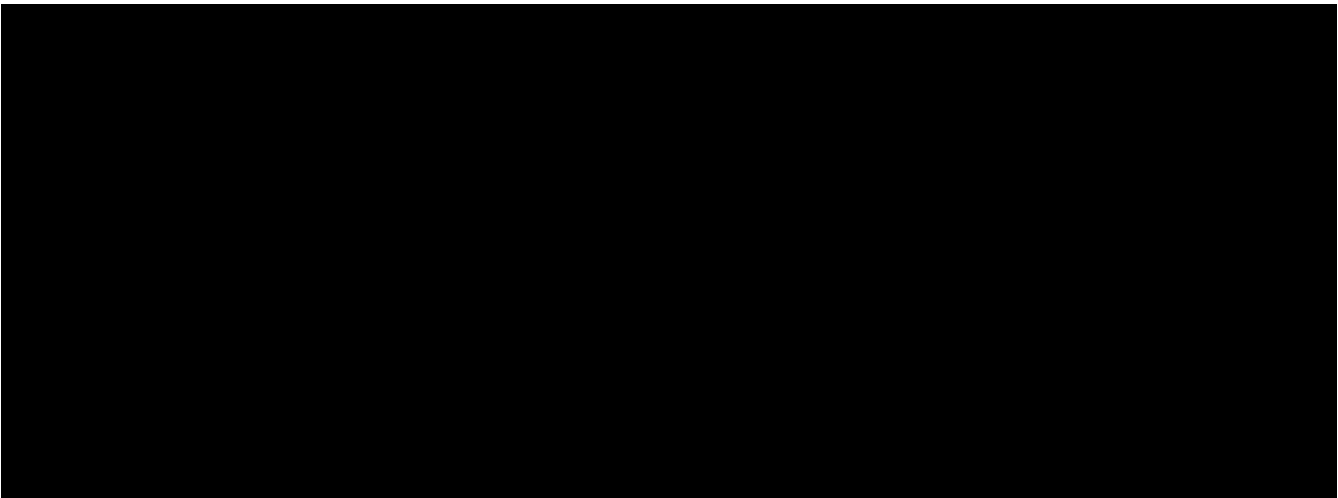
Pursuant to Section 21F of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 21F-10 promulgated thereunder, the Claims Review Staff has evaluated the claims in accordance with the criteria set forth in Rules 21F-1 through 21F-17.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Claimants 3, [REDACTED]

The Claims Review Staff has also preliminarily determined to recommend that the Commission deny the award claims of Claimants 3, [REDACTED]. The basis for this determination is as follows:

Claimants 3, [REDACTED] did not provide information that led to the successful enforcement of the above-referenced Covered Action within the meaning of Section 21F(b)(1) of the Exchange Act and Rules 21F-3(a)(3) and 21F-4(c) thereunder because the information provided did not, under Rule 21F-4(c)(1) of the Exchange Act:

- (1) cause the Commission to (a) commence an examination, open or reopen an investigation, or inquire into different conduct as part of a current Commission examination or investigation, and (b) thereafter bring an action based, in whole or in part, on conduct that was the subject of such information; or
- (2) significantly contribute to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c)(2) of the Exchange Act.

As to Claimant 3, the record shows that Enforcement staff met with Claimant 3 to discuss information Claimant 3 had provided. However, during Enforcement staff's interview and also in subsequent communications, Claimant 3 was unable to provide documents or other verifiable evidence supporting Claimant 3's assertions to Enforcement staff. In addition, we note that the record shows other information Claimant 3 provided to Enforcement staff was previously known to Enforcement staff, was not helpful to Enforcement staff's investigation, and was not used in the Covered Action. We also note that the record shows that on or about [REDACTED] provided Enforcement staff with information provided by Claimant 3. However, none of that information was helpful to Enforcement staff's investigation, it was already known, and/or it was not used in the Covered Action. In addition, the records reflect that Claimant 3 did not provide any substantiated information unknown to the staff that was relevant to the Covered Action.

⁶ Claimant 3 also applied for an award in connection with an action brought by [REDACTED]. However, Claimant 3 is not eligible for an award in connection with [REDACTED]. First, the record shows that [REDACTED] did not use any information that Claimant 3 provided in [REDACTED]. Second, Claimant 3 is not even eligible for an award in connection with the Commission's Covered Action. Qualification for an award in the Commission's covered action is a prerequisite to qualification for an award in a "related action." See Exchange Act Section 21F(a)(5), 15 U.S.C. § 78u-6(a)(5) (defining a "related action" as based upon the same original information provided by the whistleblower that led to the successful enforcement of the Commission action); Exchange Act Rules 21F-3(b) & 11(a), 17 C.F.R. §§ 240.21F-3(b) & 240.21F-11(a); *Order Determining Whistleblower Award Claim*, Exchange Act Release No. 84503, 2018 SEC LEXIS 3030, at *7 n.4 (Oct. 30, 2018) ("The Commission may make an award to a whistleblower in connection with a related action only if the Commission has determined that the whistleblower is entitled to an award for a Commission covered action.").

Moreover, we note that the record shows that Claimant 3's information was provided approximately five months after the investigation began, by which time Enforcement staff [REDACTED] had already taken the testimony of several witnesses who testified concerning the conduct charged. The record shows that [REDACTED] did not take the testimony of Claimant 3 or use Claimant 3's information in [REDACTED]

[REDACTED]

[REDACTED]

By: Claims Review Staff

Date: March 25, 2020