

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 104139 / September 30, 2025

WHISTLEBLOWER AWARD PROCEEDING
File No. 2025-58

In the Matter of the Claims for Award

in connection with

Redacted

Redacted

Notice of Covered Action Redacted

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIMS

The Claims Review Staff (“CRS”) issued Preliminary Determinations in connection with
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Redacted (“Covered Action”) recommending that the Commission:
waive the TCR filing requirements under Rules 21F-9(a) and (b) as to Redacted (“Claimant 1”);
find that Claimant 1 voluntarily provided original information to the Commission that led to the
successful enforcement of the Covered Action; grant Claimant 1 an award of ^{***} percent
(^{***} %) of the monetary sanctions collected in the Covered Action; and deny Redacted
 (“Claimant 2) a whistleblower award for the Covered Action.

Claimant 1 and Claimant 2 (collectively, “Claimants”) submitted timely responses
contesting the Preliminary Determinations.¹ For the reasons discussed below, we adopt the
recommendations of the CRS as to Claimant 1 and Claimant 2.

¹ See Exchange Act Rule 21F-10(e), 17 C.F.R. § 240.21F-10(e). Preliminary denials were also issued to two
other claimants in connection with the Covered Action. These individuals did not contest the preliminary denials of
their claims and, as such, the Preliminary Determination and the Preliminary Summary Disposition with respect to
these individuals’ claims became final orders of the Commission. See Exchange Act Rule 21F-10(f), 17 C.F.R. §
240.21F-10(f); Exchange Act Rule 21F-18(b)(4), 17 C.F.R. § 240.21F-18(b)(4).

Redacted **Third**, the CRS preliminarily determined that Claimant 1 voluntarily provided original information to the Commission that led to the successful enforcement of the Covered Action. **Fourth**, the CRS recommended that Claimant 1 receive an award of *** % of the monetary sanctions collected in the Covered Action. **Fifth**, the Preliminary Determinations recommended that the Commission decline to use its Section 36(a) exemptive authority to grant Claimant 1 a larger award based upon certain reimbursements made Redacted before the Covered Action was brought.

2. The Preliminary Determinations as to Claimant 2

As to Claimant 2, the Preliminary Determinations recommended that the Commission deny an award to Claimant 2. No information submitted by Claimant 2 led to the successful enforcement of the Covered Action within the meaning of Section 21F(b)(1) of the Exchange Act and Rule 21F-3(a)(3) and Rule 21F-4(c) because none of the information that Claimant 2 submitted: (1) caused the Commission to (i) commence an examination, (ii) open or reopen an investigation, or (iii) inquire into different conduct as part of a current Commission examination or investigation under Rule 21F-4(c)(1); or (2) significantly contributed to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c)(2).⁵

C. Claimants' Responses to the Preliminary Determinations

Claimants submitted timely written responses contesting the Preliminary Determinations.

1. Claimant 1's Response to the Preliminary Determinations

In Claimant 1's response to the Preliminary Determinations, Claimant 1 argues that the amount of money on which Claimant 1's award is based should be increased, even though the recommended award was Redacted % of the monetary sanctions collected in the Covered Action. Redacted the whistleblower program rules ("Rules"). Claimant 1 complains that if the Commission follows the Preliminary Determinations' recommendations, he/she will only receive a \$3.36 million award. Claimant 1 asserts that this \$3.36 million is a fraction of what he/she should actually receive.

In the Covered Action, the Commission ordered Respondents to pay Redacted Redacted was the only monetary sanction ordered in the Covered Action. Under the Rules, whistleblowers can only be paid a percentage of the monetary sanctions that the Commission has collected in connection with a covered action.

⁵ Exchange Act Rules 21F-4(c)(1) and (c)(2), 17 C.F.R. §§ 240.21F-4(c)(1) and (c)(2).

According to Claimant 1, rather than receiving an award based on the ^{Redacted} in monetary sanctions ordered and collected in the Covered Action, he/she should instead receive an award based on the ^{Redacted} as well as an additional ^{Redacted} (totaling ^{***} ^{Redacted}). ^{Redacted} Before the Commission brought the Covered Action, ^{Redacted} reimbursed ^{Redacted} Claimant 1 believes he/she should therefore receive an award totaling ^{Redacted} Claimant 1 believes that such an award would represent the true value of his/her whistleblowing.

