UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

December 16, 2020

Professor Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

RE: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **20-01914-FOIA**

Dear Professor Platt:

This is the final response to your August 17, 2020 request for the following information:

> For all SEC attorneys that have been employed by the SEC's Office of the Whistleblower (OWB) from the program's inception through the present, the name of the attorney and the dates that the attorney's employment at OWB began and ended (if applicable).

Access is granted in full to the attached single page .pdf file. If you have any questions, you can contact me at sifordm@sec.gov or (202)551-7201. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you, please see the attached addendum.

Sincerely,

Mark P. Siford
Counsel to the Director/Chief FOIA Officer
Office of Support Operations

Attachment

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

August 17, 2020

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **20-01914-FOIA**

Dear Mr. Platt:

This letter is an acknowledgment of your FOIA request dated and received in this office on August 17, 2020, for records regarding all SEC attorneys that have been employed by the SEC's Office of the Whistleblower (OWB) from the program's inception through the present.

Your request has been assigned tracking number 20-01914-FOIA. Your request will be assigned to a Research Specialist for processing and you will be notified of the findings as soon as possible. If you do not receive a response after thirty business days from when we received your request, you have the right to seek dispute resolution services from an SEC FOIA Public Liaison or the Office of Government Information Services (OGIS). A list of SEC FOIA Public Liaisons can be found on our agency website at https://www.sec.gov/oso/contact/foia-contact.html. OGIS can be reached at 1-877-684-6448 or Archives.gov or via email at ogis@nara.gov.

In the interim, if you have any questions about your request, you may contact this office by calling (202) 551-7900, or sending an e-mail to foiapa@sec.gov. Please refer to your tracking number when contacting us.

For additional information, please visit our website at www.sec.gov and follow the FOIA link at the bottom.

Sincerely,

Office of FOIA Services

From: Siford, Mark P.
Sent: Mon, 8 Feb 2021 19:18:31 +0000
To: 'Platt, Alex'
Subject: RE: SEC FOIA Request No. 20-01914-FOIA

Alex,

I have reviewed your FOIA request and determined to grant a fee waiver. I am presently consulting with the SEC's Division of Enforcement in conducting a search for responsive records.
Please let me know if you have any questions.

Mark

From: Platt, Alex (b)(6)
Sent: Wednesday, February 03, 2021 4:05 PM
To: Siford, Mark P. <SifordM@SEC.GOV>
Subject: RE: SEC FOIA Request No. 20-01914-FOIA

Mark,
Thanks. As discussed, here is a new FOIA request.
Best,
Alex

From: Siford, Mark P. <SifordM@SEC.GOV>
Sent: Wednesday, February 3, 2021 2:19 PM
To: Platt, Alex <(b)(6)
Subject: RE: SEC FOIA Request No. 20-01914-FOIA

Alex,

Attached is a partial response to your request. Please let me know if you have any questions.

Mark

From: Platt, Alex (b)(6)
Sent: Tuesday, January 05, 2021 12:40 PM
To: Siford, Mark P. <SifordM@SEC.GOV>
Subject: RE: SEC FOIA Request No. 20-01914-FOIA

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Stop 9613

March 8, 2021

Via electronic mail
(b)(6)

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Appeal, Freedom of Information Act Request Nos. 21-00005-REMD & 20-01902-FOIA, designated on appeal as No. 21-00220-APPS

Dear Mr. Platt:

This responds to your Freedom of Information Act (FOIA) appeal of the FOIA Officer's decision concerning your August 13, 2020 FOIA request, as amended, for records sufficient to show the law firm(s) and individual attorney(s) (if any) representing the whistleblower for each whistleblower award paid out under the SEC's whistleblower program since the program's inception. By letter dated November 3, 2020, the FOIA Office denied your request on grounds that a search for the requested records would be unreasonably burdensome. On November 3, 2020, you filed an appeal challenging the FOIA Office's decision. On November 20, 2021, this office determined that the FOIA Office did not adequately consider the time and amount of work necessary to search for and review responsive records and remanded your request to the FOIA Office for further consideration.

By letter dated February 3, 2021, the FOIA Office issued an interim decision on remand and granted your request in part. The FOIA Office released to you two pages, in part, that identified the names of attorneys and their law firms that represented whistleblowers for each whistleblower award paid out since the inception of the SEC's whistleblower program. The FOIA Office redacted six entries (attorneys and their law firms) from the list pursuant to FOIA Exemptions 3, 6, and 7(C). The FOIA Office also redacted certain information (the names of nine attorneys and their law firms) as "Under Review" because it is subject to requests for confidential treatment under 17 C.F.R. § 200.83. The FOIA Office advised that it is in the process of determining whether this information will be disclosed or withheld under a FOIA exemption(s).

On February 25, 2021, you filed this appeal on three grounds: (1) the FOIA Office's information release did not match the attorneys and firms with the awards they received; (2) the

FOIA exemptions are inapplicable; and (3) no information should receive confidential treatment. I have considered your appeal, and it is granted in part and remanded in part.

You first assert that the FOIA Office's response was incomplete" because the information released to you did not match the attorneys and firms with the awards they received. As restated in your appeal, your FOIA request sought "[f]or each whistleblower award paid out under the SEC's whistleblower program since [its] inception, the law firm(s) and individual attorney(s) (if any) representing the whistleblower." You explain in your appeal that "[t]he phrase 'FOR EACH WHISTLEBLOWER AWARD' suggests a matched list of attorneys/firms with the awards they received." However, when seeking to clarify the scope of your request, you informed the FOIA Office that your "request sought information regarding all law firms/lawyers representing successful whistleblowers without specifying the form that this information would take."

Given the way your request was structured and the exchanges with the FOIA Office to clarify the scope of the request, it was not clear that your request sought information that would match the attorneys and firms to the awards they received. However, it is not necessary to determine whether the FOIA Office should have sought clarification of your request or whether this request should be remanded to the FOIA Office so that it can provide that additional information because you have confirmed in your appeal that you have since filed a new FOIA request seeking to "match the attorneys and firms with particular awards (dates and dollars)." The FOIA Office will therefore perform a new records search in responding to this new FOIA request.

Next, you object to the FOIA Office's withholding of information pursuant to FOIA Exemptions 3, 6, and 7(C). You argue that "[b]y producing most of the information on this list, the agency has conceded that no exemption applies to information about whistleblower lawyers and law firms." I have reviewed the withheld information and find that the FOIA Office properly redacted the name of one attorney and this individual's place of employment pursuant to FOIA Exemption 3.

