

FINAL ORDER – THIS PRELIMINARY DETERMINATION BECAME THE FINAL ORDER
OF THE COMMISSION ON NOVEMBER 27, 2019
PURSUANT TO RULE 21F-10(f) OF THE EXCHANGE ACT

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 received a whistleblower award claim from [REDACTED] (“Claimant”).

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 the above claim in accordance with the criteria set forth in Rules 21F-1 through 21F-17. The Claims Review Staff has preliminarily determined to recommend that the Commission deny the above award claim.¹ The basis for this determination is as follows:

First, Claimant is not a “whistleblower” under Exchange Act Rule 21F-2(a) with respect to the Covered Action. To qualify as a whistleblower, an individual must (among other things) provide information regarding a potential securities law violation to the Commission in the form and manner that is required by Exchange Act Rule 21F-9, which Claimant did not do. Specifically, Claimant did not submit information on Form TCR or online, through the Commission’s website. In addition, Claimant did not sign the required whistleblower declaration as required under Exchange Act Rule 21F-9(b).²

Second, Claimant did not provide original 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:

1. cause 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 under Rule 21F-4(c)(1) of the Exchange Act; or

¹ To the extent Claimant contends that [REDACTED] qualifies for an award in connection with a related action, [REDACTED] claim cannot succeed because Claimant does not qualify for an award in the Covered Action brought by the Commission. A related action award may be made only if a claimant receives an award in a Commission covered action. See 15 U.S.C. § 78u-6(b); Exchange Act Rule 21F-3(b), Rule 21F-3(b)(1); Rule 21F-11(a).

² There is no evidence in the record that Claimant ever provided information to the Commission. Rather, claimant states that [REDACTED] provided [REDACTED] tip to the [REDACTED], and that [REDACTED] believes that [REDACTED] “would have submitted the information to the SEC for further investigation.” WB-APP, Section F, No. 7; Section G.

Notice of Covered Action: [REDACTED]

2. significantly contribute to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c)(2) of the Exchange Act.³

By: Claims Review Staff

Date: September 27, 2019

³ The record reflects that none of the members of the Enforcement team who worked on the Covered Action recall receiving any information provided by Claimant; nor do they recall communicating with Claimant, before or during the investigation.