Claimant 1 contends that the Preliminary Determinations improperly failed to recommend that the Commission exercise its exemptive authority to include the ^{Redacted} in reimbursements in the calculation of his/her whistleblower award. According to Claimant 1, the Preliminary Determinations were erroneous for four reasons.

First, Claimant 1 alleges that the Preliminary Determinations failed to treat similar whistleblowers alike. According to Claimant 1, the Commission has encountered prior situations where entities have disgorged ill-gotten gains before enforcement actions were brought. Claimant 1 alleges that in such cases, the Commission has “deemed” those disgorgement payments as having been ordered as sanctions in the enforcement actions.⁶ Claimant 1 states that by including such “deeming clauses” in the enforcement actions, the Commission has ensured that whistleblowers can receive awards based on the full value of the relief they secured. The Covered Action, however, did not include a “deeming clause” with respect to ^{Redacted} prior ^{Redacted} reimbursements ^{Redacted} Claimant 1 argues that the Commission’s failure to do so was arbitrary, capricious, and an abuse of discretion.

Claimant 1 states that Congress intended “monetary sanctions” that “support a whistleblower award” to cover all payments that are “in the nature of relief for violations that are the subject of the [enforcement] action.”⁷ Claimant 1 asserts that when an entity preemptively disgorges funds that should have gone to investors, the reimbursements are “in the nature of relief” and are directly related to the “violations that are the subject of the action.”

⁶ For instance, Claimant 1 cites to *In the Matter of Insight Venture Management, LLC*, Admin. Proc. File No. 3-21499 (June 20, 2023). There, the Commission ordered respondent Insight Venture Management, LLC (“Insight”) to “pay disgorgement of \$773,754.41 and prejudgment interest of \$91,203.76 for a total of \$864,958.17, with such payment being deemed satisfied by the payments Insight previously made.” According to Claimant 1, such “deemed satisfied” language is critical for potential whistleblowers. Claimant 1 states that even though Insight returned the money before the Commission brought an enforcement action, the Commission’s “deeming clause” in the enforcement action ensured that an eligible whistleblower could recover an award based on the combined total of Insight’s prior reimbursements (\$864,958.17) and the civil money penalty (\$1.5 million) that was actually ordered in the enforcement action.

⁷ *Whistleblower Program Rules*, 85 Fed. Reg. 70898, 70905 (Nov. 5, 2020).

Claimant 1 argues that the pre-Covered Action reimbursements were made as a direct result of his/her internal reporting to Respondent 1 in ^{Redacted} before Claimant 1 submitted information to the Commission. Claimant 1 states that Respondents had known about the Relevant Misconduct dating back to ^{Redacted}; the reimbursements, however, were not made for the first time until ^{Redacted}. Claimant 1 contends that absent raising his/her concerns, the reimbursements ^{Redacted} would never have been made; absent the reimbursements, the Commission would have ordered the ^{Redacted} to be disgorged in the Covered Action as a monetary sanction, along with ^{Redacted}.

Second, Claimant 1 argues that the Preliminary Determinations undermine the Commission’s policies and whistleblower program by discouraging internal reporting and creating a loophole for future whistleblower retaliation. Claimant 1 contends that if he/she does not receive an increased award, whistleblowers who first report internally will run the risk of having smaller award bases in comparison to the larger award bases they would receive if they came forward to the Commission first.⁸

In support of this argument, Claimant 1 cites to the Commission’s rulemaking process before the Rules were implemented in 2011. According to Claimant 1, the Commission was warned that its Rules could force whistleblowers to “decline to report a violation internally based on the strategic calculation that the company could reduce the monetary sanctions through remediation, self-reporting, cooperation, etc., which in turn might reduce the whistleblower’s award.”⁹ Claimant 1 states that the Commission dismissed these concerns as lacking either “anecdotal [or] empirical evidence,” and it declined to adopt a rule to address such a situation.¹⁰ Claimant 1 contends that because his/her case was apparently not previously contemplated by the Commission, that is another reason for the Commission to issue an exemption.¹¹

Claimant 1 also argues that absent an exemption, the Commission would be creating a loophole that would incentivize securities laws violators to not only discourage employees from reporting to the Commission, but also retaliate against those who do. Claimant 1 hypothesizes that a violator could inform a whistleblower that the violator would cooperate with the Commission. The violator could also tell the whistleblower that it would quickly reimburse investors for the amount of the misconduct. Claimant 1 asserts that such threats would be enough to dissuade employees from blowing the whistle; even for those whistleblowers who report to the Commission, the potential awards would be reduced or even eliminated.

