

Over \$1 Billion Whistleblower Awards Paid to Date by the SEC

Corporate Defense and Disputes Blog on **September 24, 2021**

Last week, the SEC [announced](#) accumulated awards of over \$1 billion paid to 207 whistleblowers since its first award in 2012. Over \$500 million was awarded in fiscal year 2021 alone.

The SEC crossed the billion-dollar milestone with awards of \$110 million and \$4 million to two whistleblowers on September 15, 2021. The \$110 million award marks the second-highest award to date and consists of \$40 million stemming from an SEC case and \$70 million for related actions by another agency.

An examination of the \$110 million award [order](#) provides important insights into the SEC's evaluation of whistleblower assistance. According to the SEC, the information provided by the award recipient was valuable because it was based on the whistleblower's own examination, evaluation, and independent analysis, and it contributed significant independent "original information" that bridged the gap between certain publicly available information and the possible securities violations that the Commission and the Other Agency were investigating. For example:

- The whistleblower used publicly available information to provide the Commission with important insights into the extent of the alleged misconduct.
- The whistleblower also provided information derived from multiple sources not readily identifiable or accessible by members of the public without specialized knowledge, unusual effort, or substantial cost.
- The whistleblower's sources collectively raised a strong inference of securities law violations not otherwise reasonably inferable from any individual source.

The SEC noted that, as a result of this analysis, the whistleblower provided the agency with a detailed suggested witness list and other supporting documentation, thereby saving the SEC significant time and resources. The whistleblower also provided substantial, ongoing assistance to the staff, including multiple written submissions, communications, and in-person meetings. The SEC also disclosed that the whistleblower suffered personal and professional hardships as a result of the whistleblower activities (while not providing any details regarding such hardships).

The SEC acknowledged, however, that the whistleblower submitted information after the Commission had already opened an investigation of the potential misconduct, and it assisted with only some of the misconduct the staff was investigating – suggesting even a higher possible award where these circumstances are not present.

The award amount can range from 10-30% of the money collected when the monetary sanctions exceed \$1 million. Rule 21F-5(b). But, the award is at the discretion of the SEC, and the same order which provided for the \$110 million award to a whistleblower denied an award to another whistleblower in an unrelated award claim.

An award can also be provided for an action that results in a non-prosecution agreement (NPA) or deferred prosecution agreement (DPA), based on the amendments to the SEC whistleblower program rules in December 2020. As such, in February 2021, a whistleblower who had already received an award for an SEC enforcement action received [another award](#) for a successful NPA or DPA resolution by the Department of Justice on a related action.

Stay tuned for our ongoing review of the monthly notices of Covered Actions. See our previous posts on the June 2021 Covered Actions [here](#) and July 2021 Covered Actions [here](#).

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