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SEC Makes Second Whistleblower Order with Staff Indicating More to Come

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Three whistleblowers were awarded a total of 15% of the money that the SEC will ultimately collect from its enforcement action against Locust Offshore Management LLC and its CEO, according to an **order** issued by the SEC on June 12. No immediate payments were forthcoming since the SEC has not yet collected on any of the $7.5 million judgment in disgorgement and penalties. The whistleblowers are entitled to seek a portion of the $800,000 Justice Department has managed to collect so far on a related action.

The award stems from a 2011 lawsuit against the hedge fund alleging fraud. Four claimants filed for whistleblower awards after a U.S. District Court entered final judgment in March 2012, and the SEC posted a Notice of Covered Action about the litigation a month later. The SEC Claims Review Staff recommended that the first three claimants each receive a whistleblower award of 5% because two of them voluntarily provided original information to the Commission that led to the successful enforcement, while another confirmed much of the information and identified key witnesses.

The fourth claimant's request for an award, however, was denied. This claimant had originally submitted a tip about securities fraud involving naked shorting, which the Division of Enforcement did not act upon because it found the information to be vague or insubstantial. The Division also did not act on two additional tips the claimant later submitted. The SEC Order indicated that none of the tips contained information about the ultimate enforcement matter or even mentioned the same defendants, and the SEC action did not make allegations concerning naked short selling. In making its recommendation, the Claims Review Staff explained that this fourth claimant did not lead to the successful enforcement of the matter because the claimant's tips neither caused the Commission to open its investigation nor significantly contributed to the success of the enforcement action.

The SEC's first whistleblower award was announced in August 2012, as we discussed **here**, for the fairly nominal amount of $50,000. *Compliance Week* **reports** that last month Stephen Cohen, Associate Director of the SEC's Division of Enforcement, stated that there will likely be a change in the magnitude of some of these awards over the next 6 to 12 awards, as the program will begin to produce "extremely significant" awards.

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Ning Chiu
+1 212 450 4908
ning.chiu@davispolk.com

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