⁸ Claimant 1 asserts that his/her award base ^{Redacted} is “exponentially smaller” than what the award base should be ^{Redacted} because he/she reported internally first before coming forward to the Commission.

⁹ *Securities Whistleblower Incentives and Protections*, 76 Fed. Reg. 34300, 34360, n. 455 (June 13, 2011) (“Adopting Release”).

¹⁰ *Id.*

¹¹ Claimant 1 further adds that because he/she internally reported, ^{Redacted} ^{Redacted} if Claimant 1 had first reported to the Commission instead.

Third, Claimant 1 argues that the Preliminary Determinations are unfair and inequitable to Claimant 1, a model whistleblower who was instrumental to initiating the Investigation that led to the Covered Action. Claimant 1 states that when he/she was deciding whether to report the violations and risk “career suicide”, he/she believed that a potential whistleblower award would be based on monetary sanctions between ^{Redacted} plus interest. Claimant 1 states that it is deeply unfair that his/her award is only based on the ^{Redacted} in monetary sanctions that were actually ordered in the Covered Action, well below the actual value of Respondents’ violations.

Fourth, Claimant 1 argues that no countervailing policies support the CRS’s denial of an exemption. Claimant 1 alleges that given the unique facts here, there is no possible downside or future risks for the Commission in granting an exemption and increasing Claimant 1’s award.¹²

Claimant 1 asserts that this matter presents unusual facts, and, as such, the Commission is unlikely to face similar exemption requests in the future. According to Claimant 1, this case is unique for three primary reasons. *First*, unlike most cases where entities reimburse investors, Claimant 1 was the sole cause of the reimbursements. *Second*, the amount of monetary sanctions that the Commission would have issued absent the reimbursements is known and easily identifiable. *Third*, potential whistleblowers are unlikely to be shortchanged in future cases when the Commission follows its practice of imposing sanctions that are “deemed satisfied” by the prior reimbursements. According to Claimant 1, so long as the Commission imposes sanctions that are “deemed satisfied” by the prior reimbursements, Claimant 1’s situation is unlikely to arise again.

2. Claimant 2’s Response to the Preliminary Determinations

In Claimant 2’s response to the Preliminary Determinations, Claimant 2 argues that he/she provided information that resulted in the Covered Action. Claimant 2 alleges that the Declaration contains false statements about the nature of the information Claimant 2 provided to the Commission. Claimant 2 contends that he/she provided direct evidence of a dispute among Respondents and ^{Redacted} Claimant 2 believes this is the same misconduct involved in the Covered Action. Claimant 2 states that he/she provided extensive information directly related to ^{Redacted} Claimant 2 also states that he/she provided extensive information to support findings in the

¹² Claimant 1 notes that the Preliminary Determinations did not explain why it would be inappropriate for the Commission to grant Claimant 1 an exemption. Claimant 1 speculates that the CRS’s decision could be explained by two potential concerns: (1) granting an exemption for Claimant 1 would force the Commission to always grant exemptions for pre-settlement reimbursements; and (2) issuing an award based on monies the Commission has not collected would deplete the Investor Protection Fund, from which whistleblower awards are paid. Claimant 1 states that neither of these potential concerns justifies denying an exemption.

II. Analysis

To qualify for a whistleblower award under Section 21F of the Exchange Act, an individual must voluntarily provide the Commission with original information that leads to the successful enforcement of a covered action.¹⁴ Under Rules 21F-4(c)(1) and (2), respectively, the Commission will consider a claimant to have provided original information that led to the successful enforcement of a covered action if either: (1) the original information caused the staff, as relevant here, 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;¹⁵ or (2) the conduct was already under examination or investigation, and the original information “significantly contributed to the success of the action.”¹⁶