Information that could lead to the identification of a whistleblower is exempt from disclosure pursuant to Exemption 3 which incorporates into FOIA the nondisclosure provisions of other federal statutes.[1] The Dodd-Frank Act requires the Commission to protect the confidentiality of whistleblowers that provide information under the whistleblower award program.[2] This confidentiality extends to any information that either identifies, or could reasonably be expected to identify, a whistleblower.[3] Moreover, the confidentiality provision of

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[1] *See* 5 U.S.C. § 552(b)(3) ([matters] "specifically exempted from disclosure by statute (other than section 552b of this title), if that statute— (A)(i) requires matters be withheld from the public in such manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of the OPEN FOIA Act of 2009, specifically cites to this paragraph").

[2] *See* 15 U.S.C. § 78u-6(h)(2)(A).

[3] *See id.*

the Dodd-Frank Act is statutorily designated as an Exemption 3 statute for purposes of the FOIA.[4]

Confidentiality is necessary because release of the name of the attorney and the place of his or her employment could enable someone to identify the whistleblower. Here, the attorney represented the successful whistleblower on a pro bono basis. As a pro bono attorney, it is possible that this person represented a family member or friend. Additionally, the attorney's place of employment could lead to identification of the attorney. Based on these circumstances, I find that Exemption 3 protects the name of the pro bono attorney and his or her place of employment since the release of this information (separately or together) could reasonably lead to the identification of a whistleblower.

I further find that it is reasonably foreseeable that disclosure of the name of the pro bono attorney and his or her place of employment would harm interests protected by Exemption 3 and the confidentiality provisions of the Dodd-Frank Act because such a disclosure would inhibit future whistleblowers from coming forward with allegations of potential violations of securities laws.

Finally, you object to the withholding of any information subject to confidential treatment. It is my understanding that the FOIA Office is working through the confidential treatment request process (set forth in the Commission's confidential treatment regulations at 17 C.F.R. § 200.83) to determine whether the names of certain attorneys and their law firm can be released. Because the FOIA Office did not assert a FOIA exemption to withhold this information, the information redacted as "Under Review" is not ripe for an administrative appeal determination. Notwithstanding, I am remanding this portion of the request to the FOIA Office and requesting that the FOIA Officer process the confidential treatment requests as expeditiously as possible.

For the reasons stated above, the two-page list is re-released to you with the name of one attorney and his or her place of employment redacted pursuant to Exemption 3. The FOIA Office's "Under Review" redactions remain in place pending the outcome of the confidential treatment review.

You have the right to seek judicial review by instituting an action in the United States District Court for the District of Columbia or in the district where you reside or have your principal place of business.[5] Voluntary mediation services as a non-exclusive alternative to litigation are also available through the National Archives and Records Administration's Office of Government Information Services (OGIS). For more information, please visit www.archives.gov/ogis or contact OGIS at ogis@nara.gov or 1-877-684-6448. If you have any

[4] *See* 15 U.S.C. § 78u-6(h)(2)(A), (B) ("For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552").

[5] 5 U.S.C. § 552(a)(4)(B).

questions concerning my determination, please contact Mark Tallarico, Senior Counsel, at 202-551-5132.

For the Commission
by delegated authority,

Melinda Hardy
Assistant General Counsel for
Litigation and Administrative Practice

Enclosure

> For each of the 58 attorneys and law firms listed on the attached spreadsheet (including redacted ones), the amount of the corresponding whistleblower award paid out by the agency and the date the whistleblower award was paid out.

On April 26, 2021, the SEC provided a partial response, matching the attorneys and firms previously disclosed with dates of "final orders," and the "rounded award amount from FO/Press Release." The latest date for a final order of all the awards included on the list is December 7, 2020.

II. New Request

I request the following information:

> For each whistleblower award made under the SEC's whistleblower program with a final order dated between December 7, 2020 and January 20, 2021 (inclusive), the law firm(s) and individual attorney(s) representing the whistleblower, the amount of the corresponding whistleblower award paid out by the agency and the date of the final award, in the same manner as what was disclosed in response to the two requests described above.

I am requesting a fee waiver for this request. I am seeking these records for academic research. I am an Associate Professor of Law at the University of Kansas School of Law and have published several academic articles on the SEC and Securities Enforcement. I will use the disclosed information in one or more academic papers and not for any commercial purpose.

Thank you for considering this request,

/s/ Alex Platt

Alexander I. Platt
University of Kansas School of Law
(b)(6)

Counsel Name	Name of law firm	Final Order Date	Rounded award amount from FO/Prss release
Angelo Calfo	Calfo Harrigan Leyh & Eakes	9/17/2020	250,000
(b)(6);(b)(3):15 U.S.C. § 78u-6;(b)(7)(C)			
Christopher Connors/ Andy Rickman	Connors Law Group LLC / Rickman Law Group LLP	9/25/2020	1,800,000.00
Christopher Connors/ Andy Rickman	Connors Law Group LLC/ Rickman Law Group LLP	5/24/2019	4,500,000.00
Christopher E. Chang	Law Offices of Christopher E. Chang	11/30/2017	8,000,000
Christopher J. Krawczwk	Kravit Hovel & Krawczyk SC	9/29/2015	0
Daniel J. Hurson	Law Offices of Daniel J. Hurson, LLC	12/5/2017	4,100,000
Daniel J. Hurson	Law Offices of Daniel J. Hurson, LLC	5/13/2016	3,500,000
Daniel J. Hurson	Law Offices of Daniel J. Hurson, LLC	9/29/2020	2,900,000.00
(b)(6);(b)(3):15 U.S.C. § 78u-6;(b)(7)(C) pro bono counsel -	(b)(6);(b)(3):15 U.S.C. § 78u-6;(b)(7)(C)	9/21/2020	2,400,000.00
Douglas R. Hirsch, Esq.	Sadis & Goldberg LLP	3/30/2020	$450,000
Eric R. Havian	Constantine Cannon LLP	9/30/2020	1,700,000.00
Erika A. Kelton	Phillips & Cohen LLP	Under Review	
Erika A. Kelton	Phillips & Cohen LLP		
Erika A. Kelton	Phillips & Cohen LLP		
Erika A. Kelton	Phillips & Cohen LLP		
Erika A. Kelton	Phillips & Cohen, LLP		
Francis P. Karam	Francis P. Karam, Esq. PC	3/23/2020	1,600,000.00
Gary Lee Hach	Hach Law Office	11/15/2019	260,000
Glenn Silverstein	Leader & Berkon LLP	9/6/2018	15,000,000.00
Glenn Silverstein	Leader & Berkon LLP	4/16/2020	27,000,000.00
James Sallah	Sallah Astarita Cox LLC	12/7/2020	$1,800,000
Jason Leviton	Block & Leviton	6/3/2014	437,500
Jason Pickholz	The Pickholz Law Offices LLC	7/31/2014	400,000
Jeffrey K. Brown	Leeds Brown Law, PC	9/30/2020	200,000.00
Jordan A. Thomas	Labaton Sucharow LLP	3/26/2019	50,000,000.00
Jordan A. Thomas	Labaton Sucharow LLP	3/19/2018	49,000,000
Jordan A. Thomas	Labaton Sucharow LLP	9/1/2020	2,500,000

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

July 29, 2021

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **21-02452-FOIA**

Dear Mr. Platt:

This letter is an acknowledgment of your FOIA request dated and received in this office on July 29, 2021, for records regarding each whistleblower award made under the SEC's whistleblower program with a final order dated between December 7, 2020 and January 20, 2021 (inclusive), the law firm(s) and individual attorney(s) representing the whistleblower, the amount of the corresponding whistleblower award paid out by the agency and the date of the final award.

