

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101351 / October 16, 2024

WHISTLEBLOWER AWARD PROCEEDING
File No. 2025-4

In the Matter of the Claim for an Award

in connection with

Redacted
Redacted

Notice of Covered Action Redacted

The Claims Review Staff (“CRS”) issued a Preliminary Determination recommending the denial of the whistleblower award claim submitted by Redacted (“Claimant”) in connection with the above-referenced Covered Action (the “Covered Action”). Claimant filed a timely response contesting the preliminary denial. For the reasons discussed below, Claimant’s award claim is denied.

I. Background

A. The Covered Action

On Redacted, the Commission filed Redacted against Redacted (hereinafter, “Defendant”) for violations of Redacted Redacted. Defendant, Redacted, agreed to settle charges that *** Redacted Redacted. According to the Commission’s complaint, Redacted Defendant Redacted, the Redacted Redacted

Redacted

Redacted

On ^{Redacted}, the court entered final judgment ordering the Defendant, among other things, to pay monetary sanctions totaling more than \$1 million. On ^{Redacted}, the Office of the Whistleblower posted the Notice for the Covered Action on the Commission’s public website inviting claimants to submit whistleblower award applications within 90 days.¹

B. The Preliminary Determination

The CRS issued a Preliminary Determination recommending that Claimant’s claim be denied because the record reflects that the staff in the Division of Enforcement (“Enforcement”) responsible for the Covered Action did not receive any information from Claimant until approximately four months after the case was filed, and had no communications with Claimant, and as such, his/her information did not lead to the success of the Covered Action. Further, the Preliminary Determination stated that the information received by Enforcement staff from the Claimant after the filing of the Covered Action did not relate to the conduct charged by the Commission in the Covered Action.²

C. Claimant’s Response to the Preliminary Determination

Claimant submitted a timely written response contesting the Preliminary Determination.³ In his/her request for reconsideration, Claimant principally argues the following: (1) Claimant provided information to the Commission prior to the filing of the Covered Action, including a tip in ^{Redacted} concerning ^{Redacted} by the Defendant, which Claimant supplemented in ^{Redacted} (2) Claimant provided information to ^{Redacted} (collectively, “Other Entities”), and he/she is the original source of any information the Other Entities may have provided the Commission; (3) Claimant is the “original source” of information provided in connection with a self-report to the Commission in ^{Redacted} and (4) the record is insufficient as it does not address the information Claimant submitted to the Commission and how it was used.

¹ See Exchange Act Rule 21F-10(a), 17 C.F.R. § 240.21F-10(a).

² The CRS also preliminarily determined to recommend that Claimant’s award claim be denied because the award application was submitted after the 90-day deadline. However, upon review, we find that the award application was timely because the deadline fell on a weekend and the Claimant submitted the award application on the first business day thereafter.

³ 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.⁴ Additionally, and as relevant here, original information will be deemed to lead to a successful enforcement action if either: (i) the original information caused the staff to “commence an examination, open an investigation...or to inquire concerning different conduct as part of a current examination or investigation” and the Commission brought a successful action based in whole or in part on conduct that was the subject of the original information;⁵ or (ii) the conduct was already under examination or investigation and the original information “significantly contributed to the success of the action.”⁶

In determining whether Claimant’s 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. For example, the Commission will consider a claimant’s information to have significantly contributed to the success of an enforcement action if it allowed the Commission to bring the action in significantly less time or with significantly fewer resources, or to bring additional successful claims or successful claims against additional individuals or entities.⁷

As an initial matter, we note that the record now includes three declarations from Commission staff, all of which we credit, and two of which were provided in response to Claimant’s request for reconsideration. This includes an initial declaration from Enforcement staff assigned to the investigation that resulted in the Covered Action, as well as a supplemental declaration from that same Enforcement staff, and a declaration from a staff member in the Division of Examinations (“Exams”). The record supports the conclusion that Claimant did not provide information that led to the success of the Covered Action.

By way of background, the record reflects that Claimant’s ^{Redacted} tip prompted the opening of an examination of ^{Redacted} . Exams staff made several findings, including that ^{Redacted} ^{Redacted}

⁴ See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

⁵ See Exchange Act Rule 21F-4(c)(1), 17 C.F.R. § 240.21F-4(c)(1).

⁶ See Exchange Act Rule 21F-4(c)(2), 17 C.F.R. § 240.21F-4(c)(2).

⁷ Exchange Act Rel. No. 85412 at 8-9.

Redacted materials Redacted contained misleading or exaggerated and unsubstantiated statements. During the Redacted examination, Redacted, was reported to Exams staff. Additionally, the examination found other violations Redacted. The examination findings were not referred to Enforcement.

In Redacted began doing business as Redacted (“Firm”). In Redacted, Exams opened a risk priority exam of the Firm based on a number of factors. It was not opened based on information from Claimant. While the *** exam was still open, on Redacted, in-house counsel for the Firm contacted Exams staff to report that the Firm recently discovered that the Defendant Redacted. According to the best knowledge of the staff, the fraud was detected by a Redacted at the Firm, who then reported it to the in-house counsel. Upon being confronted, the Defendant Redacted. On Redacted, Exams referred the matter to Enforcement, and Enforcement opened an investigation the same day.

