

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 96923 / February 14, 2023

WHISTLEBLOWER AWARD PROCEEDING  
File No. 2023-36

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In the Matter of the Claim for an Award

in connection with

Redacted

Notice of Covered Action <sup>Redacted</sup>

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**ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM**

The Claims Review Staff (“CRS”) issued a Preliminary Determination<sup>1</sup> recommending that <sup>Redacted</sup> (“Claimant”) receive a whistleblower award of thirty percent (30%) of the monetary sanctions collected, or to be collected, in the above-referenced Covered Action (the “Covered Action”). Claimant provided written notice of Claimant’s decision not to contest the Preliminary Determination.

The recommendation of the CRS is adopted. The record demonstrates that Claimant voluntarily provided original information to the Commission that led to the successful enforcement of the Covered Action.<sup>2</sup>

Exchange Act Rule 21F-6(c) establishes a presumption of a statutory maximum award of 30% where (1) the maximum award would be \$5 million or less; (2) none of the negative award factors under Rule 21F-6(b)—i.e., culpability, unreasonable reporting delay, or interference with an internal compliance and reporting system—are present; and (3) the award claim does not

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<sup>1</sup> The CRS also preliminarily determined to recommend that the award application of a second claimant be denied. The second claimant did not submit a request for reconsideration and, as such, the Preliminary Determination with respect to the second claimant became the Final Order of the Commission pursuant to Exchange Act Rule 21F-10(f), 17 C.F.R. § 240.21F-10(f).

<sup>2</sup> See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1); Exchange Act Rule 21F-3(a), 17 C.F.R. § 240.21F-3(a).

trigger Rule 21F-16.<sup>3</sup> The Commission may depart from the presumption if (1) the assistance provided by the whistleblower was, “under the relevant facts and circumstances, limited,” or (2) a maximum award “would be inconsistent with the public interest, the promotion of investor protection, or the objectives of the whistleblower program.”<sup>4</sup>

The presumption applies here because it is not reasonably anticipated that a maximum award would exceed \$5 million, and the award application presents no negative factors under Rule 21F-6(b), nor does it trigger Rule 21F-16. In addition, the presumption is not overcome. Claimant provided more than limited assistance, and there are no public interest, investor protection, or programmatic concerns that would warrant departure from a 30% award here. Claimant saved Enforcement staff time and resources in conducting the investigation. Claimant provided meaningful information that advanced the investigation and assisted in establishing the underlying misconduct. Claimant provided continuing assistance throughout the investigation, including providing documents and meeting with the staff. Claimant also acted quickly in trying to expose the misconduct.

Accordingly, it is hereby ORDERED that Claimant shall receive an award of thirty percent (30%) of the monetary sanctions collected or to be collected in the Covered Action.<sup>5</sup>

By the Commission.

Vanessa A. Countryman  
Secretary

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<sup>3</sup> Exchange Act Rule 21F-16 concerns whistleblowers who engage in culpable conduct. See 17 C.F.R. § 240.21F-16.

<sup>4</sup> Exchange Act Rule 21F-6(c)(1)(iv), 17 C.F.R. § 240.21F-6(c)(1)(iv).

<sup>5</sup> The Court in the Covered Action entered a final judgment against the defendants, ordering that they pay <sup>Redacted</sup>. The Court ordered that the defendants’ payment obligation shall be offset by an amount equal to the Order of Restitution entered and the forfeiture ordered against <sup>Redacted</sup> <sup>Redacted</sup> in a parallel criminal action.

While Claimant did not apply for an award claim in connection with the criminal action, because the SEC judgment is satisfied through the restitution and forfeiture ordered in the criminal action, Claimant will still benefit from collections made in the criminal action. And the Commission would not pay twice on the same amount collected. To date, there have been no collections in the Covered Action or the parallel criminal action.