Your request has been assigned tracking number 21-02452-FOIA. Your request will be assigned to a Research Specialist for processing and you will be notified of the findings as soon as possible. If you do not receive a response after thirty business days from when we received your request, you have the right to seek dispute resolution services from an SEC FOIA Public Liaison or the Office of Government Information Services (OGIS). A list of SEC FOIA Public Liaisons can be found on our agency website at https://www.sec.gov/oso/contact/foia-contact.html. OGIS can be reached at 1-877-684-6448 or Archives.gov or via email at ogis@nara.gov.

In the interim, if you have any questions about your request, you may contact this office by calling (202) 551-7900, or sending an e-mail to foiapa@sec.gov. Please refer to your tracking number when contacting us.

For additional information, please visit our website at www.sec.gov and follow the FOIA link at the bottom.

Sincerely,

Office of FOIA Services

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

December 7, 2021

Professor Alexander I. Platt
University of Kansas School of Law
Lawrence, KS 66044

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **21-02452-FOIA**

Dear Professor Platt:

On July 29, 2021 you submitted a FOIA request for records containing the following information:

> For each whistleblower award made under the SEC's whistleblower program with a final order dated between December 7, 2020 and January 20, 2021 (inclusive), the law firm(s) and individual attorney(s) representing the whistleblower, the amount of the corresponding whistleblower award paid out by the agency and the date of the final award.

Access is granted in part to the attached single page document. Please be advised that certain information has been redacted because it is the subject of a request for confidential treatment (CT) under 17 CFR § 200.83. This information is designated by the notation "Under Review." I am presently contacting the CT requesters to determine if they would like to attempt to protect the information pertaining to them. At the conclusion of this process I will advise you whether this information will be disclosed or withheld pursuant to FOIA Exemption(s).

If you have any questions, you can contact me at sifordm@sec.gov or (202)551-7201. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you, please see the attached addendum.

Sincerely,

Mark P. Siford
Attorney Adviser
Office of FOIA Services

Attachment

ADDENDUM

For further assistance you can contact a SEC FOIA Public Liaison by calling (202) 551-7900 or visiting https://www.sec.gov/oso/help/foia-contact.html.

SEC FOIA Public Liaisons are supervisory staff within the Office of FOIA Services. They can assist FOIA requesters with general questions or concerns about the SEC's FOIA process or about the processing of their specific request.

In addition, you may also contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. OGIS can be reached at 1-877-684-6448 or via e-mail at ogis@nara.gov. Information concerning services offered by OGIS can be found at their website at Archives.gov. Note that contacting the FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal.

From: Platt, Alex
Sent: Tue, 5 Oct 2021 19:03:17 +0000
To: Siford, Mark P.
Subject: Re: SEC FOIA Request No. 21-02452-FOIA

Thanks Mark.

On Oct 5, 2021, at 11:27 AM, Siford, Mark P. <SifordM@sec.gov> wrote:

Alex,

I apologize for not having gotten back to you sooner on this one. I've forwarded the attached to the Division of Enforcement and hope to have the responsive records shortly.
Please note that I am granting your request for a fee waiver.

Mark
<FOIA Request.pdf>

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

October 06, 2021

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Appeal No. **22-00006-APPS** (21-00865-FOIA)

Dear Mr. Platt:

This letter is an acknowledgment of your FOIA Appeal dated and received in this office on October 04, 2021 regarding whistleblower award data.

Your appeal has been assigned tracking number **22-00006-APPS**, and is assigned to the SEC's Office of the General Counsel for processing. You will receive a direct response from that office regarding a decision on your Appeal.

In the interim, **if you have questions about your appeal, you may contact the Office of the General Counsel by calling 202-551-5100**, or sending an email to foiapa@sec.gov. Please cite the Appeal tracking number provided above.

Sincerely,

Office of FOIA Services

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

December 22, 2021

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Appeal No. 22-00054-APPS (Request No. 21-00865-FOIA & 22-00426-FOIA)

Dear Mr. Platt:

This letter is an acknowledgment of the Office of General Counsels remand of your FOIA appeal, dated and received in this office on December 21, 2021, regarding Pro Se WB Awards & whistleblower award data.

Your remand has been assigned tracking number **22-00018-REMD**. Your request will be assigned to a Research Specialist for processing and you will be notified of the findings as soon as possible. If you do not receive a response after thirty business days from when we received your remanded request you have the right to seek dispute resolution services from an SEC FOIA Public Liaison or the Office of Government Information Services (OGIS). A list of SEC FOIA Public Liaisons can be found on our agency website at https://www.sec.gov/oso/contact/foia-contact.html. OGIS can be reached at 1-877-684-6448 or Archives.gov or via email at ogis@nara.gov.

In the interim, if you have any questions about your request, you may contact this office by calling 202-551-7900, or sending an e-mail message to foiapa@sec.gov. Please refer to your tracking number when contacting us.

Sincerely,

Office of FOIA Services

From: Siford, Mark P.
Sent: Wed, 13 Apr 2022 17:24:16 +0000
To: 'Platt, Alex'
Subject: SEC FOIA Request No. 22-00018-REMD -- 1
Attachments: partial response.pdf, missing & with counsel.zip

Alex,

Attached is a partial response to your request. Because the file size id too large for a single email, I'm transmitting the records in 2 emails.
Please let me know if you have any questions.

Respectfully,

Mark Siford
Attorney Adviser
Office of FOIA Services
(202) 551-7201

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

April 13, 2022

Professor Alexander I. Platt
University of Kansas School of Law
Lawrence, KS 66044

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **22-00018-REMD**

Dear Professor Platt:

On February 5 and November 3, 2021 you submitted FOIA requests for records of whistleblower awards paid out under the SEC's whistleblower program since the program's inception. FOIA Request No. 21-00865-FOIA sought the name of the law firm and attorney representing the whistleblower, the date of the Final Order, and the rounded award amount from the Final Order/Press Release. FOIA Request No. 22-00426-FOIA sought "the dates and award amounts for all whistleblower awards made under the SEC's whistleblower program to whistleblowers not represented by any counsel from the program's inception through January 20, 2021 (inclusive)."

