

UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 99229 / December 22, 2023

WHISTLEBLOWER AWARD PROCEEDING

File No. 2024-5

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In the Matter of the Claims for an Award

in connection with

Redacted

Redacted

Notice of Covered Action Redacted

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**ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS**

The Claims Review Staff (“CRS”) issued Preliminary Determinations recommending that <sup>Redacted</sup> (“Claimant 1”) receive a whistleblower award of over \$13,000,000, which represents <sup>Redacted</sup> percent (<sup>\*\*\*</sup> %) of the monetary sanctions collected in the above-referenced Covered Action (the “Covered Action”), that <sup>Redacted</sup> (“Claimants 2, 3, 4, and 5”) receive a joint whistleblower award of over \$13,000,000, which represents <sup>Redacted</sup> percent (<sup>\*\*\*</sup> %) of the monetary sanctions collected in the above-referenced Covered Action,<sup>1</sup> and that <sup>Redacted</sup> (“Claimants 6 and 7”) receive a joint whistleblower award of nearly \$2,000,000, which represents <sup>\*\*\*</sup> percent (<sup>\*\*\*</sup> %) of

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<sup>1</sup> The CRS preliminarily determined to treat Claimants 2, 3, 4, and 5 jointly as a “whistleblower” for purposes of the award determination given that they jointly submitted their tip. See Exchange Act Section 21F(a)(6) (defining “whistleblower” to mean “2 or more individuals acting jointly who provide[] information relating to a violation of the securities laws to the Commission”). Proceeding in this way has not impacted the net total award percentage to Claimants 2, 3, 4, and 5. Unless Claimants 2, 3, 4 and 5, 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 four of them, the Office of the Whistleblower is directed to pay each of them individually 25% of their joint award.

the monetary sanctions collected in the above-referenced Covered Action.<sup>2</sup> The CRS also preliminarily recommended that the award claim of Redacted (“Claimant 10”) should be denied.<sup>3</sup> Claimants 1, 2, 3, 4, 5, 6 and 7 provided written notices of their decisions not to contest the Preliminary Determinations<sup>4</sup> and Claimant 10 filed a timely response contesting the Preliminary Determinations.<sup>5</sup> After reviewing the arguments of Claimant 10, the CRS confirmed its original recommendations. For the reasons discussed below, the CRS’s recommendations are adopted with respect to Claimants 1, 2, 3, 4, 5, 6, 7 and 10.

## I. Background

### A. The Covered Action

On Redacted, the Commission instituted Redacted  
Redacted, (the “Company”) Redacted  
Redacted  
Redacted  
Redacted  
Redacted  
The Commission alleged that Redacted  
Redacted. Among other relief, the Commission ordered Redacted  
Redacted.

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<sup>2</sup> The CRS preliminarily determined to treat Claimants 6 and 7 jointly as a “whistleblower” for purposes of the award determination given that they jointly submitted their tip. *See* Exchange Act Section 21F(a)(6). Proceeding in this way has not impacted the net total award percentage to Claimants 6 and 7. Unless Claimants 6 and 7, 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.

<sup>3</sup> The CRS also recommended the denial of the award application of three other claimants, who did not contest the Preliminary Determinations. Accordingly, the Preliminary Determinations with respect to those award claims became the Final Order of the Commission through operation of Exchange Act Rule 21F-10(f), 17 C.F.R. § 240.21F-10(f).

<sup>4</sup> The CRS also preliminarily determined that the related action award claims by Claimants 1, 2, 3, 4, 5, 6, and 7 in connection with a state civil action brought by Redacted (“Other Agency”) be denied because the Other Agency action did not qualify as a related action under the Commission’s whistleblower rules. *See* Exchange Act Rules 21F-3(b)(1); 21F-11(a); 17 C.F.R. § 240.21F-3(b)(1); 17 C.F.R. § 240.21F-11(a). Because Claimants 1, 2, 3, 4, 5, 6, and 7 did not contest this determination, the Preliminary Determinations with respect to their related action award claims became the Final Order of the Commission through operation of law pursuant to Exchange Act Rule 21F-11(f); 17 C.F.R. § 240.21F-11(f).

<sup>5</sup> We note that although Claimant 10 is identified as being Claimant 10 in the Preliminary Determinations, Claimant 10 refers to himself/herself as Claimant 9 in his/her response.

On <sup>Redacted</sup>, the Office of the Whistleblower (“OWB”) posted the above-referenced Notice of Covered Action on the Commission’s website, inviting claimants to submit whistleblower award applications within 90 days.<sup>6</sup> Claimants 1, 2, 3, 4, 5, 6, 7 and 10 filed timely whistleblower claims.