A. Claimant 1

1. Waiver of the TCR Filing Requirements

We exercise our general exemptive authority under Section 36(a) of the Exchange Act to waive the TCR filing requirements under Rules 21F-9(a) and (b) as to Claimant 1. Section 36(a) grants the Commission the authority in certain circumstances to exempt any person from any provision of the Exchange Act or any rule or regulation thereunder to the extent that such exemption is (i) “necessary or appropriate in the public interest” and (ii) “consistent with the

¹³ Claimant 2 also takes issue with certain statements made in the Declaration. In particular, the Declaration indicates that Staff found certain of Claimant 2’s information to be confusing. Claimant 2 states that Staff never expressed any confusion to Claimant 2 and that he/she was always available and responsive to Staff’s inquiries and requests. Claimant 2 contends that for Staff to now claim that Staff was confused by Claimant 2’s information is difficult to reconcile given the lengthy record of communications among Claimant 2 and Staff.

¹⁴ Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1).

¹⁵ Exchange Act Rule 21F-4(c)(1); 17 C.F.R. § 240.21F-4(c)(1).

¹⁶ Exchange Act Rule 21F-4(c)(2), 17 C.F.R. § 240.21F-4(c)(2). 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. *See Order Determining Whistleblower Award Claims*, Exchange Act Rel. No. 90922 at 4 (Jan. 14, 2021); *see also Order Determining Whistleblower Award Claims*, Exchange Act Rel. No. 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. Exchange Act Rel. No. 85412 at 8–9.

protection of investors.”¹⁷ In analyzing whether the standard for a Section 36(a) waiver has been met, the Commission considers (1) whether application of the rule in a particular matter would result in hardship, unfairness, or inequity;¹⁸ and (2) whether the unique circumstances of a particular matter raise considerations and arguments “substantially different from those which [were] carefully considered at the rulemaking proceeding.”¹⁹

Here, in ^{Redacted} Claimant 1’s counsel emailed a copy of Claimant 1’s TCR to OWB and an Enforcement attorney. Claimant 1’s counsel informed OWB and the Enforcement attorney that counsel would be sending hardcopies of Claimant 1’s TCR to the Commission by next-day mail. There is no evidence in the record, however, that the Commission received Claimant 1’s TCR by mail. Consequently, Claimant 1 did not satisfy Rule 21F-9(a), which requires whistleblowers to submit tips by fax, mail, or through the Commission’s online portal.²⁰ As a result of Claimant 1’s failure to satisfy Rule 21F-9(a), Claimant 1 also did not satisfy Rule 21F-9(b), which requires whistleblowers to sign their TCRs under penalty of perjury at the time they submit their TCRs through one of the permitted methods.²¹

We find that a Section 36(a) waiver from the requirements of Rule 21F-9(a) and Rule 21F-9(b) is appropriate due to the unique circumstances of this matter, including the following: (1) Claimant 1’s TCR, which was emailed to Commission staff, included the required perjury declaration; (2) Commission staff acknowledged that when Claimant 1 submitted Claimant 1’s Tip in ^{Redacted} —early in the COVID-19 pandemic—the Commission’s mailrooms were not “fully functional”; (3) citing the Commission’s disrupted mail processing, Commission staff specifically requested that Claimant 1 forward the exhibits to Claimant 1’s TCR to Commission staff by email; (4) Claimant 1’s information caused Staff to open the Investigation; and (5) after Claimant 1 initially submitted information to the Commission, Claimant 1 provided substantial continuing assistance to Staff throughout the Investigation.

2. Award to Claimant 1

The record demonstrates that Claimant 1 voluntarily provided original information to the Commission and that this original information led to the successful enforcement of the Covered

¹⁷ Exchange Act Section 36(a)(1), 15 U.S.C. § 78mm(a)(1).

¹⁸ See, e.g., *Orange Park Florida TV, Inc. v. FCC*, 811 F.2d 664, 675 (D.C. Cir. 1987) (“[A]ny rule of general applicability will involve particular cases of hardship, for which an agency would be empowered to make individual dispensations.”).

¹⁹ See *P&R Temmer v. FCC*, 743 F.2d 918, 929 (D.C. Cir. 1984) (“Where any administrative rule, although considered generally to be in the public interest, is not in the public interest as applied to particular facts, an agency should waive application of the rule.”).

²⁰ Exchange Act Rule 21F-9(a), 17 C.F.R. § 240.21F-9(a).