On November 16, 2021, I issued final responses to both of these requests. You appealed my decisions to the Office of the General Counsel (OGC) and on December 21, 2021 the matters were remanded back to the Office of FOIA Services (OFS) for further processing. The remand directed OFS 1) to provide an updated response to 21-00865-FOIA regarding represented whistleblowers; and 2) to provide accurate information with respect to unrepresented whistleblowers on the SEC's website.

I have coordinated with the Office of the Whistleblower and I am providing you with the records within the attached four folders. These folders consist of the following:

1. Missing Award.

You're appeal stated that "[13] orders posted on the SEC's website fail to disclose the award amount." I have determined that these records as presented on the SEC's website at https://www.sec.gov/whistleblower/final-orders-of-the-commission

are accurate. I note that one of these orders (34-88687) has been edited and reposted to include further information.

2. With Counsel.

This folder is comprised of all orders for awards where the whistleblower(s) was represented by counsel.

3. With Counsel Not Previously Provided.

This folder contains six orders for awards to represented whistleblowers that were not previously provided. The following list corresponds to those awards:

Counsel Name	Name of law firm	Final Order Date	Rounded Amount in Final Order
Brian P. Kenney and Kathryn M. Schilling	Kenney & McCafferty, P.C.	3/8/2016	$130,000
Robert J. Lane and M. Brad Hill	Hairston Lane Bannon PA	3/8/2016	$1,800,000
David J. Marshall and Michael A. Filoromo III	Katz, Marshall & Banks, LLP	7/25/2017	$2,500,000
Christopher Brennan	Ziegler, Ziegler & Associates, LLP	9/24/2018	$4,000,000
James Sallah	Sallah Astarita Cox LLC	9/20/2019	$38,000
Under Review			
Court J. Anderson	Henson & Enfron, P.A.	12/1/2020	$6,000,000

Certain information has been redacted from the chart because it is the subject of a request for confidential treatment (CT) under 17 CFR § 200.83. This information is designated by the notation "Under Review." I am presently contacting the CT requester to determine if they would like to attempt to protect the information pertaining to them. At the conclusion of this process I will advise you whether this information will be disclosed or withheld pursuant to FOIA Exemption(s).

4. Without Counsel.

This folder is comprised of orders for awards in which the whistleblower(s) was not represented by counsel.

If you have any questions, you can contact me at sifordm@sec.gov or (202)551-7201. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900.

For more information about the FOIA Public Service Center and other options available to you, please see the attached addendum.

Sincerely,

Mark P. Siford
Attorney Adviser
Office of FOIA Services

Attachment

Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

April 26, 2022

U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-2736

RE: FOIA Request Nos. 22-00018-REMD

Dear Sir or Madam:

I am writing to appeal the final response to 22-00018-REMD (issued April 26, 2022). As pertinent to this appeal, my request 22-426 had requested the disclosure of "the dates and award amounts for all whistleblower awards made under the SEC's whistleblower program to whistleblowers not represented by any counsel from the program's inception through January 20, 2021."

That final response withheld the amounts for certain awards and claimed that this information was protected from disclosure under FOIA exemptions 3, 6, and 7(c). Specifically, I believe the agency has withheld this information for (at least) the following nine orders:

Final Order Date	**Order Number**
2012.08.21	2012-1
2013.10.30	2014-2
2014.07.22	2014-6
2015.09.28	2015-7
2020.04.20	2020-16
2020.07.21	2020-25
2020.07.21	2020-24
2020.11.20	2021-9
2020.11.24	2021-10

The final response explained that these award amounts were "protected from disclosure" because the agency had already disclosed the percentage awarded.

I respectfully disagree with this conclusion for the following reasons.

First, the agency has already disclosed both the percentage and the dollar amount for numerous awards. I respectfully request that the agency maintain consistency in its approach.

Second, even with percentage and award amount, connecting a particular award to a particular enforcement action is not possible in many cases, given the substantial volume of SEC enforcement and settlements over time, the prospect that the tip could have been used to support multiple parallel actions against various related parties (including entities and individuals), and the fact that the award amount is keyed to the amount *collected* (not the amount ordered) which is not always possible to discern from public documents, among other complexities. To the extent such an inference would be implausible or impossible in some or all of the nine cases outlined above, I respectfully suggest the SEC has no legal basis for withholding the information.

Third, even assuming that disclosure of the percentage and award amounts would allow an observer to determine which enforcement action was connected to a particular award, that itself would not be new information in many cases. In some cases (perhaps including some or all of the nine cases described above), the targets of those enforcement actions may *already* understand that a whistleblower was involved. This fact may have been explicitly disclosed by the Enforcement Division in the course of its investigation and enforcement efforts, or it may have been simply obvious to the target from the nature of the investigation itself. In such cases, nothing new would be disclosed here. If so, I respectfully suggest that this further undercuts the argument for withholding the information.

Fourth, even assuming that disclosure of the percentage and award amounts would provide new information that a whistleblower was involved in a particular action, this itself would not risk exposing the identity of the ***particular individual*** who blew the whistle. In some or all of the nine cases listed above, the size of the business, the number of people with access to the same information, or other factors may make it completely implausible that merely publicizing the fact that some whistleblower was involved would expose the identity of the whistleblower. If so, I respectfully suggest that this further undercuts the argument for withholding the information.

Thank you,

/s/ Alex Platt
Alexander I. Platt
University of Kansas School of Law
(b)(6)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Stop 9613

December 21, 2021

Via electronic mail

(b)(6)

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Appeal, Freedom of Information Act Request Nos. 21-00865-FOIA & 22-00426-FOIA, designated on appeal as No. 22-00054-APPS

Dear Mr. Platt:

This responds to your Freedom of Information Act (FOIA) appeal of the FOIA Officer's decisions concerning your February 5, 2021 and November 3, 2021 FOIA requests for records that show certain information for each whistleblower award paid out under the SEC's whistleblower program since the program's inception. FOIA Request No. 21-00865-FOIA seeks the name of the law firm and attorney representing the whistleblower, the date of the Final Order, and the rounded award amount from the Final Order/Press Release. FOIA Request No. 22-00426-FOIA seeks "the dates and award amounts for all whistleblower awards made under the SEC's whistleblower program to whistleblowers not represented by any counsel from the program's inception through January 20, 2021 (inclusive)."