## **B. The Preliminary Determinations**

The CRS issued Preliminary Determinations<sup>7</sup> recommending that the Commission find that Claimants 1, 2, 3, 4, 5, 6, and 7 voluntarily provided original information to the Commission that led to the successful enforcement of the referenced Covered Action pursuant to Section 21F(b)(1) of the Exchange Act and Rule 21F-3(a) promulgated thereunder and that: (1) Claimant 1 receive an award of <sup>Redacted</sup> percent (<sup>\*\*\*</sup> %) of the monetary sanctions collected in the Covered Action; (2) Claimants 2, 3, 4, and 5 receive a joint award of <sup>Redacted</sup> percent (<sup>\*\*\*</sup> %) of the monetary sanctions collected in the Covered Action; and (3) Claimants 6 and 7 receive a joint award of <sup>\*\*\*</sup> percent (<sup>\*\*\*</sup> %) of the monetary sanctions collected in the Covered Action. The CRS further preliminarily determined to recommend that the award claim of Claimant 10 be denied because Claimant 10 did not provide original information that “led to” the success of the Covered Action as required under Exchange Act Rule 21F-4(c). The CRS recommended that Claimant 10’s claims be denied because Claimant 10’s information neither caused the staff to open the investigation nor contributed to the success of the Covered Action. The CRS noted that staff responsible for the Covered Action did not receive or review information provided by Claimant 10 or have any communication with Claimant 10.

## **C. Claimant 10’s Response to the Preliminary Determinations**

Claimant 10 submitted a timely written response contesting the Preliminary Determinations.<sup>8</sup> Specifically, Claimant 10 contends that he/she communicated directly with five Commission staff responsible for the Covered Action, that he/she submitted “hundreds of pages of documents” to the staff, and that his/her information led the staff to inquire into different conduct as part of a current examination or investigation. Claimant 10 does not identify what different conduct he/she caused the staff to inquire into. Based on these facts, Claimant 10 argues that his/her information contributed to the Covered Action and he/she should receive an award.

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<sup>6</sup> See Exchange Act Rule 21F-10(a), 17 C.F.R. § 240.21F-10(a).

<sup>7</sup> See Exchange Act Rule 21F-10(d), 17 C.F.R. § 240.21F-10(d).

<sup>8</sup> See Exchange Act Rule 21F-10(e), 17 C.F.R. § 240.21F-10(e).

## II. Analysis

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.<sup>9</sup> As relevant here, information will be deemed to have led to a successful enforcement action if it “caused the Commission to (i) commence an examination, (ii) open or reopen an investigation, or (iii) inquire into different conduct as part of a current Commission examination or investigation,” and the Commission thereafter brought a successful action based in whole or in part on conduct that was the subject of the claimant’s original information,<sup>10</sup> or was “about conduct that was already under examination or investigation by the Commission” and the “submission significantly contributed to the success of the action.”<sup>11</sup> In determining whether 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.<sup>12</sup>

### A. Claimant 1

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. Applying the award criteria as specified in Rule 21F-6 of the Exchange Act based on the specific facts and circumstances here, we find that an award of \*\*\* % is appropriate.<sup>13</sup> Claimant 1 provided Enforcement staff with detailed and highly significant information early in the investigation that advanced the staff’s investigation, saved considerable Commission time and resources, bore a close nexus to the charges brought by the Commission in the Covered Action, and resulted in millions of dollars being returned to harmed investors. Claimant 1 also provided ongoing assistance by, among other things, participating in

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<sup>9</sup> See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

<sup>10</sup> Exchange Act Rule 21F-4(c)(1), 17 C.F.R. § 240.21F-4(c)(1).

<sup>11</sup> Exchange Act Rule 21F-4(c)(2), 17 C.F.R. § 240.21F-4(c)(2).

<sup>12</sup> See Order Determining Whistleblower Award Claims, Release No. 34-85412, March 26, 2019; Order Determining Whistleblower Award Claims, Release No. 34-82897, March 19, 2018; 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).

<sup>13</sup> In assessing the appropriate award amount, Exchange Act Rule 21F-6 provides that the Commission consider: (1) the significance of information provided to the Commission; (2) the assistance provided in the Commission action; (3) law enforcement interest in deterring violations by granting awards; (4) participation in internal compliance systems; (5) culpability; (6) unreasonable reporting delay; and (7) interference with internal compliance and reporting systems. 17 C.F.R. § 240.21F-6.

voluntary interviews and providing supporting documents to the staff that served as a guide for the investigation, and identifying key witnesses that were critical to the investigation. Claimant 1 also made several attempts to internally report concerns to Company management and suffered hardships as a result.

