UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 103177 / June 4, 2025

WHISTLEBLOWER AWARD PROCEEDING
File No. 2025-32

In the Matter of the Claim for Award

in connection with

Redacted

Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

The Claims Review Staff ("CRS") issued a Preliminary Determination in connection with Redacted ("Covered Action") recommending that Redacted ("Claimant") be denied a whistleblower award for the Covered Action and three actions brought by Redacted ("Other Agency").[1] Claimant submitted a timely response contesting the preliminary denial.[2] For the reasons discussed below, Claimant's award claim is denied.

I. Background

A. The Covered Action

On Redacted the Commission Redacted Redacted ("Respondent"). Respondent Redacted

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[1] The three actions brought by the Other Agency were: (1) Redacted (2) Redacted and (3) Redacted (collectively, "Other Agency Actions").

[2] *See* Exchange Act Rules 21F-10(e) and 11(e), 17 C.F.R. §§ 240.21F-10(e) and 11(e).

Redacted ("Company") Redacted
Redacted
Redacted The Covered Action found
that Respondent was responsible for violations Redacted by
the Company Redacted

The Covered Action determined that Redacted
Redacted ("Location A") Redacted
Redacted
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Redacted ("Intermediary"). The Covered Action specifically determined that Redacted
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Among other relief, the Commission ordered Respondent to pay more than $1 million in monetary sanctions.

The Office of the Whistleblower posted a Notice of Covered Action on the Commission's public website inviting claimants to submit whistleblower award applications within 90 days.[3] Claimant submitted a timely whistleblower award claim.

B. The Preliminary Determination

The CRS issued a Preliminary Determination[4] recommending that Claimant's claim be denied.[5] The CRS preliminarily determined that Claimant did not provide information to the

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

4 *See* Exchange Act Rule 21F-10(d) and 11(d), 17 C.F.R. §§ 240.21F-10(d) and 11(d).

5 The record supporting the Preliminary Determination included the declaration of Commission staff who

Commission that led to the successful enforcement 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. Information Claimant provided to the Commission did not: (1) under Rule 21F-4(c)(1), cause the Commission to (a) commence an examination, open or reopen an investigation, or inquire into different conduct as part of a current Commission examination or investigation, and (b) thereafter bring an action based, in whole or in part, on conduct that was the subject of Claimant's information; or (2) significantly contribute to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c)(2).

Specifically, the Investigation was not opened based on information provided by Claimant to the Commission. Instead, information contained in news articles published in Redacted Redacted ("News Articles") and Commission staff ("Staff") communications with the Other Agency caused Staff to open the Investigation in Redacted In addition, none of the information provided by Claimant to the Commission caused Staff to inquire into different conduct as part of the Investigation.

According to the Preliminary Determination, even if Claimant provided information to Redacted ("Journalist") Redacted author of the News Articles—which, in part, caused Staff to open the Investigation in Redacted —the opening of the Investigation could not be credited to Claimant. That is because Claimant did not provide information to the Commission until Redacted after the opening of the Investigation.

In Redacted Claimant directly provided information to the Other Agency for the first time. The Preliminary Determination stated, however, that Claimant could not utilize the "lookback" provision under Rule 21F-4(b)(7) because Claimant had not directly provided that information to the Commission within the 120-day period required under that Rule.[6] Claimant asserted that he/she had also provided information directly to the Other Agency during meetings with officials from the Other Agency that transpired in Redacted The Preliminary Determination stated, however, that even if the Redacted information given to the Other Agency fell within the "lookback" provision of Rule 21F-4(b)(7), none of that information had any effect on the Investigation or the resulting Covered Action. Accordingly, Claimant could not satisfy the "led to" requirement under Rule 21F-4(c) by relying on any information Claimant provided to the Other Agency in Redacted

worked on the investigation that resulted in the Covered Action ("Investigation"). *See* Exchange Act Rule 21F-12(a), 17 C.F.R. § 240.21F-12(a).