By letter dated November 16, 2021, the FOIA Office issued its final responses to both requests. In response to Request No. 21-00865-FOIA, the FOIA Office released to you, in part, a three-page list containing the requested information. The FOIA Office redacted two entries in their entirety (the attorney names, law firms, Final Order dates, and award amounts) and one entry in part (attorney name and firm name) pursuant to Exemptions 3, 6, and 7(C). In response to Request No. 22-00426-FOIA, the FOIA Office informed you that all responsive information can be located on the SEC's website at www.sec.gov/whistleblower/final-orders-of-the-commission.

On November 18, 2021, you filed this appeal. You state that the "final responses to [your] FOIA requests … appear to contain significant deficiencies." I have considered your appeal, and it is granted in part and remanded in part.

1. Redactions on 21-865

You first assert that the FOIA Office's "final response to 21-865 makes inappropriate redactions at lines 2 and 51 [and that] [t]hese redactions were overruled by the SEC General Counsel on September 3, 2021." I have confirmed with Office of the Whistleblower (OWB) staff that the responsive list released to you as part of the FOIA Office's final response to Request No. 21-00865-FOIA contains additional redactions that this office previously ruled were releasable. I have enclosed the properly redacted list consistent with this office's September 3, 2021 appeal decision.

2 & 3. Missing Award Values and Confirming Unrepresented Whistleblowers

With regard to the FOIA Office's final response to Request No. 22-00426-FOIA, you assert that "the orders posted on the SEC's website fail to disclose the award amount" for 13 orders. You also re-create a list of unrepresented awardees in your appeal and request that the SEC "re-confirm that all of these whistleblowers were, in fact, unrepresented by counsel and that, if any of these whistleblowers were represented by counsel, you please provide a new final response to 21-865 that includes information about the counsel and firm who represented them."

Request No. 22-00426-FOIA seeks "the dates and award amounts for all whistleblower awards made under the SEC's whistleblower program to whistleblowers not represented by any counsel from the program's inception through January 20, 2021." The FOIA Office referred you to the SEC's website for you to self-identify the information among all the posted Final Orders, but the website does not contain all the information you requested. I am therefore remanding this portion of your appeal to the FOIA Office. You may contact Mark Siford, Attorney Advisor, at 202-551-7900, regarding the status of this matter on remand.

4. Incorrect Award Dates

You also question whether four of the entries in the list provided to you in response to Request No. 21-00865-FOIA contain the correct dates of the Final Order. I have confirmed with OWB staff that the dates identified in the list provided to you are incorrect. The Final Order dates for these four entries have been corrected and updated accordingly in the enclosed list.

5. Additional Discrepancies

Finally, you question whether there are additional discrepancies in the list released to you in response to Request No. 21-00865-FOIA.[1] I have confirmed with OWB staff that, with the

[1] Specifically, you raise the following concerns with the accuracy of the information provided in the list released to you:

- The final response to 21-00865-FOIA indicates that $0 were awarded in an award on September 29, 2015, but the SEC's order (2015-8) issued that date indicates that an award was issued in an amount of 28%.
- The final response to 21-00865-FOIA indicates that an award of $4 million was issued on Jan. 23, 2017, but the SEC's order issued on that date (2017-6) indicates that an additional award of $3 million was also issued to a second claimant.

exception of one entry, the award amounts identified in the list provided to you in response to Request No. 21-00865-FOIA are correct. I have confirmed that the amount of the award provided to the whistleblower represented by Steve Kohn was $39M (not $54M as indicated in the prior list released to you). This corrected award amount for this entry is contained in the enclosed list responsive to Request No. 21-00865-FOIA.

* * *

You have the right to seek judicial review by instituting an action in the United States District Court for the District of Columbia or in the district where you reside or have your principal place of business.[2] Voluntary mediation services as a non-exclusive alternative to litigation are also available through the National Archives and Records Administration's Office of Government Information Services (OGIS). For more information, please visit www.archives.gov/ogis or contact OGIS at ogis@nara.gov or 1-877-684-6448. If you have any questions concerning my determination, please contact Mark Tallarico, Senior Counsel, at 202-551-5132.

For the Commission

Melinda Hardy
Assistant General Counsel for
Litigation and Administrative Practice

Enclosure

- The final response to 21-00865-FOIA indicates that an award of $ 8 million was issued on November 30, 2017, but the SEC's order issued on that date (2018-2) indicates that an additional $8 million was awarded to a separate claimant on that date.
- The final response to 21-00865-FOIA indicates that awards of $54 million and $15 million were issued on September 6, 2018. However, the SEC's order issued that date (2018-11) states that awards of $39 million and $15 million (for a total of $54 million) were issued.
- The final response to 21-00865-FOIA indicates that an award of $200,000 was issued on September 30, 2020 to clients of Jeffrey K. Brown. The SEC's order (2020-37) issued on that date indicates that an award of $400,000 was issued to two claimants.

[2] 5 U.S.C. § 552(a)(4)(B).

Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

November 18, 2021

U.S. Securities and Exchange Commission
ATTN: Mark Siford (Office of FOIA Services)
ATTN: Mark Tallarico (Office of the General Counsel)
100 F Street NE
Washington, DC 20549-2736

RE: FOIA Request Nos. 22-426 & 21-865

Dear Mr. Tallarico and Mr. Siford:

The final responses to my FOIA requests, numbered 22-426 and 21-865 (both issued November 17, 2021) appear to contain significant deficiencies. I am writing to draw your attention to these and to respectfully request the specific corrections and clarifications outlined below. Please note that the requests for corrections and clarifications contained here do not go beyond the scope of the original requests but merely ensure that the agency's responses are complete and accurate.

In the hopes of securing a speedy resolution to these very long-pending requests and to preserve my legal rights, I am submitting this letter directly to Mr. Siford and Mr. Tallarico (who have been handling all related requests since August 2020), as well as through the SEC FOIA appeals process.

1. Redactions on 21-865

The November 17, 2021 final response to 21-865 makes inappropriate redactions at lines 2 and 51. These redactions were overruled by the SEC General Counsel on September 3, 2021.

I respectfully request that you please issue a new final response to 21-865 that corrects this error.

2. Missing Award Values

The November 17, 2021 final response to 22-426 asserts that the "award amounts for all whistleblower awards made under the SEC's whistleblower program to whistleblowers not represented by counsel from the program's inception through January 20, 2021 (inclusive)" "can be located on the SEC's website" where all Whistleblower Awards are disclosed.

Respectfully, I believe this assertion is false. Even when cross-checked against the agency's final response to Request 21-865, the orders posted on the SEC's website fail to disclose the award amount for the following orders:

Final Order Date	Order Number
2012.08.21	2012-1
2013.06.12	2013-1
2013.08.30	2013-3
2013.10.30	2014-2
2014.07.22	2014-6
2014.09.22	2014-10
2015.09.28	2015-7
2020.04.20	2020-16
2020.07.21	2020-25
2020.07.21	2020-24
2020.08.31	2020-27
2020.11.20	2021-9
2020.11.24	2021-10

I respectfully request that you please provide a new response to 22-426 that includes the award amounts for these orders.

