

Notice of Covered Action [REDACTED]
[REDACTED]

PRELIMINARY DETERMINATIONS OF THE CLAIMS REVIEW STAFF

In response to the above-referenced Notice of Covered Action, the Securities and Exchange Commission (“Commission”) received whistleblower award claims from [REDACTED] (Claimant 1) and [REDACTED] (Claimant 2). 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-18.

Claimant 1

The Claims Review Staff has preliminarily determined to recommend to the Commission that it deny Claimant 1’s claim for an award because Claimant 1’s information did not lead to a successful enforcement action.¹ Pertinent here,² original information may lead to a successful enforcement action if it “was sufficiently specific, credible, and timely to cause the staff to . . . open an investigation, reopen an investigation that the Commission had closed, 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 [the whistleblower’s] original information.”³ Original information may also lead to a successful enforcement action if a whistleblower “gave the Commission original information about conduct that was already under . . . investigation by the Commission . . . and [the] submission significantly contributed to the success of the action.”⁴ 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

¹ Claimant 1 also applied for awards in connection with [REDACTED] other enforcement actions [REDACTED]
[REDACTED]
[REDACTED]

However, Claimant 1’s claims for these [REDACTED] enforcement actions are not before the Commission, as the Covered Action concerns only [REDACTED]. Exchange Act Rule (hereafter “Rule”) 21F-4(d)(1), which allows enforcement actions arising from the same nucleus of operative facts to be considered together as a single covered action for purposes of an award, does not apply when a claim is denied.

² Under Rule 21F-4(c)(3), a whistleblower may satisfy the “leads to” requirement in certain circumstances where he/she reports internally, and the results of an audit or investigation initiated in response to such an internal report are reported to the Commission. This scenario is not relevant here.

³ Rule 21F-4(c)(1).

⁴ Rule 21F-4(c)(2).

Notice of Covered Action [REDACTED]

contribution” to the success of the covered action.⁵ The information Claimant 1 provided to the Commission satisfies neither standard.

Although Claimant 1 provided information that caused another investigation to be opened, the investigation that gave rise to this Covered Action was opened based on (1) a referral from [REDACTED] and (2) a tip from another individual. The investigation already had been open for about 10 months when the Commission received Claimant 1’s initial submission.

Claimant 1’s information did not significantly contribute to the successful enforcement of the Covered Action. The Covered Action alleged [REDACTED]. Claimant 1’s allegations concerned [REDACTED]. Claimant 1 did not provide information about the [REDACTED] that was charged in the Covered Action or assist the investigation giving rise to the Covered Action.

Claimant 2

The Claims Review Staff has preliminarily determined to recommend to the Commission that it deny Claimant 2’s claim for an award because Claimant 2’s information did not lead to a successful enforcement action.⁶ Pertinent here,⁷ original information may lead to a successful enforcement action if it “was sufficiently specific, credible, and timely to cause the staff to . . . open an investigation, reopen an investigation that the Commission had closed, 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

⁵ *Order Determining Whistleblower Award Claim*, Release No. 34-85412 (Mar. 26, 2019).

⁶ Claimant 2 also applied for awards in connection with [REDACTED] other enforcement actions [REDACTED].

However, Claimant 2’s claims for these [REDACTED] enforcement actions are not before the Commission, as the Covered Action concerns only [REDACTED]. Rule 21F-4(d)(1), which allows enforcement actions arising from the same nucleus of operative facts to be considered together as a single covered action for purposes of an award, does not apply when a claim is denied.

⁷ Under Rule 21F-4(c)(3), a whistleblower may satisfy the “leads to” requirement in certain circumstances where he/she reports internally, and the results of an audit or investigation initiated in response to such an internal report are reported to the Commission. This scenario is not relevant here.

Notice of Covered Action [REDACTED]
[REDACTED]

subject of [the whistleblower's] original information.”⁸ Original information may also lead to a successful enforcement action if a whistleblower “gave the Commission original information about conduct that was already under . . . investigation by the Commission . . . and [the] submission significantly contributed to the success of the action.”⁹ 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.¹⁰ The information Claimant 2 provided to the Commission satisfies neither standard.

The investigation that gave rise to the Covered Action was based on (1) a referral from [REDACTED], and (2) a tip from another individual, not from any information provided by Claimant 2.

Nor did Claimant 2’s information significantly contribute to the successful enforcement of the Covered Action. When Claimant 2 made his/her submission (*see* n.14 below), the Commission had already obtained final judgments against [REDACTED] defendants in the Covered Action. Claimant 2’s information was not used by Enforcement to staff to obtain judgments against [REDACTED] and did not assist the investigation or litigation against any of the defendants.

The Claims Review Staff also preliminarily determined to recommend to the Commission that it deny Claimant 2’s claim because he/she did not provide original information to the Commission. For a whistleblower submission to be considered original information, it must be derived from the claimant’s independent knowledge or independent analysis.¹¹ Independent knowledge means factual information in the whistleblower’s possession that is not derived from publicly available sources.¹² Analysis means a whistleblower’s examination and evaluation of information that may be publicly available, but which reveals information that is

⁸ Rule 21F-4(c)(1).

⁹ Rule 21F-4(c)(2).

¹⁰ *Order Determining Whistleblower Award Claim*, Release No. 34-85412 (Mar. 26, 2019).

¹¹ Rule 21F-4(b)(1)(i).

¹² Rule 21F-4(b)(2).

FINAL ORDER-THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER OF THE COMMISSION ON
SEPTEMBER 18, 2023 AS TO CLAIMANTS 1 AND 2
PURSUANT TO RULE 21F-10(f) OF THE SECURITIES EXCHANGE ACT OF 1934

Notice of Covered Action [REDACTED]
[REDACTED]

not generally known or available to the public.¹³ Claimant 2's submission¹⁴ to the Commission does not contain information derived from Claimant 2's personal knowledge¹⁵ or analysis¹⁶ Claimant 2 undertook.

By: Claims Review Staff

Date: July 20, 2023

¹³ Rule 21F-4(b)(3).

¹⁴ In his/her WB-APP, Claimant 2 identifies his/her [REDACTED], submission to the Commission (the "Submission") as the purported basis for him/her to receive an award for this Covered Action.

¹⁵ Claimant 2's Submission appears to encourage the Commission to investigate information in certain public web postings, such as postings on Twitter. To the extent that any of these postings suggests a securities-law violation, Claimant 2 does not argue that he/she is the source of any of the information in these postings. *See* Rule 21F-4(b)(5).

¹⁶ Claimant 2's Submission provides links to the URLs for various public web postings and does not identify the conduct that would be a securities-law violation, much less any analysis of the information in the postings he/she identified.