

**FINAL ORDER-THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION AS TO CLAIMANTS 1 AND 2 ON JANUARY 24, 2024 PURSUANT TO RULE 21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934**

Notice of Covered Action [REDACTED]

**Reference Number : 01242024**

**PRELIMINARY DETERMINATIONS OF THE CLAIMS REVIEW STAFF**

In response to the above-referenced Notice of Covered Action, the U.S. Securities and Exchange Commission received two whistleblower award claims. Pursuant to Section 21F of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 21F-10 promulgated thereunder, the Claims Review Staff has evaluated each of the two below claims in accordance with the criteria set forth in Rules 21F-1 through 21F-18. The Claims Review Staff sets forth its Preliminary Determinations as follows.

[REDACTED] ("Claimant 1")

The Claims Review Staff has preliminarily determined to recommend to the Commission that the Commission deny the claim submitted by Claimant 1. The basis for this determination is that Claimant 1 did not provide information that led to the successful enforcement of the 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 any information provided did not: (1) under Rule 21F-4(c)(1) of the Exchange Act, 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 Claimant 1's 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.<sup>1</sup>

Claimant 1's information did not cause the Commission to commence an examination or open an investigation because Claimant 1's tip was submitted approximately six months after the Covered Action investigation was opened. Claimant 1's information also did not cause the Commission to inquire into different conduct and did not significantly contribute to the success of the Covered Action. By this time Enforcement staff had identified the specific stocks, named in the tip, from other sources as being involved in the misconduct. Claimant 1 did not provide any information that staff used to identify additional parties or additional charges; their information did not allow staff to save time and resources; and the staff did not use their

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<sup>1</sup> 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. *Order Determining Whistleblower Award*, Release No. 345412 (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: (1) the action in significantly less time or with significantly fewer resources, (2) additional successful claims, or (3) successful claims against additional individuals or entities).

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Notice of Covered Action: [REDACTED]

[REDACTED]

information to identify additional witnesses or prepare document requests in connection with the Covered Action. Claimant 1's information was duplicative of information that the Enforcement staff had previously received through other sources. As such, none of Claimant 1's information was used in or contributed to the success of the Covered Action.

[REDACTED] ("Claimant 2")

The Claims Review Staff has preliminarily determined to recommend to the Commission that the Commission deny the claim submitted by Claimant 2. The basis for this determination is that Claimant 2 did not provide information that led to the successful enforcement of the 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 any information provided did not: (1) under Rule 21F-4(c)(1) of the Exchange Act, 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 Claimant 2's 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.<sup>2</sup>

Commission staff responsible for the Covered Action do not recall receiving or reviewing any information from Claimant 2 or communicating with Claimant 2. Claimant 2's information was not used in, and did not contribute to the success of, the Covered Action.<sup>3</sup>

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<sup>2</sup> See FN 1 for an explanation of factors the Commission considers when determining whether a Claimant's information "significantly contributed" to the success of an action.

<sup>3</sup> We also note that prior to submitting [REDACTED] tips in [REDACTED] Claimant 2 sent emails [REDACTED] to a staff member in the [REDACTED] Regional Office ("[REDACTED]"), who was not part of the Covered Action investigation. The investigative team responsible for the Covered Action did not receive Claimant 2's information through the [REDACTED] staff. Furthermore, the emails sent by Claimant 2 do not comply with the procedural requirements under Rule 21F-9, and Claimant 2 is not eligible for the automatic waiver under Rule 21F-9(e) because the record does not unambiguously show that Claimant 2 would be otherwise eligible for an award in the Covered Action. Therefore, to the extent that Claimant 2 applies for an award based on the [REDACTED] emails, the [REDACTED] emails cannot be the basis for an award due to lack of compliance with Rule 21F-9.

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[REDACTED]

By: Claims Review Staff

Date: November 21, 2023