3. Confirming Unrepresented Whistleblowers

In a telephone conversation on November 17, 2021, SEC FOIA Officer Mark Siford clarified the agency's final response to 22-426. He explained that I could determine which of the SEC's awards were issued to unrepresented whistleblowers by cross-checking the final orders posted on its website against the agency's final response to 21-865. In other words, any final orders on the website without a corresponding entry on the agency's final response to 21-865 would be unrepresented whistleblowers.

Using this methodology, I produced the following list of awards to unrepresented whistleblowers:

Date of Order	Order Number	Award Amount

2012.08.21	2012-1	Missing
2013.06.12	2013-1	Missing
2013.08.30	2013-3	Missing
2013.10.30	2014-2	Missing
2014.07.22	2014-6	Missing
2014.09.22	2014-10	Missing
2015.09.28	2015-7	Missing
2016.01.15	2016-2	$ 700,000
2016.03.08	2016-4	$ 1,930,000
2016.04.05	2016-7	$ 275,000
2016.05.17	2016-10	$ 5,000,000
2016.11.14	2017-1	$ 20,000,000
2017.01.06	2017-5	$ 5,500,000
2017.05.02	2017-9	$ 500,000
2017.07.25	2017-12	$ 2,500,000
2017.11.30	2018-2	$ 8,000,000
2018.09.14	2018-12	$ 1,500,000
2018.09.24	2018-13	$ 4,000,000
2019.07.23	2019-8	$ 500,000
2019.08.29	2019-9	$ 1,800,000
2019.09.20	2019-11	$ 38,000
2020.01.22	2020-5	$ 45,000
2020.01.22	2020-6	$ 277,000
2020.02.28	2020-7	$ 7,000,000
2020.03.24	2020-9	$ 572,000
2020.04.03	2020-12	$ 2,000,000
2020.04.20	2020-15	$ 5,000,000
2020.04.20	2020-16	Missing
2020.04.28	2020-17	$ 18,000,000
2020.05.04	2020-18	$ 2,000,000
2020.06.19	2020-21	$ 700,000
2020.07.14	2020-23	$ 3,800,000
2020.07.21	2020-25	Missing
2020.07.21	2020-24	Missing
2020.08.31	2020-27	Missing
2020.09.14	2020-30	$ 10,000,000
2020.09.28	2020-35	$ 1,800,000
2020.09.30	2020-37	$ 200,000
2020.09.30	2020-39	$ 2,900,000
2020.09.30	2020-36	$ 29,000,000
2020.10.22	2021-2	$ 114,000,000
2020.11.13	2021-7	$ 1,100,000
2020.11.19	2021-8	$ 900,000

2020.11.20	2021-9	Missing
2020.11.24	2021-10	Missing
2020.12.01	2021-11	$ 6,000,000
2020.12.07	2021-13	$ 750,000
2017.01.23	2017-6	$ 3,000,000

I respectfully request that you please re-confirm that all of these whistleblowers were, in fact, unrepresented by counsel and that, if any of these whistleblowers were represented by counsel, you please provide a new final response to 21-865 that includes information about the counsel and firm who represented them.

4. Incorrect Award Dates

The agency's final response to 21-865 refers to the following awards without any corresponding order on the SEC website:

Counsel	Law Firm	Date	Award Value
Daniel J. Hurson	Law Offices of Daniel J. Hurson	2020.09.29	$ 2,900,000
Mark W. Pugsley	Ray, Quinney & Nebeker	2016.04.01	$ 275,000
Misty Gutierrez	Thomas, Feldman & Wilshusen	2012.07.18	$ 50,000
Pressley Henningsen	RSH Legal	2020.09.29	$ 7,000,000

I respectfully request that you please confirm that these are the correct dates; that if they are not correct, you please provide a new response to 21-865 that includes the correct dates for these awards; and that, if these dates are correct, you please explain why there is no corresponding order posted on the SEC website.

5. Additional discrepancies

The final response to 21-865 indicates that $0 were awarded in an award on September 29, 2015, but the SEC's order (2015-8) issued that date indicates that an award was issued in an amount of 28%. I respectfully request that you please confirm the correct dollar amount of the award issued on that date.

The final response to 21-865 indicates that an award of $4 million was issued on Jan. 23, 2017, but the SEC's order issued on that date (2017-6) indicates that an additional award of $3 million was also issued to a second claimant. I respectfully request that you please confirm that this $ 3 million claimant was not represented by any counsel or else provide a new response to 21-865 that includes the relevant information regarding this $3 million award.

The final response to 21-865 indicates that an award of $ 8 million was issued on November 30, 2017, but the SEC's order issued on that date (2018-2) indicates that an additional $8 million was awarded to a separate claimant on that date. I respectfully request that you please confirm that

this second $8 million claimant was not represented by any counsel or else provide a new response to 21-865 that includes the relevant information regarding this second $8 million award.

The final response to 21-865 indicates that awards of $54 million and $15 million were issued on September 6, 2018. However, the SEC's order issued that date (2018-11) states that awards of $39 million and $15 million (for a total of $54 million) were issued. I respectfully request that you please confirm the correct value of the awards issued on this date.

The final response to 21-865 indicates that an award of $200,000 was issued on September 30, 2020 to clients of Jeffrey K. Brown. The SEC's order (2020-37) issued on that date indicates that an award of $400,000 was issued to two claimants. I respectfully request that you please confirm that (1) Jeffrey K. Brown's client was one of the two claimants referred to in this order and (2) the other claimant referred to in the order was not represented by any counsel or, if they were represented, that you please update the response to 21-865 to include this information.

Thank you,

/s/ Alex Platt

Alexander I. Platt
University of Kansas School of Law
(b)(6)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Stop 9613

May 31, 2022

Via electronic mail
(b)(6)

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Appeal, Freedom of Information Act Request Nos. 22-00018-REMD, 21-00865-FOIA & 22-00426-FOIA, designated on appeal as Nos. 22-00321-APPS & 22-00349-APPS

Dear Mr. Platt:

This responds to your Freedom of Information Act (FOIA) appeal of the FOIA Officer's decisions concerning your February 5, 2021 and November 3, 2021 FOIA requests for records that show certain information for each whistleblower award paid out under the SEC's whistleblower program since the program's inception. FOIA Request No. 21-00865-FOIA seeks the name of the law firm and attorney representing the whistleblower, the date of the Final Order, and the rounded award amount from the Final Order/Press Release. FOIA Request No. 22-00426-FOIA seeks "the dates and award amounts for all whistleblower awards made under the SEC's whistleblower program to whistleblowers not represented by any counsel from the program's inception through January 20, 2021 (inclusive)."