[6] Under Rule 21F-4(b)(7), if a claimant provides information to another authority of the federal government, and then provides the same information to the Commission pursuant to Rule 21F-9 within 120 days, then for purposes of evaluating the award claim, the Commission will consider the claimant to have provided the information as of the date the claimant made the original disclosure, report or submission to the other government authority. *See* Exchange Act Rule 21F-4(b)(7), 17 C.F.R. § 240.21F-4(b)(7).

Additionally, Claimant's submission of information did not cause Staff to inquire concerning different conduct as part of the ongoing Investigation under Rule 21F-4(c)(1) or significantly contribute to the success of the Covered Action under Rule 21F-4(c)(2).

The Preliminary Determination observed that even if Claimant satisfied the "original information" requirement pursuant to Rule 21F-4(b) as the source of some of the information the Commission received from the Other Agency or the News Articles, at the time Claimant submitted his/her TCR to the Commission in Redacted ("Claimant's TCR"), the information contained therein did not "contribute to the success" of the Covered Action under Rule 21F-4(c)(2). Prior to receiving Claimant's TCR, Staff was already aware of Claimant's information through: (1) Staff's review of the News Articles; (2) Staff's discussions with the Other Agency; (3) Staff's review of documents provided by the Other Agency; and (4) Staff's own investigative efforts.

None of the information that Claimant provided during Claimant's subsequent interviews with Staff in Redacted ("Interviews") expanded or helped advance the Investigation. During the Interviews, Claimant did not provide any new information relating to the subject matters of the Covered Action that assisted in the Investigation.

Overall, none of the information that Claimant provided to the Commission was used in, nor had any impact on, the misconduct involved in the Covered Action.

Finally, the Preliminary Determination noted that because Claimant did not qualify for an award in connection with the Covered Action, Claimant was not eligible for a related action award. A related action award may be made only if, among other things, the claimant satisfies the eligibility criteria for an award for the applicable covered action in the first instance.[7]

C. Claimant's Response to the Preliminary Determination

In Claimant's response to the Preliminary Determination, Claimant makes several arguments about why Claimant should receive an award for the Covered Action as well as the Other Agency Actions.

***First*,** Claimant asserts that he/she submitted original information that led to the Covered Action under Rule 21F-4(c)(1). Claimant believes that the Preliminary Determination adopted a narrow interpretation of the "led to" requirement under the whistleblower program rules

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[7] *See* Exchange Act Section 21F(b)(1), 15 U.S.C. §78u-6(b)(1); Exchange Act Rule 21F-3(b) and (b)(1), 17 C.F.R. §§ 240.21F-3(b) and (b)(1); Exchange Act Rule 21F-4(g) and (f), 17 C.F.R. §§ 240.21F-4(g) and (f); Exchange Rule 21F-11(a), 17 C.F.R. § 240.21F-11(a); *Order Determining Whistleblower Award Claims*, Rel. No. 34-4506 (Oct. 30, 2018); *Order Determining Whistleblower Award Claims*, Rel. No. 34-84503 (Oct. 30, 2018).

("Rules") that contradicts the Commission's directive to liberally construe the Rules. Claimant contends that the Rules do not require an "original source" such as Claimant to first report "directly" to the Commission, as opposed to another government agency.

Claimant argues that he/she should be given credit because by providing information to the Journalist, who then provided the information to the Other Agency, Claimant effectively provided the information to the Commission. Claimant cites to other Commission orders where the Commission ostensibly credited information that whistleblowers delivered to the Commission in unconventional ways as leading to successful enforcement actions.[8] Claimant states that he/she effectively and purposefully communicated his/her evidence regarding Redacted Redacted misconduct to the Journalist and the Other Agency, with the intention of having the misconduct investigated by U.S. law enforcement. According to Claimant, finding that his/her provision of information to the Journalist, who in turn provided it to the Other Agency, is sufficient to support the granting of a whistleblower award and is consistent with Commission precedent.[9]