²¹ Exchange Act Rule 21F-9(b), 17 C.F.R. § 240.21F-9(b).

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In coming to this conclusion, the Commission considered that Claimant 1 provided significant information alerting Staff about the Relevant Misconduct, prompting the opening of the Investigation. Claimant 1 also saved Staff significant time and resources²⁶ and provided ongoing assistance over the course of the Investigation by identifying potential witnesses and assisting Staff with document requests.²⁷

We thus find that Claimant 1 shall receive an award of *** percent (**%) of the monetary sanctions collected in the Covered Action, resulting in an award equal to \$3.36 million ***

²² See Exchange Act Section 21F(b)(1), 15 U.S.C. § 78u-6(b)(1); Exchange Act Rule 21F-3, 17 C.F.R. § 240.21F-3.

²³ Exchange Act Rule 21F-16 concerns whistleblowers who engage in culpable conduct. See 17 C.F.R. § 240.21F-16.

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²⁶ According to the Declaration, all of the investigative steps that Staff took in the Investigation stemmed from Claimant 1's information, including, without limitation, obtaining a formal order and issuing document and testimony subpoenas. Further, all of the settled charges brought by the Commission against Respondents in the Covered Action derived from information that Claimant 1 provided regarding the Relevant Misconduct.

²⁷ Specifically, the Declaration, provided under penalty of perjury, which we credit, states that based solely on Claimant 1's TCR, which concerned the Relevant Misconduct, Staff opened the Investigation.

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3. Claimant 1’s Request to Increase the Award

We decline to exercise our discretionary exemptive authority under Section 36(a) to grant Claimant 1 a larger award based upon amounts that were reimbursed ^{Redacted} prior to the Covered Action. Such reimbursements were not ordered as monetary sanctions in the Covered Action and thus cannot be considered when calculating the amount of Claimant 1’s award.

The Rules specify that the amount of a whistleblower award “will be at least 10 percent and *no more than 30 percent of the monetary sanctions* that the Commission” is able to collect in connection with a covered action.²⁹ Under the Rules, “monetary sanctions” means “[a]n order to pay money that results from a Commission action” and which is either (i) “[e]xpressly designated as a penalty, disgorgement, or interest” or “[o]therwise ordered as relief for the violations that are the subject of the covered action.”³⁰

Here, in the Covered Action, the Commission ordered Respondents to pay a civil money penalty of ^{Redacted} for the Relevant Misconduct. In the Covered Action’s recitation of facts, the Commission stated that ^{Redacted}

^{Redacted} Such reimbursements, ^{Redacted} were made before the Commission brought the Covered Action in ^{Redacted} In the Covered Action, these reimbursements were not “expressly designated as a penalty, disgorgement, or interest.” These reimbursements were also not “ordered as relief for the violations that [were] the subject of” the Covered Action. Indeed, the Commission never ordered the reimbursements to be paid. Instead, the plain text of the Covered Action makes clear that the only monetary sanction ordered by the Commission in the Covered Action was ^{Redacted} This ^{***} ^{Redacted} monetary sanction—which the Commission has collected in full—is the amount that must therefore serve as the award base for calculating Claimant 1’s award.

We have previously declined to include reimbursements to investors made pursuant to voluntary undertakings as monetary sanctions for purposes of calculating claimants’ awards. In

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²⁹ Exchange Act Rule 21F-5(b), 17 C.F.R. § 240.21F-5(b).

³⁰ Exchange Act Rule 21F-4(e), 17 C.F.R. § 240.21F-4(e). *See also* Adopting Release at 34328 (“regardless of how designated, we will consider all amounts that are ‘ordered to be paid’ in a Commission action . . . as ‘monetary sanctions’ for purposes of Section 21F.”).

one final order (“2018 Final Order”),³¹ we considered a covered action in which a respondent voluntarily reimbursed certain amounts to investors. In the 2018 Final Order, we determined that a voluntary undertaking is not a monetary sanction. We reasoned that a respondent could not be ordered or otherwise compelled to comply with the undertaking, and, therefore, a voluntary undertaking “cannot be included for purposes of calculating a whistleblower award.”³²

We have also previously declined to permit an award to be calculated based on amounts greater than those actually “collected”. In a second final order (“2023 Final Order”),³³ a claimant argued that a whistleblower award should be based on the amount that the Commission could have collected or was “able to” collect rather than the amount that the Commission actually collected. In the 2023 Final Order, we rejected that claimant’s argument,³⁴ finding that the “statutory maximum whistleblower award is based on the amount actually collected in connection with the [c]overed [a]ction.”³⁵ The Commission, therefore could not base the amount of the award on a higher amount that the Commission did not collect. We indicated that calculating whistleblower award payments based on what the Commission did not collect would introduce uncertainty, inconsistency, and could delay the processing of award claims.