By letter dated November 16, 2021, the FOIA Office issued its final responses to both requests. In response to Request No. 21-00865-FOIA, the FOIA Office released to you, in part, a three-page list containing the requested information. The FOIA Office redacted two entries in their entirety (the attorney names, law firms, Final Order dates, and award amounts) and one entry in part (attorney name and firm name) pursuant to Exemptions 3, 6, and 7(C). In response to Request No. 22-00426-FOIA, the FOIA Office informed you that all responsive information can be located on the SEC's website at www.sec.gov/whistleblower/final-orders-of-the-commission. On November 18, 2021, you filed an appeal claiming that there were "significant deficiencies" in the final response to your FOIA requests, including that the list redacted information that should have been released and the information on the SEC's website did not include all of the award amounts. By letter dated December 21, 2021, this office granted your appeal in part and remanded it in part. You were provided an updated list, and the partial remand was intended to provide you additional information about what awards went to unrepresented whistleblowers and address missing award values for unrepresented whistleblowers.

By letter dated April 13, 2022, the FOIA Office issued a partial remand response. As part of its response, the FOIA Office released to you 120 Whistleblower Award Claim Orders (Orders) in four separate folders to separate Orders where (1) there were Orders posted on the SEC's website that did not disclose the award amount (Missing Award folder) (2) the whistleblower was represented by counsel and prior responses to your FOIA requests had included information from the Orders (With Counsel folder), (3) the whistleblower was represented by counsel and prior responses to your FOIA requests did not include information from the Orders (With Counsel Not Previously Provided folder), and (4) the whistleblower was not represented by counsel (Without Counsel folder). The FOIA Office also provided you a list containing counsel information for the Orders in the With Counsel Not Previously Provided folder. The FOIA Office redacted one entry in the list as it was under review pending the outcome of a confidential treatment review. By letter dated April 26, 2022, the FOIA Office issued its final remand response, which provided you a list of counsel for Orders in the With Counsel Not Previously Provided folder without any redactions. The FOIA Office also advised you that it was asserting FOIA Exemptions 3, 6, and 7(C) to withhold dollars amounts of awards where the Orders provided only that the Whistleblower would receive a certain percentage of the monetary sanctions collected.

On April 26, 2022, you filed the appeal (designated as 22-00321-APPS) in which you object to the FOIA Office's withholding of dollar amounts for nine of the Orders released to you. On May 2, 2022, you filed a supplemental appeal (designated as 22-00349-APPS) in which you object to the FOIA Office's withholding of a dollar amount from a tenth Order and identify missing Orders and information from the records released to you. I have considered your appeal, and it is granted in part.

A. Withholding of Dollar Amounts under FOIA Exemptions 3, 6, and 7(C)

The FOIA Office asserted Exemptions 3, 6, and 7(C) to withhold the dollar amounts of awards where the Orders released to you provided only that the Whistleblower would receive a certain percentage of the monetary sanctions collected.[1] You offer four arguments to support your position that these dollar amounts should be released to you: (1) the SEC "has already disclosed both the percentage and the dollar amount for numerous awards"; (2) "even with percentage and award amount, connecting a particular award to a particular enforcement action is not possible in many cases"; (3) "[i]n some cases . . . , the targets of those enforcement actions may *already* understand that a whistleblower was involved"; and (4) "even assuming that disclosure of the percentage and award amounts would provide new information that a whistleblower was involved in a particular action, this itself would not risk exposing the identity of the ***particular individual*** who blew the whistle."

I find that the FOIA Office properly withheld that dollar amounts pursuant to FOIA Exemption 3. Information that could lead to the identification of a whistleblower is exempt from

[1] You identify the ten Orders as: Order No. 2012-1 (Aug. 21, 2012); Order No. 2014-2 (Oct. 30, 2013); Order No. 2014-6 (July 22, 2014); Order No. 2014-9 (Aug. 19, 2014); Order No. 2015-7 (Sept. 28, 2015); Order No. 2020-16 (Apr. 20, 2020); Order No. 2020-24 (July 21, 2020); Order No. 2020-25 (July 21, 2020); Order No. 2021-9 (Nov. 20, 2020); and Order No. 2021-10 (Nov. 24, 2020).

disclosure pursuant to Exemption 3, which incorporates into FOIA the nondisclosure provisions of other federal statutes.[2] The Dodd-Frank Act requires the Commission to protect the confidentiality of whistleblowers that provide information under the SEC's whistleblower award program.[3] This confidentiality extends to any information that either identifies, or could reasonably be expected to identify, a whistleblower.[4] The confidentiality provision of the Dodd-Frank Act states that it is an Exemption 3 statute for purposes of the FOIA.[5]

Your arguments do not show that the SEC could release dollar amounts without creating a reasonable risk that the identity of a whistleblower could be disclosed. First, while the FOIA Office has released to you the dollar figure in a few instances (not for numerous awards) where the percentage was in an Order, those releases provided information we would not now provide. The fact that we have released some information that may be protected does not require that we release additional information that may be protected.

Second, while it is true that providing both the percentage and award amount will not always allow identification of the particular enforcement action in which the award was issued or of the particular individual who is a whistleblower, releasing both figures adds to the mix of information available to people who may seek to determine a whistleblower's identity. Because the SEC does not know all information that may be available to people seeking to determine a whistleblower's identity, it cannot determine with any precision when the dollar amount will lead to identification of a particular enforcement action. Under the relevant statute, the SEC does not need to determine exactly when information will lead to disclosure of a whistleblower's identity. It must protect information if it has a reasonable expectation that the information could lead to the identification of a whistleblower's identity. It is important that the SEC be vigilant in protecting whistleblower identities because the identification of just one whistleblower could make many potential whistleblowers more reluctant to provide information to the SEC.

Third, the SEC's obligation to protect whistleblower identities applies even if a defendant in an SEC enforcement proceeding knows that a whistleblower was involved in the SEC's investigation. But for limited exceptions (none of which are applicable here), the confidentiality provisions of the Dodd-Frank Act preclude the SEC from releasing information that identifies, or could reasonably be expected to identify, a whistleblower regardless of whether some people already know the identity of the whistleblower.[6]

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[2] *See* 5 U.S.C. § 552(b)(3) ([matters] "specifically exempted from disclosure by statute (other than section 552b of this title), if that statute— (A)(i) requires matters be withheld from the public in such manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of the OPEN FOIA Act of 2009, specifically cites to this paragraph").

[3] *See* 15 U.S.C. § 78u-6(h)(2)(A).