Claimant further argues that the Rules do not require that a whistleblower's TCR launch the investigation that results in the relevant covered action. According to Claimant, where a whistleblower is an "original source" who reports to another agency before reporting to the Commission, analyzing whether the whistleblower's information "led to" the covered action is determined in accordance with Rule 21F-4(c)(1) rather than Rule 21F-4(c)(2).[10] Claimant argues that—notwithstanding Claimant's failure to satisfy Rule 21F-4(b)(7) because Claimant submitted Claimant's TCR to the Commission more than 120 days after the Journalist provided information to the Other Agency—Claimant satisfied Rule 21F-4(c)(1) because the Other Agency passed Claimant's information along to the Commission and Claimant subsequently filed Claimant's TCR with the Commission to perfect his/her claim. Claimant alleges that Rule 21F-4(c)(1) does

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8 *See*, *e.g.*, *Order Determining Whistleblower Award Claims*, Rel. No. 34-94398 (Mar. 11, 2022) ("2022 Order") (granting an award to a claimant who was deemed to be an "original source" where the claimant emailed his/her report to Division of Enforcement ("Enforcement") staff three days after posting it online, even though it was Enforcement staff's discovery of the online report and not Enforcement staff's receipt of the claimant's email that prompted the opening of the successful investigation). Claimant argues that like that whistleblower, Claimant was an "original source" who provided the Commission with original information after Staff had already obtained it directly from other sources. Claimant argues that unlike the other whistleblower, Claimant provided his/her original information not only to the media but also to another federal agency.

9 *See*, *e.g.*, 2022 Order.

10 Claimant cites to commentary to Rule 21F-4(c)(2) when it was proposed; such commentary stated that: "The proposed rule [*i.e.*, proposed Rule 21F-4(c)] also makes clear that paragraph (2) of Proposed Rule 21F-4(c) does not apply when a whistleblower provides information to the Commission about a matter that is already under investigation by another authority if the whistleblower is the 'original source' for that investigation under Proposed Rule 21F-4(b)(4). In those circumstances, paragraph (1) of Proposed Rule 21F-4(c) would govern the Commission's analysis." *Proposed Rules for Implementing the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934*, 75 Fed. Reg. 70488, 70497, n. 42 (Nov. 17, 2010) ("Proposing Release").

not require a strict causal connection between a whistleblower's submission to the Commission and the opening of the investigation that results in the covered action, as purportedly reflected in changes in language from the initial draft of that provision as well as commentary regarding the adoption of Rule 21F-4(c)(1).[11]

Second, Claimant argues that even if the Commission determines that Claimant does not satisfy the requirements of Rule 21F-4(c)(1), the Commission should exercise its discretion under Section 36(a) of the Exchange Act to extend the "lookback" period of Rule 21F-4(b)(7) beyond 120 days. Claimant states that the 120-day deadline had passed only months before Claimant retained counsel and that he/she only seeks an extension of the deadline by months, not years. Claimant states that there are no competing claimants who would be prejudiced by relating Claimant's TCR back to the date the Journalist provided information to the Other Agency.

According to Claimant, his/her delay in submitting Claimant's TCR to the Commission should be excused because: (1) Claimant was a "quintessential whistleblower", who Redacted did not know which U.S. investigating agency would have jurisdiction over the misconduct Redacted (2) Claimant should not be penalized for approaching the "wrong" federal law enforcement agency, or using an "incorrect" method to reach out to the "correct" agency; and (3) Claimant took considerable personal risk in revealing the misconduct, as Claimant was fearful for his/her physical safety and was concerned that he/she would be legally retaliated against. Claimant further argues that nothing suggests that the Investigation was hampered by any delay in filing Claimant's TCR and that any non-compliance with the 120-day rule was harmless.

Finally**,** Claimant asserts that he/she is entitled to a related action award for all three Other Agency Actions.

