

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934

Release No. 77948 / May 31, 2016

WHISTLEBLOWER AWARD PROCEEDING

File No. 2016-12

In the Matter of the Claim for Award

in connection with

SEC v. CVS Caremark Corp., 14-cv-0177 (D.R.I.)

Notice of Covered Action 2014-48

ORDER DETERMINING WHISTLEBLOWER AWARD CLAIM

On September 30, 2015, the Claims Review Staff (“CRS”) issued a Preliminary Determination recommending a denial of a claim for a whistleblower award submitted by Claimant (“Claimant”) in connection with Notice of Covered Action 2014-48 (“Covered Action”). The CRS found that Claimant did not qualify for an award because the information that Claimant provided did not lead to the successful enforcement of the Covered Action. *See* Section 21F(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”); Exchange Act Rules 21F-3(a)(3) & 21F-4(c).¹ Claimant subsequently filed a timely written response contesting the Preliminary Determination.

After careful consideration of the administrative record, including Claimant’s written response, we deny Claimant’s award application. We find that the Claimant is not entitled to an award because the record conclusively demonstrates that Claimant’s information was not used in connection with the Covered Action. Claimant’s tip was designated for “no further action” (“NFA”) by the Office of Market Intelligence (“OMI”), which is the office within the Division of

¹ As relevant here, information leads to the success of a covered action if it: (1) causes 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) of the Exchange Act; or (2) significantly contributes to the success of a Commission judicial or administrative enforcement action under Rule 21F-4(c)(2) of the Exchange Act.

Enforcement that is responsible for undertaking an initial review of such tips to determine whether the information provided warrants further follow-up. As a result of the NFA designation, Claimant's tip was not forwarded to investigative staff either to begin a new investigation, to inquire into different conduct, or to use in connection with any ongoing investigation. Moreover, Enforcement staff responsible for the underlying investigation that resulted in the Covered Action confirmed that they did not know Claimant, had no communications with Claimant, and did not receive any information from Claimant in connection with the Covered Action. And in Claimant's written response contesting the Preliminary Determination, Claimant has neither offered any evidence to the contrary nor even argued that Claimant's information led to the success of the Covered Action.² We thus find that the record firmly demonstrates that Claimant's information did not lead to the success of the Covered Action within the meaning of Section 21F(b)(1) of the Exchange Act and Rules 21F-3(a)(3) and 21F-4(c) thereunder.

Accordingly, it is ORDERED that Claimant's whistleblower award claim be, and hereby is, denied.

By the Commission.

Brent J. Fields
Secretary

² In Claimant's written response to the Preliminary Determination, Claimant contends that by not forwarding Claimant's tip to the Enforcement staff on the investigation, OMI erroneously and wrongfully denied Claimant the opportunity to be eligible for an award. This argument is irrelevant, as it has no bearing on Claimant's ability to obtain an award; even if Claimant's contention were true, it would still remain the case that Claimant's information did not lead to the Covered Action. That said, Claimant's information did not specifically and credibly allege a violation of the federal securities laws. Indeed, other than identifying the same target company, Claimant's tip bears no factual or legal nexus to the charges brought by the Commission in the Covered Action. These facts indicate that OMI appropriately determined that the tip did not warrant the allocation of additional staff time and effort.