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The Commission found that the Company violated
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The Commission also found

that the Company and

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. Without admitting or denying the Commission’s findings, the
consented to the entry of the order, and the monetary sanctions exceeded \$1

On Redacted

, the Office of the Whistleblower (“OWB”) posted the Notice for the
Covered Action on the Commission’s public website inviting claimants to submit whistleblower award
applications by Redacted Claimant filed a whistleblower award claim on Redacted
several years after the 90-day deadline for filing whistleblower award claims in the Covered Action.

B. The Preliminary Determination

The CRS issued a Preliminary Determination recommending that Claimant’s claim be denied because (1) Claimant’s information did not lead to the success of the 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; (2) Claimant’s whistleblower submission was not made voluntarily as required by Exchange Act Section 21F and Rules 21F-3 and 21F-4(a)(1); and (3) Claimant failed to submit the claim for award to OWB within ninety (90) days of the date of the above-referenced Notice of Covered Action, as required under Rule 21F-10(b) of the Exchange Act.

C. Claimant’s Response to the Preliminary Determination

Claimant submitted a timely written response (the “Response”) contesting the Preliminary Determination.¹

Claimant principally argues that he/she provided relevant information about the underlying conduct internally while employed at the Company and to staff in the Commission’s Division of Enforcement (“Enforcement”). Claimant also argues that he/she submitted his/her information voluntarily because prior to Enforcement staff reaching out to him/her in Redacted, he/she reported

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

information to the ^{Redacted}, visited the Commission's ^{Redacted} ^{Redacted} Office in-person in early ^{***} and also submitted a TCR online to the Commission in ^{Redacted} ^{***}.² Finally, Claimant contends that his/her late-filed award application should be excused because his/her mother had a stroke in ^{***} and he/she suffered from physical and mental illnesses for a period of years.

II. Analysis³

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 “open an investigation . . . or to inquire concerning different conduct” as part of a current 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 investigation, and the original information “significantly contributed to the success of the action.”⁶

In determining whether the 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.⁷ 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.⁸

² According to a declaration provided by OWB staff, which we credit, OWB staff could not locate a ^{Redacted} TCR from Claimant in the Commission’s TCR system. Claimant also was not able to provide a copy of the purported ^{Redacted} TCR or reference a TCR submission number associated with the TCR. Enforcement staff also was not aware of any TCR submitted by Claimant prior to the one he/she submitted in ^{Redacted}

³ Because the record supports the conclusion that Claimant did not provide information that led to the success of the Covered Action, and that Claimant’s award application was submitted several years after the filing deadline, we need not reach the determination of whether Claimant submitted his/her information voluntarily.

⁴ 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 21-F-4(c)(2), 17 C.F.R § 240.21F-4(c)(2).

⁷ Order Determining Whistleblower Award Claims, Exchange Act Rel. No. 90922 (Jan. 14, 2021) at 4; see also Order Determining Whistleblower Award Claims, Exchange Act Rel. No. 85412 (Mar. 26, 2019) at 9 (same).

⁸ Exchange Act Rel. No. 85412 at 8-9.

As an initial matter, the record shows that Claimant's information did not cause Enforcement staff to open the investigation that resulted in the Covered Action. Enforcement staff confirms, in a sworn declaration, which we credit, that the investigation was based on a self-report from the Company, prior to any information being provided by Claimant to the Commission.

The record also reflects that Claimant's information did not cause Enforcement staff responsible for the Covered Action to inquire into different conduct or significantly contribute to the ongoing investigation. The record reflects that beginning in ^{Redacted}, Enforcement staff repeatedly tried to contact Claimant in an effort to interview him/her. After exchanging repeated emails with Claimant, on ^{Redacted}, Claimant filed a Form TCR, which was the first submission from Claimant in the TCR system.

Moreover, on ^{Redacted}, staff interviewed Claimant. During the interview, Claimant did not provide any significant information beyond what was included in his/her written TCR, which in turn contained no information beyond what the staff had already learned from the Company's self-report and an internal investigation report that the Company shared with staff. While Enforcement staff repeatedly asked Claimant for additional information to advance the investigation, Claimant declined staff's requests. In fact, Claimant indicated that he/she had additional information, but that he/she did not want to give it to the staff. None of Claimant's information was used in or advanced the investigation or Covered Action.⁹

Finally, pursuant to Rules 21F-10(a) and (b) of the Exchange Act, a claimant will have ninety(90) days from the date of the Notice of Covered Action to file a claim for an award based on that action, or the claim will be barred. Claimant failed to submit the claim for award within ninety (90) calendar days of the Notice of Covered Action; rather, Claimant submitted his/her award application more than three years after the filing deadline.¹⁰

⁹ Nor does Claimant satisfy the "leads to" requirement under Rule 21F-4(c)(3). Under Rule 21F-4(c)(3), a claimant's information leads to the success of an enforcement action where: "You reported original information through an entity's internal whistleblower, legal, or compliance procedure for reporting allegations of possible violations of law before or at the same time you reported them to the Commission; the entity later provided your information to the Commission or provided results of an audit or investigation initiated in whole or in part in response to information you reported to the entity; and the information the entity provided to the Commission satisfies either paragraph (c)(1) or (c)(2) of this section. Under this paragraph (c)(3), you must also submit the same information to the Commission in accordance with the procedures set forth in § 240.21F-9 within 120 days of providing it to the entity." Here, the record supports the conclusion that the Company's self-report to the Commission in ^{Redacted} was not prompted by information from Claimant; furthermore, Claimant did not provide the same information pursuant to Rule 21F-9 to the Commission within 120 days of the internal report as required under Rule 21F-4(c)(3), as Claimant's first TCR to the Commission was made on ^{Redacted}.

¹⁰ See Order Determining Whistleblower Award Claim, Release No. 34-77368 (Mar. 14, 2016), *pet. for rev. denied sub nom. Cerny v. SEC*, 708 F. App'x 29 (2d Cir. Sept. 7, 2017), *cert. denied*, 138 S.Ct. 2005 (2018). Because the Claimant's information did not lead to the success of the Covered Action and Claimant's award claim was submitted several years after the deadline, we decline to exercise our discretionary authority under Exchange Act Section 36(a) or Exchange Act Rule 21F-8(a) to waive the filing deadline.

III. Conclusion

Accordingly, it is hereby ORDERED that the whistleblower award application of Claimant in connection with the Covered Action be, and it hereby is, denied.

By the Commission.

Vanessa A. Countryman
Secretary