II. Analysis

Claimant's information did not lead to the successful enforcement of the Covered Action. Because Claimant does not qualify for an award for the Covered Action, Claimant is not eligible for any related action award.

To qualify for an award under Section 21F of the Exchange Act, a whistleblower must have "voluntarily provided original information ***to the Commission*** that led to the successful enforcement of the covered . . . action."[12] Rules 21F-4(c)(1) and (c)(2) specify that this "led to"

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[11] *See* Proposing Release, 75 Fed. Reg. at 70521; *Securities Whistleblower Incentives and Protections*, 76 Fed. Reg. 34300, 34324–25 (June 13, 2011) ("Adopting Release").

[12] Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1) (emphasis added).

requirement is satisfied if either "[***y*]*ou gave*** the Commission original information that . . . cause[d] the staff to . . . open an investigation . . . or to inquire concerning different conduct as part of a current examination or investigation" or "[***y*]*ou gave*** the Commission original information about conduct that was already under examination or investigation by the Commission . . . and your submission significantly contributed to the success of the action."[13]

The record supports the conclusion that Claimant does not satisfy Rule 21F-4(c)(1) because Claimant did not provide information ***to the Commission*** that caused the opening of the Investigation. A declaration from Staff ("Declaration"), provided under penalty of perjury, which we credit, confirms that Staff opened the Investigation in Redacted as a result of Staff: (1) learning from the Other Agency in Redacted that the Other Agency was investigating Redacted and (2) reviewing information contained in the News Articles. Claimant submitted information to the Commission for the first time in Redacted Redacted when he/she submitted Claimant's TCR.

Moreover, at the time that Staff opened the Investigation in Redacted Claimant was not a "whistleblower" as defined within the meaning of Rule 21F-2(a)(1) because Claimant had not provided information in writing ***to the Commission***.[14]

Claimant also did not provide information to the Commission that caused Staff to inquire into different conduct under Rule 21F-4(c)(1). The Declaration confirms that prior to receiving Claimant's TCR, Staff was already aware of the information in Claimant's TCR through: (1) Staff's review of the News Articles; (2) Staff's discussions with the Other Agency; (3) Staff's review of documents provided by the Other Agency; and (4) Staff's own investigative efforts.

Additionally, the record supports the conclusion that Claimant does not satisfy Rule 21F-4(c)(2). Claimant did not provide the Commission with any information—either in Claimant's TCR or during the Interviews with Staff—that significantly contributed to the success of the Covered Action.

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[13] Exchange Act Rules 21F-4(c)(1) and (c)(2), 17 C.F.R. §§ 240.21F-4(c)(1) and (c)(2) (emphasis added). 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. *Order Determining Whistleblower Award Claims*, Rel. No. 34-90922 at 4 (Jan. 14, 2021); *see also Order Determining Whistleblower Award Claims*, Rel. No. 34-85412 at 9 (Mar. 26, 2019). 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. Rel. No. 34-85412 at 8–9.

[14] *See* Exchange Act Rule 21F-2(a)(1), 17 C.F.R. § 240.21F-2(a)(1); *see also Order Determining Whistleblower Award Claim*, Rel. No. 34-102232 (Jan. 17, 2025).

According to the Declaration, Staff first reviewed Claimant's TCR in Redacted Included with Claimant's TCR were documents that Staff had previously received from the Other Agency. Prior to reviewing Claimant's TCR, Staff did not have any communications with Claimant. The Interviews that transpired in Redacted constituted the first substantive communications that Staff had with Claimant. During the Interviews, Claimant spoke about Redacted Redacted Redacted The information that Claimant provided about the Company during the Interviews was very limited and was already known to Staff.

