

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96324 / November 16, 2022

WHISTLEBLOWER AWARD PROCEEDING
File No. 2023-15

In the Matter of the Request for Additional Payment

in connection with

Redacted

Redacted

Notice of Covered Action Redacted

ORDER

The Commission previously jointly awarded Redacted and Redacted (collectively “Claimant”) *** percent (*** %) of the monetary sanctions collected in the above-referenced Covered Action (“Covered Action”). Claimant now requests that a separate, subsequently-filed enforcement proceeding, Redacted Redacted (the “Second Action”), be deemed to have arisen from the same nucleus of operative facts as the Covered Action under Rule 21F-4(d) of the Securities Exchange Act of 1934 (“Exchange Act”), and that Claimant receive a payment equal to *** percent (*** %) of amounts collected in the Second Action.¹

Under Rule 21F-4(d)(2), for purposes of determining payment on an award, the Commission “will deem as part of the Commission action upon which the award was based any subsequent Commission proceeding that, individually, results in a monetary sanction of \$1,000,000 or less, and that arises out of the same nucleus of operative facts.” In determining whether separate proceedings arise out of the same nucleus of operative facts, the Commission

¹ The Second Action did not result in monetary sanctions totaling more than \$1,000,000, and as such, was not posted as a Notice of Covered Action on the Office of the Whistleblower’s website. See Exchange Act Rule 21F-10(a).

will consider a number of factors, including whether the separate proceedings involve the same or similar: (1) parties (whether named as defendants/respondents or simply named within the complaint or order); (2) factual allegations; (3) alleged violations of the federal securities laws; or (4) transactions or occurrences.²

The Commission finds that the Second Action did not arise out of the same nucleus of operative facts as the Covered Action. The record demonstrates that the Covered Action and the Second Action involved different and unrelated parties and transactions, which Claimant concedes. The Second Action also was brought more than two years after the Covered Action. That the two enforcement proceedings allege similar violations of law does not mean that they arose from the same nucleus of operative facts.

Accordingly, it is hereby ORDERED that the Second Action did not arise from the same nucleus of operative facts as the Covered Action, and Claimant's request for payment in connection with the Second Action is DENIED.

By the Commission.

Vanessa A. Countryman
Secretary

² *Securities Whistleblower Incentives & Protections*, 76 Fed. Reg. 34,300, 34,327 (June 13, 2011).