In the 2023 Final Order, we also denied the claimant’s request that the Commission use its Section 36(a) exemptive authority to set the claimant’s award amount above the statutory limit. We observed that we have used our discretionary authority to exempt whistleblowers from certain of the Rules under limited circumstances. Importantly, however, we affirmed that “the limitation on the amount of the award to be issued in connection with any [c]overed [a]ction was set by statute” and that “we have never used our discretion under Section 36(a)(1) of the Exchange Act to exempt a whistleblower from a statutory requirement or to approve an award amount above the statutory limit.”³⁶ We continued, stating that the text of the statute “reflects a clear congressional design to grant awards of no more than 30 percent of the amounts collected” by the Commission.³⁷

Notably, Congress has established the same framework for awards to be paid to whistleblowers in cases brought by the Commodity Futures Trading Commission (CFTC)³⁸ and under the Anti-Money Laundering Improvement Act (AML).³⁹ Thus, we concluded, given the clarity and consistency of the statutory design for whistleblower awards, “the Commission does

³¹ See *Order Determining Whistleblower Award Claim*, Rel. No. 34-83037 (Apr. 12, 2018).

³² *Id.* at 1, n. 1.

³³ See *Order Determining Whistleblower Award Claims*, Rel. No. 34-97202 (Mar. 27, 2023).

³⁴ See *id.* at 6–8.

³⁵ *Id.* at 7.

³⁶ *Id.* at 8.

³⁷ *Id.*

³⁸ § 7 U.S.C. 26(b)(1).

³⁹ § 31 U.S.C. 5323(b)(1).

not believe it would be appropriate to use its exemptive authority to award an amount above the statutory limit even in cases such as [the one involved in the 2023 Final Order], where a higher award amount might otherwise be warranted.”⁴⁰

We are bound by the Rules, which are unambiguous in affirming that awards can only be paid based on the monetary sanctions that are ordered in any given covered action. Here, ^{***} ^{Redacted} in monetary sanctions were ordered against Respondents in the Covered Action and fully collected by the Commission. As such, ^{Redacted} \$3.36 million, ^{Redacted} None of Claimant 1’s arguments about why the Commission should exercise its Section 36(a) discretionary authority change this conclusion.

Claimant 1’s assertion that Congress intended “monetary sanctions” that “support a whistleblower award” to cover all payments that are “in the nature of relief for violations that are the subject of the [enforcement] action” is also misplaced. The statutory definition of “monetary sanctions” is clear and unambiguous and does not permit voluntary reimbursements made by a respondent before an enforcement action is brought to qualify as monetary sanctions upon which a whistleblower award can be made.

Additionally, the Commission previously contemplated the possibility that internal reporting by a whistleblower might lead to internal remediation, which could then reduce a potential award. As we previously stated in the Adopting Release, the Rules permit upward adjustments in award amounts where internal reporting potentially results in a lower monetary sanction.⁴¹ Thus, it is not accurate to state that that the Commission merely dismissed such concerns or that Claimant 1’s case was not previously contemplated by the Commission.

Claimant 1’s contention that there is no possible downside or future risks for the Commission in granting an exemption and increasing Claimant 1’s award is erroneous. As we have noted previously, granting a waiver to allow amounts that were not ordered by a covered

⁴⁰ 2023 Final Order at 8.