#### **B. Claimants 2, 3, 4, and 5**

The record demonstrates that Claimants 2, 3, 4 and 5 voluntarily provided original information to the Commission that led to the successful enforcement of the Covered Action. Accordingly, Claimants 2, 3, 4 and 5 qualify for a whistleblower award. Applying the award criteria as specified in Rule 21F-6 of the Exchange Act based on the specific facts and circumstances here, we find that a joint award of \*\*\*% is appropriate. Claimants 2, 3, 4, and 5's information provided Enforcement staff with detailed and highly significant information early in the investigation that advanced the staff's investigation, saved considerable Commission time and resources, bore a close nexus to the charges brought by the Commission in the Covered Action, and resulted in millions of dollars being returned to harmed investors. Claimants 2, 3, 4, and 5 also provided ongoing assistance by, among other things, participating in voluntary interviews, providing supporting documents to the staff, and identifying key witnesses that were critical to the investigation. They made several attempts to internally report concerns to Company management and suffered hardships as a result.

#### **C. Claimants 6 and 7**

The record demonstrates that Claimants 6 and 7 voluntarily provided original information to the Commission that led to the successful enforcement of the Covered Action. Accordingly, Claimants 6 and 7 qualify for a whistleblower award. Applying the award criteria as specified in Rule 21F-6 of the Exchange Act based on the specific facts and circumstances here, we find that an award of \*\*\*% is appropriate. Claimants 6 and 7's information was helpful to the staff with respect to certain allegations in the Covered Action. Overall, Claimants 6 and 7's contribution was significantly less than the contributions of Claimant 1 and Claimants 2, 3, 4, and 5. Claimants 6 and 7 provided information late in the investigation after significant progress had already been made by staff and much of their information was already known to the staff. Claimants 6 and 7's assistance included participating in an interview and providing documents to the staff. Claimants 6 and 7 also made attempts to report their concerns internally to management.

#### **D. Claimant 10**

Claimant 10 does not qualify for an award. The record, which includes a supplemental declaration by Enforcement staff, which we credit, reflects that Enforcement staff opened the investigation based on a news report, not on any information provided by Claimant 10. Claimant 10 began providing information approximately two and a half years after the investigation

opened. Additionally, none of the information submitted by Claimant 10 contributed to the success of the Covered Action. Enforcement staff responsible for the Covered Action did not receive or review information submitted by Claimant 10 or communicate with Claimant 10.

Contrary to Claimant 10's assertions, the record demonstrates that Claimant 10 did not communicate with staff responsible for the Covered Action investigation. Instead, the record demonstrates that Claimant 10 provided information to staff in other regional offices and that none of the individuals at the Commission that Claimant 10 asserts he/she communicated with concerning his/her information were members of the team responsible for the Covered Action investigation. According to the staff responsible for the Covered Action, some issues identified by Claimant 10 were incorporated into certain examinations. However, the record demonstrates that none of Claimant 10's information was forwarded to the staff handling the Covered Action. Therefore, information submitted by Claimant 10 had no impact on the staff's investigation or the Covered Action.<sup>14</sup>

Claimant 10 did not provide original information that led to the successful enforcement action and his/her award claim should be denied.

### **III. Conclusion**

Accordingly, it is hereby ORDERED that Claimant 1 receive an award equal to \*\*\*% of the monetary sanctions collected in the Covered Action, that Claimants 2, 3, 4, and 5 receive a joint award equal to \*\*\*% of the monetary sanctions collected in the Covered Action, and that Claimants 6 and 7 receive a joint award equal to \*\*\*% of the monetary sanctions collected in the Covered Action.

It is further ORDERED that Claimant 10's whistleblower award application in the Covered Action be, and hereby is, denied.

By the Commission.

J. Matthew DeLesDernier  
Deputy Secretary

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<sup>14</sup> Because Claimant 10 is not eligible for an award in an SEC Covered Action, he/she is not eligible for an award in a related action. *See Order Determining Whistleblower Award Claims*, Exchange Act Release No. 86902 (Sept. 9, 2019). Additionally, the settled civil action brought by the Other Agency is a state civil action, and as such, does not qualify as a related action under the Commission's whistleblower rules. *See* Rules 21F-3(b)(1); 21F-11(a); 17 C.F.R. § 240.21F-3(b)(1); 17 C.F.R. § 240.21F-11(a).