The Declaration states that none of the information Claimant directly provided to the Commission—including information that Claimant provided in Claimant's TCR and during the Interviews—helped advance the Investigation. Claimant's TCR and the Interviews did not contain any new information that assisted in the Investigation. Additionally, Staff did not receive any information or documents from the Other Agency that were helpful to or advanced the Investigation or the Covered Action following the Other Agency's meetings with Claimant prior to the Interviews. Further, during the Interviews, Claimant did not provide any new information relating to the subject matters of the Covered Action that assisted the Investigation. Overall, none of the information that Claimant directly provided to the Commission was used in, nor had any impact on, the Covered Action.

A. Original Source Rule

Claimant resists these conclusions by arguing that he/she is the "original source"[15] of the information that was reported in the News Articles concerning Redacted and that the information in the News Articles, along with information that the Journalist provided to the Other Agency purportedly on Claimant's behalf, caused Staff to launch the Investigation. But whether Claimant was the original source of the News Articles is a separate issue from whether Claimant satisfies the statutory "led to" requirement. That requirement is embodied in Congress's directive that, to qualify for an award, a whistleblower must have "voluntarily provided original information ***to the Commission that led to*** the successful enforcement of the covered . . . action."[16] In other words, putting aside the separate requirement of whether the information was original, it must have been the information that was provided "to the Commission" that led to the successful enforcement of the Covered Action. Here, Claimant does not dispute that the information Claimant provided ***to the Commission*** did not do so; instead, Claimant contends that he/she provided information to the Journalist and that the subsequent

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[15] Rule 21F-4(b)(5) provides that "[t]he Commission will consider you to be an original source of the same information that we obtain from another source if the information satisfies the definition of original information and the other source obtained the information from you or your representative." Exchange Act Rule 21F-4(b)(5), 17 C.F.R. § 240.21F-4(b)(5).

[16] Exchange Act Section 21F(b)(1) (emphasis added).

News Articles, along with information that the Journalist provided to the Other Agency purportedly on Claimant's behalf, led to the successful enforcement of the Covered Action.[17] Because Claimant does not meet the statutory "led to" requirement, Claimant is ineligible for an award.

Claimant's submission of information to the Commission in Redacted bore no causal connection to Staff's opening of the Investigation in Redacted and therefore did not satisfy Rule 21F-4(c)(1).[18] We credit the Declaration, which confirms that Claimant's belated submission of information to the Commission was not in any way helpful to the Investigation or the Covered Action. As a result, even if we assume without deciding that Claimant satisfies the "original information" requirement, Claimant's submission of information did not lead to the successful enforcement of the Covered Action as required by Section 21F(b)(1) and Rule 21F-4(c).

Claimant's interpretation of the Rules also misunderstands how the statutory "led to" requirement and the Commission's "original source" rule were designed to interact. The Commission's "led to" rule implements Congress's decision to condition award eligibility on whether a whistleblower gave the Commission original information that "led to the successful enforcement of" a covered action. In relevant part, the "led to" rule conditions award eligibility on whether the whistleblower's "original information . . . cause[d] the staff to open . . . an investigation" under Rule 21F-4(c)(1) or, for later submissions, whether the whistleblower's "submission significantly contributed to the success of the action" under Rule 21F-4(c)(2).[19]

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[17] As we previously noted, "[t]he plain language of Section 21F . . . requires that information be 'provided' and 'submitted' directly to the Commission in order to support an award—and makes no allowance for the online publication of information that, by happenstance, indirectly makes its way into the hands of Commission staff." *Order Determining Whistleblower Award Claim*, Rel. No. 34-82955 at 5 (Mar. 27, 2018).

[18] *Kilgour v. SEC*, 942 F.3d 113, 122 (2d Cir. 2019) (reading the "led to" language in Section 21F(b)(1) as "seem[ing] to require that the information *as* ***provided by the whistleblower*** must have 'led to the successful enforcement action.'") (emphasis in original). *See also Order Determining Whistleblower Award Claim*, Rel. No. 34-102987 (May 5, 2025) ("May 2025 Order") (denying award claim where investigation was opened based on news articles, and not information joint claimants provided to the Commission a year later, despite joint claimants' argument that their information was used in the news articles); *Order Determining Whistleblower Award Claims*, Rel. No. 34-96669 (Jan. 17, 2023) (denying award claims as investigation was opened based on press reports and not because of information provided by claimants to the Commission).