[4] *See id.*

[5] *See* 15 U.S.C. § 78u-6(h)(2)(A), (B) ("For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552").

[6] *See id.*

For the foregoing reasons, I find that Exemption 3 protects the award amount for the ten Orders identified in footnote 1 above.[7]

B. Discrepancies in the Information and Records Released to You

1. Missing Orders

You state that "[t]here are three orders that appear on the SEC's website that the agency has failed to provide any information about." The Orders you discuss are Order No. 2013-3 (Aug. 30, 2013), Order No. 2020-37 (Sept. 30, 2020), and Order No. 2021-2 (Oct. 22, 2020). You also seek to know whether the whistleblowers were represented and, if they were, you ask that we identify the lawyer and law firm. According to the FOIA Office, these Orders were released to you. Specifically, Order No. 2013-3 was produced in the Missing Award folder and Order Nos. 2020-37 and 2021-2 were produced in the With Counsel folder.

With regard to whether the claimants were represented, we have been advised that Order No. 2013-3 has three unrepresented awardees. With regard to Order Nos. 2020-37 and 2021-2, the claimants were represented by counsel and the names of the lawyers and law firms are contained in the list previously released to you in response to FOIA Appeal No. 22-00054-APPS (see enclosure).

2. Missing Counsel/Law Firm Information

You assert that the FOIA Office's most recent response failed to disclose the names of the attorneys or counsels for two of the Orders – Order Nos. 2020-27 and 2021-13. We have been advised that the claimant in Order No. 2020-27 was unrepresented. For Order No. 2021-13, we have been advised that the claimant awarded $250,000 was represented by Jason Zuckerman of Zuckerman Law and the claimant awarded $500,000 was represented by Tyler W. Hudson of Wagstaff & Cartmell, LLP.

3. Missing Orders for Represented Awards

You state that the SEC's "final response … did not include three orders that the agency had previously indicated covered whistleblowers represented by counsel." You identify the three missing Orders as Order No. 2016-7 (Apr. 5, 2016), Order No. 2020-20 (June 4, 2020), and Order No. 2021-6 (Nov., 2020). According to the FOIA Office, Order No. 2016-7 was released to you in the folder marked "With Counsel," while the other two Orders were not provided since they could be located on the SEC's website. Nonetheless, enclosed are copies of all three Orders.

* * *

[7] Since Exemption 3 applies to the withheld dollar amounts, it is unnecessary to determine whether Exemptions 6 or 7(C) would also apply.

You have the right to seek judicial review by instituting an action in the United States District Court for the District of Columbia or in the district where you reside or have your principal place of business.[8] Voluntary mediation services as a non-exclusive alternative to litigation are also available through the National Archives and Records Administration's Office of Government Information Services (OGIS). For more information, please visit www.archives.gov/ogis or contact OGIS at ogis@nara.gov or 1-877-684-6448. If you have any questions concerning my determination, please contact Mark Tallarico, Senior Counsel, at 202-551-5132.

For the Commission
by delegated authority,

Melinda Hardy

Melinda Hardy
Assistant General Counsel for
Litigation and Administrative Practice

Enclosure

[8] 5 U.S.C. § 552(a)(4)(B).

From: Tallarico, Mark
Sent: Wed, 22 Jun 2022 09:01:24 -0400
To: Platt, Alex
Cc: Siford, Mark P.
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal Nos. 22-00321-APPS & 22-00349-APPS
Attachments: WB Awards List.pdf

Alex,

Attached please find an updated list of whistleblower award information. This is a more recent list that the FOIA Office put together. It contains all of the award information as reflected in the published Award Orders through January 7, 2021. In addition, I have clarified that the award issued to Jeffrey K. Brown was for nearly $400K, split between joint claimants, as reflected in the published Order No. 2020-37. This amount is reflected in the updated chart. We believe this provides you all of the information requested in the underlying FOIA requests.

Please let me know if you have any additional questions. Thank you.

Mark Tallarico
Senior Counsel
Office of the General Counsel
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
202.551.5132
tallaricom@sec.gov

From: Platt, Alex (b)(6)
Sent: Tuesday, June 21, 2022 12:55 PM
To: Tallarico, Mark <tallaricom@SEC.GOV>
Subject: RE: SEC FOIA Appeal Decision - FOIA Appeal Nos. 22-00321-APPS & 22-00349-APPS

Mark,
Thanks for your continued help on this. See the last page of the attached document for two Kelton awards that don't seem to be included on the list attached to your resolution of my appeal.
Best,
Alex

From: Tallarico, Mark <tallaricom@SEC.GOV>
Sent: Tuesday, May 31, 2022 12:39 PM
To: Platt, Alex (b)(6)
Subject: SEC FOIA Appeal Decision - FOIA Appeal Nos. 22-00321-APPS & 22-00349-APPS

Mr. Platt,

Attached please find the SEC's appeal decision for FOIA Appeal Nos. 22-00321-APPS and 22-00349-APPS (FOIA Request Nos. 22-00018-REMD, 21-00865-FOIA & 22-00426-FOIA). Please let me know if you have any questions concerning this decision.

Thank you.

Mark Tallarico
Senior Counsel
Office of the General Counsel
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
202.551.5132
tallaricom@sec.gov

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF THE
GENERAL COUNSEL

Stop 9613

October 15, 2021

Via electronic mail

(b)(6)

Mr. Alexander I. Platt
Associate Professor of Law
University of Kansas School of Law
Lawrence, KS 66044

Re: Appeal, Freedom of Information Act Request No. 21-00865-FOIA, designated on appeal as No. 22-00006-APPS

Dear Mr. Platt:

This responds to your October 4, 2021 Freedom of Information Act (FOIA) appeal regarding the delay in the FOIA Office's final response to your February 5, 2021 FOIA request for records that show certain information for each whistleblower award paid out under the SEC's whistleblower program since the program's inception.[1] I have reviewed your appeal and confirmed with the FOIA Office that it is still in the process of determining whether the remaining information will be disclosed or withheld under a FOIA exemption(s). I am, therefore, remanding this matter to the FOIA Office and requesting that the FOIA Office process the remainder of the request as expeditiously as possible. You may contact Mark Siford, Attorney Advisor, at 202-551-7900, regarding the status of this matter on remand.

If you have any questions concerning my determination, please contact Mark Tallarico, Senior Counsel, at 202-551-5132.

For the Commission
by delegated authority,

Melinda Hardy
Assistant General Counsel for
Litigation and Administrative Practice

[1] By letter dated April 26, 2021, the FOIA Office issued an interim response and released to you, in part, a three-page list of responsive information. On July 19, 2021, the FOIA Office issued a second interim response and further granted your request in part.