Claimant does not satisfy Rule 21F-4(c)(1). While the information Claimant submitted in Redacted prompted the opening of an examination, that examination did not result in a referral to Enforcement and did not cause the opening of the Covered Action investigation. Rather, it was the self-report by the Firm in connection with a separate examination that prompted the opening of the investigation that resulted in the Covered Action. Claimant also does not satisfy Rule 21F-4(c)(1) because the Covered Action was not based on the conduct alleged by Claimant. In his/her tip, Claimant alleged Redacted; however, he/she did not allege that the Defendant Redacted, which was the basis of the charges in the Covered Action.

Claimant provided supplemental submissions of information to the Commission in Redacted, and while Claimant contends that in Redacted he/she provided supplemental information to the Commission alleging that the Defendant was trying to Redacted, the Commission’s Tips, Complaints, and Referrals (“TCR”) system reflects that Claimant’s Redacted submission alleged only that Redacted. Moreover, according to a staff declaration, the Redacted examination team does not recall receiving or reviewing a tip from Claimant about Redacted; and according to another declaration, Enforcement staff responsible for the investigation that resulted in the Covered Action does not recall receiving or reviewing any information from Claimant at all. Regardless, the Redacted supplemental submissions (the latter of which concerned the Redacted), did not allege Redacted the Defendant.

Although Claimant argues that he/she is the original source of the information that led to the self-report by the firm, the Firm self-reported the Defendant's [Redacted] because a [Redacted] at the Firm discovered the information and informed the Firm's in-house counsel who reported it to the Exams staff. Further, even if Claimant were the original source of the [Redacted] allegation, that does not automatically qualify him/her for an award because he/she must also satisfy the separate "led to" requirement.⁸ The record contains insufficient evidence to satisfy the "led to" requirement because, as explained above, Claimant did not allege that the Defendant [Redacted].

Claimant also contends that he/she is the "original source" of information he/she provided to the Other Entities. But again, even if Claimant were the original source of such information, that does not automatically qualify him/her for an award because he/she must also satisfy the separate "led to" requirement. The record is insufficient for a "led to" finding for the following reasons. Claimant attaches correspondence with the [Redacted] [Redacted] showing discussion of the aforementioned [Redacted] of Claimant's. But, as explained above, the [Redacted] examination team does not recall receiving or reviewing a tip from Claimant about his/her [Redacted]; and Enforcement staff responsible for the investigation that resulted in the Covered Action does not recall receiving or reviewing any information from Claimant at all. Claimant also attaches correspondence with [Redacted].

[Redacted]. But these are the same allegations in Claimant's [Redacted] tip to the Commission. They are insufficient to establish a "led to" finding because Claimant did not allege that the Defendant [Redacted], which was the basis of the charges in the Covered Action.

Moreover, none of his/her information caused Enforcement staff to inquire into different conduct, nor did it significantly contribute to the investigation or the Covered Action. Enforcement staff did not receive or review information from Claimant during the investigation or have any communications with him/her, and the staff did not use any of his/her information in the Covered Action.

Finally, Claimant does not satisfy the "led to" requirement under Rule 21F-4(c)(3)⁹ because the record reflects that, according to the best knowledge of Commission staff, a [Redacted]

⁸ See *Securities Whistleblower Incentives and Protections*, Exchange Act Release No. 64545 at n. 187-188 and accompanying text (May 25, 2011) (original source of information "must still satisfy all of the other requirements of Section 21F and of [the whistleblower] rules, including that the information was submitted voluntarily, it led to a successful Commission enforcement action or related action, and [the claimant] is not ineligible for an award").

⁹ Exchange Act Rule 21F-4(c)(3) provides a third mechanism for satisfying the "led to" requirement for a whistleblower who utilizes an entity's internal compliance program. A whistleblower satisfies Rule 21F-4(c)(3) where he/she does the following: (1) reports original information through an entity's internal whistleblower, legal or compliance procedures before or at the same time he or she reports to the

at the Firm discovered the Defendant's ^{Redacted} and reported it to the Firm's in-house counsel who in turn reported it to the Commission. On account of these facts in the record, we find that there is sufficient evidence to conclude that the Firm did not report the information to the Commission based on information it had received from Claimant.

We therefore conclude that Claimant's information did not lead to the successful enforcement of the Covered Action.¹⁰

III. Conclusion

Accordingly, it is hereby ORDERED that Claimant's whistleblower award application be, and hereby is, denied.

By the Commission.

Vanessa A. Countryman
Secretary

Commission; (2) the entity provides the Commission with the whistleblower's information or with the results of an investigation initiated in response to the whistleblower's information; (3) the information provided by the entity to the Commission "led to" successful enforcement under the criteria of Rule 21F-4(c)(1) or (2) discussed above; and (4) the whistleblower provides the same information to the Commission in compliance with Rule 21F-9 within 120 days of providing it to the entity.

¹⁰ Because Claimant is not eligible for an award in the SEC Covered Action, Claimant is also not eligible for an award in the related action.