[19] By contrast, the Commission adopted the "original source" rule in 2011 to implement Congress's directive that awards be paid only to whistleblowers who submit "original information," Section 21F(b)(1), which is defined to mean information that, in addition to other conditions, "is not known to the Commission from any other source, unless the whistleblower is the original source of the information," Section 21F(a)(3). The "original source" rule repeats those statutory directives and elaborates, "[t]he Commission will consider you to be an original source of the same information that we obtain from another source if the information satisfies the definition of original information and the other source obtained the information from you or your representative." Exchange Act Rule 21F-4(b)(5), 17 C.F.R. § 240.21F-4(b)(5). As discussed below, the "original source" rule was not designed to implement the "led to" statutory requirement.

To paraphrase, these first two paragraphs of the "led to" rule focus on causation: Did the whistleblower's submission to the Commission of original information cause the Enforcement staff to open the investigation or else significantly contribute to the success of the covered action?

Claimant's proposed interpretation of Rule 21F-4(c)(1) would sever that chain of causation by granting award eligibility whenever the Enforcement staff opens an investigation based on publicly available information or information the Enforcement staff obtained elsewhere for which an individual was the "original source," even if that individual's submission to the Commission at a later date bore no causal connection to the opening of the investigation. Claimant's reading would reduce the statutory requirement that the information be provided "to the Commission" to a ministerial step, one that had no independent substantive (causal) connection between the whistleblower's information and the success of the Commission's action. We do not believe that this is what Congress intended when Congress enacted the "led to" requirement in Section 21F(b)(1), nor does it seem the better reading of the statute.

On the present record, for example, Claimant first contacted the Journalist Redacted Redacted but did not submit information directly to the Commission until more than a year later in Redacted at which point Claimant's submission no longer had any value to Staff. Such a scenario is not of the sort that the whistleblower program was designed to reward. As the U.S. Supreme Court has recognized, Congress's "'core objective'" in enacting Exchange Act Section 21F was "'to motivate people who know of securities law violations to tell the SEC.'"[20] Extending our whistleblower rules to reward Claimant would do little, if anything, to effectuate that purpose.

Satisfying the Commission's "original source" rule goes to Congress's statutory requirement that a whistleblower submit original information, and it is not a substitute for satisfying Congress's separate "led to" requirement. Indeed, this result was implicit in the illustrative example in our Adopting Release of how the "original source" rule and the "led to" rule were designed to interact:

> As the language of our rule indicates, if B makes a whistleblower submission based upon information obtained from A, and A later makes his or her own submission of that information, then A will be considered the "original source" of the information (assuming that A establishes his or her status as the original source and that the information otherwise qualifies as "original information"). However, A's status as the "original source" of the information does not exclude B from award eligibility. In this example, because B obtained the facts underlying his or her submission from A, and those facts were not

[20] *Digital Realty Trust, Inc. v. Somers*, 583 U.S. 149, 162 (2018) (*quoting* S. Rep. No. 111–176, at 38 (2010)).

derived from publicly available sources, B would also be deemed to have submitted information derived from his or her "independent knowledge." Thus, both submissions could qualify as "original information;" B's because he or she was first to bring the Commission information derived from "independent knowledge," and A's because he or she was the "original source" of information that, as of B's submission, was already known to the Commission.