⁴¹ See Adopting Release at 34359–62. Among other things, the Commission addressed a concern expressed by commenters that a sizeable percentage of whistleblowers could be “more motivated to report to the Commission in lieu of reporting internally because of the financial incentives created by the whistleblower program.” *Id.* at 34360. The Commission explained that the Rules were tailored to provide additional economic incentives for whistleblowers to continue to report internally. Such incentives included the possibility of awards based on self-reports prompted by internal reports as well as the inclusion of participation in internal compliance programs as a positive factor in determining the amounts of whistleblower awards. The Commission also specifically addressed the concern that some whistleblowers could still “decline to report a violation internally based on the strategic calculation that the company could reduce the monetary sanctions through remediation, self-reporting, cooperation, etc., which in turn might reduce the whistleblower’s award.” *Id.* at 34360, n. 455. We observed that “various factors in Rule 21F-6 allow us to account for a reduced monetary sanction by providing for an upward adjustment in the award determination where the internal reporting potentially resulted in a lower monetary sanction.” *Id.*

action to count as monetary sanctions on which an award could be based would introduce uncertainty, inconsistency, and could delay the processing of award claims.

In all, consistent with our precedent, we reject Claimant 1’s request to increase the amount of money on which Claimant 1’s award is based. We have never granted such a request before in the history of the whistleblower program, and we decline to do so here.

B. Claimant 2

Claimant 2 does not qualify for an award. Claimant 2’s information did not lead to the success of the Covered Action. Claimant 2 did not provide any information that was used in, advanced, or impacted the Investigation or the Covered Action. In all, Claimant 2’s information did not open the Investigation, did not cause Staff to inquire into different conduct, and did not significantly contribute to the Investigation or the Covered Action. Although Claimant 2 communicated with Staff and provided documents to Staff, the information that Claimant 2 provided was not helpful to Staff. Thus, Claimant 2 fails to satisfy Rule 21F-4(c).

According to the Declaration, provided under penalty of perjury, which we credit, in Redacted Claimant 2 submitted a tip (“Claimant 2’s Tip”). Claimant 2’s Tip alleged that in Redacted Respondent 1 had Redacted Claimant 2’s Tip alleged that this potentially Redacted In Redacted Staff opened an investigation to investigate such allegations (“Prior Unrelated Investigation”).⁴² This Prior Unrelated Investigation was a separate investigation from the Investigation that led to the Covered Action; the Investigation was opened in Redacted based solely on Claimant 1’s Tip. The Prior Unrelated Investigation did not result in any enforcement action and was closed in Redacted after Staff conducted a thorough investigation of Claimant 2’s allegations.

The Declaration indicates that during the Prior Unrelated Investigation, Claimant 2 provided Staff with documents. According to Staff, certain of the documents that Claimant 2 provided were very confusing, and Claimant 2 made incorrect representations about them to Staff.

According to the Declaration, Claimant 2’s allegations did not in any way relate to the Relevant Misconduct. In fact, Claimant 2’s Tip did not allege that Redacted relating to the Relevant Misconduct. Further, Claimant 2’s Tip did not even hint at the Relevant Misconduct’s existence. The Relevant Misconduct was the sole basis for the Covered Action. The Relevant Misconduct was not disclosed in any document

⁴² Specifically, on Redacted Staff opened a matter under inquiry, which was converted to an investigation on Redacted

provided by Claimant 2. Overall, none of Claimant 2's information helped advance the Investigation or saved Staff any time or resources in conducting the Investigation.⁴³

Claimant 2 argues that there are inaccuracies in the Declaration; in our view, however, the Declaration, which we credit, provides a robust explanation that Claimant 2's information was not relevant to the Investigation, the Relevant Misconduct, or the Covered Action. Consequently, there is sufficient evidence in the record to deny Claimant 2's claim.

III. Conclusion

Accordingly, it is hereby ORDERED that: (1) Claimant 1 shall receive an award of *** percent (** %) of the monetary sanctions collected in the Covered Action; and (2) the whistleblower award application of Claimant 2 in connection with the Covered Action be, and hereby is, denied.

By the Commission.

Vanessa A. Countryman
Secretary

⁴³ Additionally, the Declaration states that all the information that Claimant 2 provided to Staff during the Prior Unrelated Investigation—whether communicated in writing or verbally during calls or meetings with Staff—centered on alleged misconduct by Respondents solely with respect to Redacted The Relevant Misconduct—which Claimant 2 never told Staff about—was not Redacted Redacted Redacted Finally, during the Prior Unrelated Investigation, Claimant 2 told Staff that he/she Redacted Claimant 2 never provided Staff with any information, however, suggesting the existence of the Relevant Misconduct.