Further, by virtue of being first-in-time, B may have an advantage over A. If B's submission were sufficiently specific, credible, and timely that it caused us to open an investigation, and if a successful enforcement action resulted, then we would consider whether B's submission "led to" our successful action under the lower standard set forth in Rule 21F-4(c)(1). Correspondingly, if A made his or her submission after we were already investigating the matter that B brought to us, then A's information would be evaluated under Rule 21F-4(c)(2), and A would have to meet the additional requirement that his or her information "significantly contributed" to the success of the action. In this regard, we note that A would also be considered the "original source" of any additional information he or she provided that materially added to our base of knowledge.[21]

In this illustration, both A and B could qualify as having provided original information, with A taking advantage of the "original source" rule, but each would be evaluated under a different prong of the "led to" rule depending on the timing of their respective submissions to the Commission. By contrast, on Claimant's reading, even if A made his or her submission to the Commission long after the Enforcement staff opened the investigation, both A and B could satisfy Rule 21F-4(c)(1) based solely on B's earlier submission to the Commission of information for which A was an "original source." Moreover, A would no longer have to meet the "significantly contributed" standard under Rule 21F-4(c)(2). That is not how Rule 21F-4(c)(1) and Rule 21F-4(c)(2) were designed to operate.

Accordingly, we reject Claimant's proposed interpretation of our Rules. Claimant's belated submission of information to the Commission bore no causal connection to Staff's opening of the Investigation and therefore did not satisfy Rule 21F-4(c)(1).

B. Precedent

In arguing that he/she should receive an award, Claimant cites to other Commission orders where the Commission ostensibly credited information that whistleblowers delivered to the Commission in unconventional ways as leading to successful enforcement actions. Claimant

[21] 76 Fed. Reg. at 34321–22.

primarily relies on the 2022 Order,[22] where we reasoned that the whistleblower was the "original source" of the information in the online report and that this information had caused the Enforcement staff to open its investigation under Rule 21F-4(c)(1).

However, as we explained in great detail in the May 2025 Order, we have now disavowed the approach followed in the 2022 Order.[23] In the May 2025 Order, we specified that both Rule 21F-4(c)(1) and (c)(2) require that a claimant's submission of information to the Commission prove helpful to the Enforcement staff in the covered action.[24]

Here, we credit the Declaration that Claimant's belated submission of information to the Commission was not in any way helpful to the Investigation or the Covered Action. As a result, even if we assume that Claimant's submission contained original information, that submission did not lead to the successful enforcement of the Covered Action as required by Section 21F(b)(1) and Rule 21F-4(c).

C. Waiver

Claimant also argues that the Commission should exercise its discretion under Section 36(a) of the Exchange Act to extend the "look-back" period of Rule 21F-4(b)(7) beyond 120 days. Section 36(a)(1) provides that "the Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors."[25]

Claimant does not satisfy Rule 21F-4(b)(7), and the Commission declines to waive Claimant's failure to comply with the requirements of that Rule. Specifically, Rule 21F-4(b)(7) states that "[i]f ***you*** provide information to . . . any other authority of the Federal government . . . and ***you***, within 120 days, submit the same information to the Commission pursuant to [Rule 21F-9], as ***you*** must do in order for you to be eligible to be considered for an award, then, for purposes of evaluating your claim to an award . . . the Commission will consider that ***you*** provided information as of the date of your original disclosure, report or submission to one of

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[22] Claimant also cites to other prior orders, arguing that in cases where Commission staff launched investigations based on information obtained from sources other than the claimants, the Commission did not mention that the claims should be denied simply because the claimants did not provide the information directly to the Commission before the investigations were opened. According to Claimant, such cases could have been resolved simply if a whistleblower must directly provide information that leads to a successful enforcement action prior to the opening of an investigation.

[23] *See* May 2025 Order at 6–8.

[24] *Id.* at 8.

[25] Exchange Act Section 36(a)(1), 15 U.S.C. § 78mm(a)(1).

these other authorities or persons."[26]

Here, Claimant provided information to the Journalist, who Claimant argues acted as his/her representative, and the Journalist in turn provided the information to the Other Agency beginning in Redacted

Claimant does not satisfy Rule 21F-4(b)(7) for two reasons. *First*, Rule 21F-4(b)(7) requires the whistleblower to have provided the information to the other authority of the federal government, not an independent journalist who was purportedly acting as an intermediary for the whistleblower.[27] *Second*, assuming without deciding that the Journalist provided useful information about Redacted to the Other Agency,[28] the first time that ***Claimant*** provided information to the Commission was in Redacted which was more than 120 days after the Journalist provided the information to the Other Agency.

Declining to exercise our exemptive authority to waive aspects of Rule 21F-4(b)(7) and denying Claimant an award does not undermine the goals of the Commission's whistleblower program. The Commission's whistleblower program was designed to encourage persons with information about potential securities violations to report such information ***to the Commission***.[29] Using Section 36(a) to excuse a claimant's failure to report information to the Commission in a timely manner would be contrary to the underlying purpose of the Commission's whistleblower program. In fact, the purpose behind Rule 21F-4(b)(7) is ensuring the submission of information to the Commission in a timely manner.[30]

None of Claimant's arguments about why the Commission should exercise its Section 36(a) discretionary authority—including (1) that Claimant was a "quintessential whistleblower" Redacted who was unfamiliar with U.S. law enforcement, (2) that Claimant should not be penalized for incorrectly submitting information to the Commission, (3) that Claimant took considerable personal risk in coming forward with his/her information, and (4) that the Investigation was not hindered by any delay in his filing Claimant's TCR—change this conclusion.

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[26] Exchange Act Rule 21F-4(b)(7), 17 C.F.R. § 240.21F-4(b)(7) (emphasis added).

[27] While the "original source" rule under Rule 21F-4(b)(5) uses the term "representative", the "lookback" provision of Rule 21F-4(b)(7) does not. Regardless, we are skeptical that "representative" would include an independent journalist who has no fiduciary relationship with the claimant.

[28] While Claimant asserts that the Journalist provided information about Redacted to the Other Agency, the Commission need not reach a decision about whether the Journalist in fact provided this information.

[29] *See Digital Realty Trust, Inc.* 583 U.S. at 162.

[30] As the Adopting Release explained, the Commission chose the 120-day "lookback" period "[b]ecause of our strong law enforcement interest in receiving high quality information about misconduct quickly . . ." 76 Fed. Reg. at 34323.

Contrary to Claimant's assertions otherwise, applying the "led to" requirement to deny an award also does not result in any unfair burden to Claimant. The "led to" requirement is not a mere technicality but rather helps ensure that award eligibility is limited to claimants whose submissions to the Commission actually prove to be helpful, consistent with Congress's statutory design. Regardless of a particular claimant's unique circumstances—including that a claimant is Redacted unfamiliar with U.S. law enforcement, that a claimant took risks in coming forward with his/her information, or that a claimant's deficient submission did not ostensibly harm any underlying investigation—we see no unfairness in concluding that a claimant who reports to the press before submitting information to the Commission should generally bear the risk that the Enforcement staff may learn that information via other sources before the staff receives the claimant's submission itself.[31]

Based on the facts and circumstances of this case, we thus decline to exercise our discretionary exemptive authority under Section 36(a) for Claimant's award claim.[32]

Finally, because Claimant is not eligible for an award in the Covered Action, Claimant is not eligible for an award in any of the Other Agency Actions.[33]

III. Conclusion

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

By the Commission.

Vanessa A. Countryman
Secretary

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31 This analysis is limited to the facts and circumstances presented in this record.

32 *See* May 2025 Order at 8–9 (denying request to waive any applicable procedural bars to joint claimants' award eligibility, including the requirement under Rule 21F-4(b)(7) to submit information to the Commission within 120 days of reporting it to an entity enumerated in the Rules); *Order Determining Whistleblower Award Claim*, Rel. No. 34-102232 (Jan. 17, 2025) (denying request to exercise Section 36(a) exemptive authority to waive any applicable procedural bars to award eligibility, including Rule 21F-4(c)(1) and Rule 21F-4(b)(7)'s 120-day reporting requirement).

33 *See supra* note 7.